

TRANSITIONAL “TRUTHS”: DEALING WITH THE PAST IN BOSNIA & HERZEGOVINA

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“I do not know that you could give me a complete answer, but perhaps you can help me to understand since I am not from that area. How could you explain some of the atrocities that we have heard have been committed?...Given your background, your experiences, knowing that Serbs and Muslims lived together, went to school together, how did that happen?” asked Judge Gabrielle Kirk McDonald of the witness before her in the first international war crimes trial since World War II.

*Hamdo paused. ‘It is difficult to answer, this question,’ he replied. ‘I am also at a loss. I had the key to my next-door neighbor’s [house] who was a Serb, and he had my key. That is how we looked after each other...’”
-Testimony of Hamdo Kahrimanovic before the International Criminal Tribunal for the former Yugoslavia¹*

Preface

Bosnia² is a place of indescribable beauty. Crossing the border from neighboring Croatia, Serbia, or Montenegro is akin to entering another world entirely, a dreamlike landscape of looming green mountains and villages tucked into valleys. It is, in a word, breathtaking. From all accounts, the Bosnia of fifteen years ago was a peaceful place as well, a place considered the very embodiment of the “brotherhood and unity” concept which had defined Tito’s Yugoslavia; it was the most ethnically and culturally diverse of any of the Republics, to be sure, as well as the one in which such differentiations mattered the least. Intermarriage between Bosniaks³, Croats, and Serbs was commonplace and neighbors oftentimes celebrated each other’s religious holidays’ together, as friends. But much has changed in fifteen years.

Today, Bosnia and Herzegovina is a place defined by war. There is not a single village, not one city street, where the scars are not visible. Driving through the countryside it is impossible to miss the ruins of buildings and the graveyards, filled for the most part with civilians. Between 1992 and 1995, it is estimated that out of a population of 4.5 million, around 110,000 were killed, 16,000 of whom were children,⁴ all of them victims of a hatred they had never thought possible—not in Bosnia, never in their home. This hatred was so strong, so malignant, that it turned neighbor against neighbor, friends into enemies, and reduced

¹ Neuffer, Elizabeth. *The Key to My Neighbor’s House: Seeking Justice in Bosnia and Rwanda*. Bloomsbury Publishing Plc., London, England. 2000. Quote from page vii.

² Throughout this paper, “Bosnia” will represent Bosnia and Herzegovina.

³ Bosniak is a term referring specifically to the Muslim population in Bosnia and Herzegovina.

⁴ *United Nations Development Project Human Development Report*, 2005. These are only estimates.

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individuals to ethnicities which had never been of importance. All of this was planned and instigated by power hungry politicians- foremost among them the former Serbian President Slobodan Milošević. The events this man and his associates set in motion- first in Slovenia, then Croatia, and most violently in Bosnia and eventually Kosovo- not only failed to produce the “Greater Serbia” that he had envisioned, but effectively tore apart the social fabric of an entire region. This is the tragedy of this war, the sadness which knows no bounds. And now, nearly thirteen years after “peace” was established, fourteen years after the fighting stopped, there is no peace at all. The hatred remains. Bosnia, once a nation of friends, is now a nation of enemies.

Levels of Study

This research analyzes initiatives for dealing with the past on two levels. The first focuses on the role of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and now the regional courts in affecting recognition of the truth, focusing on the case of Bosnia and Hercegovina. Criminal justice is the “top down” approach to reconciliation, focusing on punishing the perpetrators. Court decisions and the existence of hard evidence against individuals of every ethnicity serves to prove that each “side” has committed its own crimes and that no one side is innocent in this respect. Thus far, however, widespread public denial of the legitimacy of court decisions has hindered the effects of justice in Bosnian society. It is hoped that the truth-seeking projects being conducted by non-governmental organizations (NGOs) will bolster the public's acceptance of criminal responsibility as established by the tribunals.

This is the second level- the work of NGOs. By focusing on victims, NGOs constitute a “bottom up” approach to dealing with the past. Acknowledgment of individual suffering and the establishment of indisputable facts create the framework for establishing an honest version of events concerning the early 90's. Public forums and oral history projects allow survivors the chance to share their stories and to be acknowledged by others, not as members of an ethnic group but as individuals. While I have been told that people are not yet ready to hear experiences from the “other side,” it is the hope that sometime in the near future this will change. Numerous organizations are working towards creating the environment in which this dialogue between survivors can take place, foremost among them the regional network of organizations comprised of *Documenta* in Zagreb, *The Research and Documentation Center* in Sarajevo, and *The Humanitarian Law Center* in Belgrade. Their work in particular is focused towards the creation of national and regional databases of victims and missing persons, each of which is listed by name with information obtained from personal accounts as well as secondary sources; all of this material is also passed on to the regional courts to serve as evidence against war criminals. Level one and level two, then, are intrinsically linked. The idea is that one can reinforce the other, removing room for doubt in the public realm. Each is attempting to establish the truth; it is only the approach that is different.

I. Introduction: Post-Dayton Bosnia and Herzegovina

“Everyone thinks it’s great that the war is over. But we Bosnians often say we have yet to survive the peace. This peace.”
 -Edib Palalic, university student, Sarajevo.⁵

“This peace, as we have it now, is not a genuine peace, it is an imposed, artificial peace, more like the absence of war.”
 -Adnan Hasanbegovic of The Center for Non-Violent Action, Sarajevo. 2003.⁶

It has been fourteen years since the Dayton Peace Accords ended the war in Bosnia and Herzegovina. The negotiations, which took place in November 1995, successfully ended nearly four years of violence during which over 100,000 people had been killed, over two million displaced, and which had left 34,000 individuals unaccounted for.⁷ However, the peace that was established effectively solidified the ethnic divisions that had been created by the conflict, dividing Bosnia into two separate entities- the Croat and Muslim Federation of Bosnia and Herzegovina taking 51% of territory, while the remaining 49% became the Serb dominated Republika Srpska (RS). The latter included vast amounts of territory that the Bosnian Serbs had acquired via ethnic cleansing, essentially sanctioning these actions as legitimate. Furthermore, Article IV of the Dayton Agreement, the new constitution, designated a central government of a specific ethnic makeup in addition to allowing each entity its own president, parliament, and police force. Instead of moving away from the idea of collective ethnic identities, Dayton merely strengthened the opposite.

The contributing American diplomats and Clinton administration officials, themselves guilty of prolonging the conflict via their inactivity, were apparently more preoccupied with stopping the fighting than with brokering a durable or just peace- a fact evident in the glaring omission of any demand for the arrest of war criminals indicted by the ICTY. Indeed, in the months that followed, Bosnian Serb leader Radovan Karadzic and his partner, Ratko Mladic, both indicted for genocide and crimes against humanity, roamed freely in Republika Srpska right in front of the 60,000 NATO troops sent to monitor Dayton’s implementation; a senior Pentagon official later explained this situation by saying, “Our definition of success was that we would take no casualties... We were risk-avoidant. There were a lot of things we could have done, but we elected not to do them because we were simply not interested in justice.”⁸ As a result, the ICTY has had difficulties apprehending criminals from all sides. The Republika Srpska has, in fact, never

⁵ *Aftermath: Bosnia’s Long Road to Peace*. Page 16.

⁶ *Quaker Peace and Social Witness*. *Dealing With the Past: Country Report: Bosnia-Herzegovina 2003*. QPSW. July-August 2003.

⁷ *Culture of Peace: Special Edition: Dealing With the Past*. Centre for Peace, Nonviolence and Human Rights. Osijek, Croatia. 2005. Page 23. Information given by The International Committee of the Red Cross and the Federal Commission for the Missing.

⁸ Neuffer. “Book Two: Trials and Tribunals. Ch.7:Peace Without Justice”. Page 177.

once handed over a suspect to the court- including Mladic, who is largely believed to be in hiding there. It is no wonder, then, that each ethnic group eyes the others with suspicion and, oftentimes, hostility.

The effects of these ethnically defined politics are evident today in the persistent lack of interethnic cooperation and the continued polarization of Bosnian society, but they are most apparent- and most damaging- in the array of ethnically based “truths” that have arisen over the past decade. The lack of public interest in dealing with the recent past and thereby establishing the facts of what happened have permitted each ethnic group to rewrite the actualities of the war to their own advantage; thousands of versions of events now exist, each of them similar in that they portray the collective group as the “victim” leading to apathy towards the ICTY’s- and now the regional courts'- activities and increased hostility between ethnic groups. Bosnia, once the most heterogeneous of the Yugoslav Republics, is now entirely divided. Even the schools are segregated; there are three textbooks currently in use, each of which furthers the idea of victimization so as to ensure a new generation of ethnic hatred. Dayton, in a word, has failed; the fighting has stopped, but what remains can hardly be called "peace."

The importance of dealing with the past cannot be underestimated in this situation, for without real truth there can be no real peace. It is largely believed that should the international community leave Bosnia entirely, new conflict would arise almost immediately. Regardless, none of the contingent governments has shown any concerted interest in initiating a truth-seeking process, leaving the task to non-governmental organizations. The latter have made incredible progress thus far, which has culminated most notably in the establishment of a regional NGO network composed of the Croatian organization *Documenta*,⁹ Serbia's *Humanitarian Law Center*,¹⁰ and Bosnia's *Research and Documentation Center*.¹¹ Between the two components, justice and the establishment of indisputable numerical and historical facts, the truth will emerge. This process will take time and patience, and to the survivors of this war- regardless of ethnicity- it will be invaluable. Perhaps then Bosnia will cease to be a unified state in name only and the process of healing can begin.

I.II Dealing with the Past: Memory and Mistruths

“We remember Auschwitz and all that it symbolizes because we believe that, in spite of the past and its horrors, the world is worthy of salvation; and salvation, like redemption, can be found only in memory.”
-Elie Wiesel¹²

⁹ Website: <http://www.documenta.hr/eng/>

¹⁰ Website: <http://www.hlc-rdc.org/stranice/14.en.html>

¹¹ Website: <http://www.idc.org.ba/aboutus.html>

¹² *Culture of Peace: Special Edition: Dealing With the Past*. Centre for Peace, Nonviolence and Human Rights. Osijek, Croatia. 2005. Elie Wiesel quoted page 44.

The process of dealing with the past is two-fold, consisting of truth-seeking and criminal justice. Andrew Rigby explains the meaning of the term as follows:

The 'past' is not something fixed with an independent existence, a once and for all set of events. The 'past' is the remembered past, and as such it is something that is constructed and reproduced in a multitude of ways. [...] But, particularly in the case of societies emerging out of division with a bitter legacy of human rights abuses, it is vital for the sake of peace that people manage somehow to come to terms with their loss and prepare to move on. This capacity to let go of a particular memory of the past, to forge another memory or interpretation that allows people to relinquish the quest for revenge is at the heart of what many understand by forgiveness. Unless people manage to forsake their determination to 'get even', there can be no new beginning, no transformation of relationship; everyone will remain imprisoned in a particular history (or mythology), recycling old crimes and hatreds - with the lived present dominated by a particular collective memory of the past. [...] So, by 'dealing with past' we are referring to a process comparable to that of forgiveness. Forgiveness can be at the interpersonal level - forgiving identifiable perpetrators. It can also be at the more anonymous collective level of 'forgiving history' - coming to terms with the pain of the past in such a way as to free oneself from the determining force of a particular collective memory, forming a new memory that creates the symbolic space for people to orient themselves towards a new future which allows for the possibility of reconciliation with past opponents.¹³

Considering the trauma inflicted upon the population of Bosnia in the early 1990s, it is difficult to consider the possibility or the need to forgive individual perpetrators. However, the idea of "forgiving history" is an important one in this context. The mistruths that have dominated Bosnian society over the past decade have served to erode the importance of individual memory, replacing it with histories corrupted by "ethnic ethics."¹⁴ These histories have helped to create the notion of collective group identities and in the process eliminated the possibility to view different ethnicities as equal victims. By removing the individual, these collective mistruths have set a vicious cycle of relativity in motion. This is the politics of "us" versus "them" so easily visible in modern Bosnian society, the mindset that 'we may have done this to *them*, but look what they did to *us*'. There

¹³ Rigby, Andrew. Three contrasting approaches for 'Dealing with the Past': collective amnesia, retributive justice and prioritising truth. CCTS Newsletter 18, 2002. Available at: <http://www.c-r.org/ccts/ccts18/3apprch.htm>.

¹⁴ Abazovic, Dino and Branko Todorovic, eds. Balkan Yearbook of Human Rights 2005: Confronting with the Past. Consequences for the Future. Term used by Dvornik, Srdjan. "Facing the Past: Overcoming our True Nature". *Balkan Human Rights Network*. Sarajevo. 2005. Page 29.

has been no acceptance of responsibility by any of the parties involved, and these “truths” have been designed to keep it that way.

The efforts of regional NGOs to collect personal accounts are aimed not only at gathering facts, but also at acknowledging suffering on an individual basis. Loss and pain are personal experiences, yet for years they have been subsumed by the notion of a collective grievance. In an interview conducted in 2005 by *The Helsinki Committee for Human Rights* that focused on how people feel about their lives a decade after Dayton, one woman ended by saying, “Thank you for asking how I feel.”¹⁵ This is what dealing with the past is all about. Mirsad Tokaca, head of Sarajevo’s *Research and Documentation Center* and world renowned human rights advocate, describes the process as follows:

Victims were not defeated only because they were killed, raped, or forced to leave their homes. The first sign of a victim’s final defeat, and in that context, a criminal’s victory, is the silence about their suffering. To talk about it is a moral obligation. It means creating an environment of a stronger feeling of social responsibility for the events we participated in. It is not about producing a climate of revenge. Facing the past is not a one-way road, or a relationship in which there is an absolutely clear division between the guilty and the innocent ones... Although the degrees of responsibility differ, the first step in facing the past is the acceptance of our own responsibility. Acceptance of the fact that our recent past was tragic and marked by atrocities may help us to avoid the trap of its denial... Nobody has the right to say “never again”, but everybody has the duty to explain, to analyze, and to speak about the past.¹⁶

Examining one’s own experiences, which in many cases involves re-traumatization, is paramount to establishing the facts of this conflict. It is the only way to break free from the idea of collective victimization that requires, in turn, a collective perpetrator. The databases being established by these three regional organizations will help to establish the exact numbers of those killed and missing, creating what amounts to a catalog of individual crimes. What remains, then, is to prosecute the individual offender.

II. **Prioritizing** Truth: Restorative Justice

“This will be no victor’s tribunal. The only victor that will prevail in this endeavor is the truth.”

-Former US Ambassador Madeleine Albright, speaking to the UN General Assembly upon its final approval for the creation of the ICTY¹⁷

¹⁵ Dardic, Dragana, Miodrag Zivanovic, Branislava Memon, Zdravko Grebo and Activists of the Helsinki Citizens Assembly in Banja Luka. Thank you for Asking How I Feel. Banja Luka, 2005. Page 6.

¹⁶ Text of interview conducted by Corinne Bloch with Mirsad Tokaca. Culture of Peace: Special Edition: Dealing With the Past. Centre for Peace, Nonviolence and Human Rights. Osijek, Croatia. 2005. Page 7.

¹⁷ Quoted in Elizabeth Neuffer. Page 72.

"The wounds of the war may have closed but they have not yet healed. Only the political will and the commitment of the authorities of Bosnia and Herzegovina to bring to justice those responsible for war crimes, crimes against humanity and genocide committed during the war can make peace sustainable."

-Nicola Duckworth, Programme Director for Europe and Central Asia at Amnesty International¹⁸

"Reconciliation? I don't want reconciliation, I want accountability! There are people with whom I will not reconcile and that's it!"

-Mariana Toma, 2005¹⁹

When it was established by the UN Security Council in 1993, the International Criminal Tribunal for the Former Yugoslavia was meant to be a tool not only for justice but also to aid in the process of reconciliation. For a number of reasons, the court has been largely unsuccessful in attempts to contribute to the latter. To begin with, the creation of the tribunal was perceived by many as a way for the international community to avoid the use of military force. The failure of the court's indictments to deter further atrocities from being committed between 1993 and 1995 and the international community's unwillingness to intervene largely confirmed this to be true, undermining the tribunal's legitimacy in the eyes of much of the Bosnian public. As author Gary Bass rightfully observed, "The world would prosecute the crimes that it would not prevent."²⁰ The exclusion of provisions for the arrest of war criminals at Dayton and the subsequent inaction on the part of NATO troops towards this end only compounded the initial public scepticism, while the ethnically based structure of Dayton overall served as the finishing blow for the ICTY's ability to facilitate reconciliation. Other than devising a multi-ethnic system of government, the Dayton agreement made no stipulations towards facilitating inter-ethnic dialogue within the general population; wartime grievances remained unaddressed as a result, allowing collective ethnic identities to solidify into victimization myths. Sanela Basić observes that:

Regrettably, it must be noted that even such restricted knowledge acquired by the Tribunal has been subject to ruthless political manipulation by local ethnopolitical elites. It could hardly be said that its findings contributed positively to bringing closer the contradictory conceptions of "truth" about the past war as it is currently written and taught within ethnic communities in BiH.

¹⁸ Amnesty International Press Release. "Bosnia & Herzegovina: From Dayton and Beyond." December 14, 2005. Available at: <http://web.amnesty.org/library/Index/ENGEUR630102005>

¹⁹ Nalepa, Monika. "Why Do They Return? Evaluating the Impact of ICTY Justice on Reconciliation." Rice University. January 26, 2007. Quoting Mariana Toma. Available at: www.yale.edu/macmillan/ocvprogram/OCV_Nalepa.pdf

²⁰ Bass, Gary Jonathan. *Stay the Hand of Vengeance: The Politics of War Crimes Tribunals*. "Chapter 6: The Hague." Princeton University Press. Princeton, New Jersey. 2000.

Comparing the manner in which the recent past is being addressed in history textbooks for secondary schools, one can only conclude that there is a sharp and profound disagreement with regard to this issue that both reflects and cements former ethnic divisions.²¹

These prevailing “truths” have characterized war criminals on all sides as heroes and the court’s decisions have had no effect in changing this situation. As a result, the proceedings have been largely viewed as illegitimate. Many deny that convicted offenders are guilty; if they are guilty of anything, the party line goes, it is only of defending “our” people.

The idolization of war criminals has been exacerbated by the Court's remarkably poor levels of outreach. Court documents were not even available in the local language until 1999 when the tribunal's official Outreach Program was created; during the six years prior, the only information about the Tribunal's work came from local media outlets, who presented what little information they had about court proceedings in slanted ethnonationalist terms. Unfortunately, the creation of the Outreach Program has only partially improved the situation; inadequate funding has meant that in practice outreach efforts are directed mainly towards local politicians and the legal community, not the population as a whole. A survey conducted in 2000 of fifty-four NGOs in both the Federation and Republika Srpska revealed the extent of the Program’s inefficiency, with 66% of NGOs consulted stating that they had not received specific information about the kinds of crimes the ICTY prosecutes (83% in the Republika Srpska alone); over 60% of the organizations felt that the media continued to manipulate information about the tribunal’s work. Perhaps most strikingly, 70% of the organizations viewed the ICTY’s activities negatively- in the Federation because of the Court’s slow pace and inability to apprehend several indicted individuals and in the RS because of a perceived anti-Serb bias.²² Either way, it is clear that the tribunal has not done enough to connect with the local population and has unintentionally contributed to existing ethnic tensions as a result.

Ethnically based partiality has been somewhat problematic as court proceedings have shifted to local war crimes courts over the past five years as part of the ICTY Completion Strategy. UN Security Council resolutions numbers 1503 and 1534 of August 2003 outlined that all ICTY investigations were to be completed by the end of 2004, all preliminary trial activities by the end of 2008, and all appeals processes by the end of 2010. ICTY cases have been handed over to national courts in several instances, but the results have not always been encouraging. In Croatia, for instance, Serbs have been consistently sentenced on

²¹ Fischer, Martina, ed. *Peacebuilding and Civil Society in Bosnia-Herzegovina*. Transaction Publishers. 2006. Article by Sanela Basić. “Bosnian Society on the Path to Justice, Truth and Reconciliation.” Page 367.

²² Cibelli, Kristen and Tamy Guberek. "Justice Unknown, Justice Unsatisfied? Bosnian NGOs Speak About the International Criminal Tribunal for the Former Yugoslavia." Tufts University Project of the Education and Public Inquiry and International Citizenship (EPIIC). 2000.

a harsher basis than Croat defendants; in fact, to date there have been only two sentences passed against Croatian policemen and soldiers. Serbian national courts have prosecuted very few individuals and have generally omitted those in command, while in Bosnia sentences have often reflected the ethnic makeup of the court's location.²³ However, trial monitors from the regional NGO network have made a point of protesting such decisions, resulting in greater national and international attention to court proceedings in the region. Judicial reform in Bosnia, in particular, has greatly improved the impartiality of court proceedings since 2004. Regardless of the sometimes hostile reactions to court decisions, transitional justice has become a widely accepted method of separating the guilty from the innocent. As a result, the ICTY and the national courts have effectively indicted and prosecuted hundreds of individuals guilty of war crimes.

While the ICTY operates under the idea of command responsibility, the national tribunals have the greatest obligation and opportunity to prosecute individual offenders. The work of identifying the people at the top is certainly important- men like Zdravko Mucic, the Bosnian Croat commander of the Celebici concentration camp where Serb prisoners were tortured and killed, or his deputy commander, Hazim Delic, a Bosnian Muslim charged with these crimes and mass rape in the camp; men like Mladic, Karadzic, and Milosevic. Omarska was a Bosnian Serb-run concentration camp where crimes against Croats and Muslims had been perpetrated. These are men who instigated and committed crimes, but the scale of the atrocities that took place required massive complicity. This is what the local courts will focus on. Mirsad Tokaca has stated that

Bringing all those responsible to justice is the paramount obligation of the entire process....The ICTY cares about big cases; about individuals with command and political responsibility; but the ones prosecuted in front of local courts are equally important in the process of dealing with the past. Each victim believes that his or her crime is the most serious one. For them, there are no small perpetrators. Therefore, taking care of each detail and case is especially indispensable in the creation of a mosaic of truth. Moreover, there will be no mourning and reconciliation as long as there is no recognition of their case, no punishment of criminals and no compensation for the victims.²⁴

It is hoped that by identifying and sentencing individual criminals, the national courts will be more successful than the ICTY in facilitating the reconciliation process. Collective responsibility will be replaced by individual responsibility, but it remains unclear whether this will improve interethnic relations.

²³ *Human Rights Watch*. "Justice at Risk: War Crimes Trials in Croatia, Bosnia and Herzegovina, and Serbia and Montenegro." 2004. Available at: <http://hrw.org/reports/2004/icty1004/index.htm>

²⁴ Text of interview conducted by Corinne Bloch with Mirsad Tokaca. *Culture of Peace: Special Edition: Dealing With the Past*. Centre for Peace, Nonviolence and Human Rights. Osijek, Croatia. 2005. Pages 7-8.

The nature of the conflict in Bosnia and Herzegovina is of particular importance in this respect because in many cases victims knew their perpetrators by name; this is not surprising in such a mixed population, but what it means is that these national war crimes trials could have an enormous impact on reconciliation within the country. Nowhere else is there such a mixture of ethnicities, and nowhere else are the tensions between them so intense. Thus, holding individuals accountable is of the utmost importance if the idea of collective responsibility is to be replaced by personal responsibility. *Human Rights Watch* reports that the vast majority of Bosnian citizens are in favor of war crimes prosecutions, indicating the possibility that this may one day become a reality.²⁵

Current cases are now being tried by the ICTY, the War Crimes Chamber (WCC) in Sarajevo, and the sixteen canton and district courts. The Sud BiH War Crimes Chamber in Sarajevo, which is partially staffed by international judges and attorneys, was established in 2004 to try the cases of lower and mid-level perpetrators indicted by the ICTY as well as “highly sensitive” case files from the Federation cantons and the Republic of Srpska courts. Thus far, it has determined that 10,750 individuals have yet to be tried for their crimes.²⁶ The slow processing of cases in the past has left many wondering how feasible this scenario really is,²⁷ noting the fact that the ICTY itself had only indicted 161 persons for war crimes in Bosnia as of January 2007 (53 of them were found guilty).²⁸ Regardless of the magnanimity of the task, however, the WCC and local courts have expressed commitment to trying every case and to finding ways which may speed up the process.

The War Crimes Chamber, in particular, has voiced its desire to encourage returns by prosecuting perpetrators across the country. To date, only one million of the 2.3 million refugees and internally displaced persons (IDPs) have returned and only 50% have been considered “minority returns,” in which people have come back to places where their ethnicity is not the majority.²⁹ One Bosnian Muslim woman, whose family was expelled from their village near Zvornik in 1992 and whose husband remains missing, told *Human Rights Watch* that,

I have returned to the area of Zvornik to live there, but if the criminals are not brought to justice, I will not stay there forever. I

²⁵ Human Rights Watch. “Importance of War Crimes Prosecutions in Republika Srpska”. Human Rights Watch. New York. 2006. <http://hrw.org/reports/2006/bosnia0306/3.htm>

²⁶ UNDP Report. Page 22.

²⁷ Human Rights Watch. “Importance of War Crimes Prosecutions in Republika Srpska”. <http://hrw.org/reports/2006/bosnia0306/3.htm>

²⁸ Nalepa, Monika. “Why Do They Return? Evaluating the Impact of ICTY Justice on Reconciliation.” Rice University. January 26, 2007. Available at: http://www.yale.edu/macmillan/ocvprogram/OCV_Nalepa.pdf

²⁹ “Reconciliation is a Local Matter”. Page 6.

know that not all of the Serbs are the same, but those who did something should be punished. Then there will be some guarantee that the horrible things will not repeat, and it will be possible to co-exist. For me, both those who ordered a crime and those who carried it out are the culprits. The women from my village, whose husbands and sons were all killed in June 1992, can't accept that nobody has been punished for those crimes.³⁰

After a decade, justice has finally become a priority in Bosnia. Hopefully, this woman and tens of thousands like her will not be disappointed.

II.I Crimes Without Perpetrators

"Memory is never shaped in a vacuum; the motives of memory are never pure."

-James E. Young, author of 'The Texture of Memory: Holocaust Memorials and Meaning'³¹

"Without memory, mankind is condemned to repeat the same mistakes and the same atrocities... Other murderers are among us. The hunt must go on. Criminals must never sleep quietly."

-Simon Wiesenthal, Holocaust survivor³²

The mistruths which have dominated Bosnian society since the war ended are anything but based in fact; they have been created to further local sympathies based on ethnic allegiance and, unfortunately, have been quite successful in doing so. Versions of the conflict run the gambit from complete denial (Milosevic would *never* order troops to "cleanse" an area) to plain absurd (Karadzic claimed that Bosnian Serbs had not kept Sarajevo under siege, but that the Muslims had shelled *themselves* for nearly four years).³³ While the stories are all different, there is a common link between these "histories," regardless of where they originate; each side has developed these "truths" around the idea of victimization, characterizing the other as the perpetrator. Zorica Trifunovic, head of the Belgrade *Quaker Peace and Social Witness* office, explained this tendency in the following way:

³⁰ Human Rights Watch. "Importance of War Crimes Prosecutions in Republika Srpska". <http://hrw.org/reports/2006/bosnia0306/3.htm>

³⁰ UNDP Report. Page 22.

³¹ *Dealing with the Past and Transitional Justice: Creating Conditions for Peace*. Quoting Hayner, Priscilla. "3.3 The Power of Memory and the Difficulty of Truth: Assessing Recent Experience". Political Affairs Division IV, Federal Department of Foreign Affairs FDFA, Switzerland. 2006. Page 53.

³² Quoted by Carla Del Ponte. "Ten Years After Dayton and Beyond: Carla Del Ponte, Prosecutor of the International Criminal Tribunal for the Former Yugoslavia." Speech given October 21, 2005. Available at: <http://www.un.org/icty/pressreal/2005/speech/cdp-21-10-05.htm>

³³ Neuffer. Page 61.

[Serbs] don't like to speak about the crimes. There are some crimes we have to admit because something happened, but actually this is more done with pressure from the international community than it is done generally here. In the other countries it is more or less the same. It is always that 'we are the victim.' It is very nice to be a victim: you expect help, you expect this.. But this is what we are fighting for, to hear the stories about the war crimes.³⁴

None of these "truths" implies any notion of responsibility, though there is no doubt that atrocities were committed by all sides during the war. For example, evidence abounds of concentration and rape camps run by Bosnian Serbs, Croats and Muslims, and testimony received by the ICTY concerning war crimes and crimes against humanity has come from victims of every ethnicity and every region. However, this has not proved reason enough for actors to accept accountability. Just the opposite is true. Each side tends to regard its indicted war criminals as "heroes;" protests against sentences and extraditions have been commonplace.

Governments in the region have unfortunately made no attempts to discern fact from fiction and so the tradition of collective ethnic identities has become a firmly entrenched idea. Modern day Bosnia is today a country entirely divided upon ethnic lines. It is not simply that Dayton provided Bosnian Serbs with their own autonomous region, but a widespread fear of the "other" that these false histories have helped to instill. This paranoia is clearly evident in the results from recent elections, which have once again placed nationalists into power in most municipalities around the country. In *Foreign Affairs* magazine, American scholar Edward Joseph observed that,

At the national level, politics largely reflect the zero-sum thinking and ethnic polarization of the war years. Bosnian Serbs continue to undermine the joint institutions set up by the Dayton accord. Despite much celebration over the formal restoration of prewar property rights, relatively few Bosnians have actually returned to their homes. Fearing discrimination or feeling insecure, most Serbs sell their property as soon as they recover it. The country's capital, Sarajevo, -once a symbol of Bosnia's multiethnic vibrancy- remains populated almost entirely by Muslims. Should NATO (or the EU mission that will soon replace it) pull out of Bosnia anytime soon, renewed bloodshed would likely follow.³⁵

The only remedy for the wounds of this war will be the truth, and one untainted by ideological ambitions. This is precisely what the regional NGO network and countless other organizations are hoping to achieve. By establishing an honest

³⁴ Author's interview. Zorica Trifunovic. *Quaker Peace & Social Witness*. Belgrade, Serbia. October 19, 2006.

³⁵ Joseph, Edward P. *Foreign Affairs*. Vol.84, Number 1. January/February 2005. "Back to the Balkans". Page 113.

re-telling of events based on individual accounts and indisputable facts, it is hoped, denial will become impossible.

One of the more egregious cases of such denial was the reaction of the Republika Srpska when the ICTY found General Krstic guilty of genocide at Srebrenica in August of 2001. Not only did government officials from the region make claims of an “anti-Serb” bias in the court, but a year later a report was issued which, as Natasa Kandic wrote,

...minimized the crime in Srebrenica by laying emphasis on crimes against the Serbs in the Srebrenica municipality from 1992 to 1995, forcing Serbs to take military action in July, 1995. The report went on to claim that over 7,000 armed Muslims had fled into the woods and were killed in combat with Bosnian Serb army forces.³⁶

The report was later withdrawn due to protests from the international community, but this did not change the fact that most Serbs did not believe their troops to be guilty of any wrongdoing. It did not matter that one of the key pieces of evidence in the case was a recorded telephone conversation between Krstic and one of his deputies, during which he can be heard saying, “Kill all in turn... Fuck their mothers! Don’t leave a single one alive!”³⁷ This was simply dismissed as a fake, something which would not be so easy to do when captured by video. The tape, known as the Scorpions squad video, was given to Natasa Kandic in 2005 by a former member of the Serbian paramilitary squad himself, showed the execution of six Bosnian Muslim men from Srebrenica. All at once, Serbian involvement in the genocide became entirely indisputable.

II.III Indisputable Evidence: The Case of Srebrenica

The impact of the Scorpions tape was a dismantling of the commonly accepted denial of Serbian involvement at Srebrenica. Three days after the airing of the tape, Serbia’s *Politika* newspaper reported that, “The truth has been smashed in our faces, painfully and mercilessly...The Serbian public is aghast, because it has finally seen that someone... actually committed bestialities in uniform and with Serbian insignia.”³⁸ At long last, Kandic had managed to break through the refutations and, in so doing, had created a space for the public to question what they had been told to believe concerning other aspects of the conflict.

Prior to this point, Serbs had been told only selected information which coincided with existing “truths,” something characteristic of the region but especially widespread in Serbia itself. A public opinion survey entitled “Perception of Truth in Serbia” conducted by SMMRI/Radio B92 in 2001 found

³⁶ Kandic, Natasa. *The ICTY Trials and Transitional Justice in Former Yugoslavia*. Cornell International Law Journal. Volume 38, Number 3, Fall 2005. Cornell University Press.

³⁷ Neuffer. “Book One: Bearing Witness: Ch. 1: Blood Ties to Blood Feuds”. Page 4.

³⁸ “Serbia Struggles to Face the Truth About Srebrenica”. www.crimesofwar.org.

that 46% of those surveyed could name at least three war crimes committed against Serbs, but 52% could not name a single one committed by Serbs; 91% were familiar with the idea that a lot of civilians had been killed by snipers in Sarajevo, but only 54.7% believed this. And while 91% of the participants had heard about Serbs imprisoned in Muslim concentration camps, only 60% had heard about the Serb camps- and only 50% thought this was true.³⁹ In another survey completed before the Scorpions video was made public in 2005, 50% of participants didn't believe Serbs had committed war crimes; even after it was aired, one third believed it to be fake.⁴⁰ The vast majority of Serbs, however, reacted to the tape with disgust and utter shock. The figures taken from these earlier surveys point to a very deep-rooted misconception of the nature of this conflict, and to be suddenly confronted with this evidence was a turning point for many.

That the worst crime since World War II had been debated for so long, however, was not forgotten by Bosnian Muslims. A month after the evidence was made public, a conference was held in Belgrade with the title "Srebrenica-Beyond the Reasonable Doubt"; Emir Suljagic, a journalist from Sarajevo, listened intently to the politician's speeches and apologies before standing before the crowd and saying,

I am really angry. The first thing that came to my mind when the recording was over was- there, that's what you are. Here are the people that you were careful not to cross paths with for ten years. These are the people you were afraid of hurtling a single stone at. And now, suddenly, a cassette appears and Serbia is, make believe, shocked and I am, make believe, grateful, right? You don't say! This cassette is of no importance for Bosnia, believe me. No importance at all. This cassette is important to you. The fact that it appeared is important for Serbia. I did not have to see the recording in order to know that this had happened because this had happened before my very eyes.⁴¹

It was not that the evidence had not been there before; mass graves had been exhumed, there was video and audio footage of Mladic and Krstic at the scene, and there were the testimonies of thousands upon thousands of Bosnian Muslim women whose sons, brothers, husbands, and friends had suddenly disappeared. There was simply no will to believe any of it; the information did not fit with the victimization myth that Serbia had constructed.

³⁹ Schmidt, Roland. "Societal Beliefs, Cognition, and Denial: Enquiring the Limits of Serbia's Facing the Past Process". *MA Theses Selected for Publishing: Academic Year 2003/2004*. Center for Interdisciplinary Postgraduate Studies, University of Sarajevo. Arka Press. Sarajevo. 2004. Pages 395-396.

⁴⁰ "Serbia Struggles to Face the Past."

⁴¹ No author given. *Srebrenica-Beyond the Reasonable Doubt*. Humanitarian Law Center. June 17, 2005. Belgrade. www.hlc.org.yu/english/Conferences/Truth_Telling/index.php?file=1495.html

The sheer magnitude of the crime at Srebrenica as well as the appearance of the Scorpions video in 2005 have made public denial of the crime taboo, but it should be noted here that the genocide at Srebrenica is only one of many terrible tragedies. Tamara Smidling of *The Centre for Non-Violent Action* in Sarajevo rightly points out that

The...problem with the war...in public discourse...is that whenever we talk about the war in Bosnia and Herzegovina we always talk about Srebrenica and Srebrenica was only *one* terrible place here. You know, there were many women who were raped during the war and there were many concentration camps and there were many other black holes here in Bosnia, and Srebrenica became that chosen trauma for the Bosniak people... and it has that symbolical nature to describe the war, but that is a problem, also.⁴²

It is certainly true that Serbia initiated this war and that Bosnian Serbs, aided by Serbs from other parts of the former Yugoslavia, were responsible for the majority of the atrocities which took place, but this does not minimize or justify the crimes committed by Croats and Bosniaks. There is certainly a temptation to fall into the trap of relativity and to view such atrocities in proportional terms, but to do so is to disregard the individual in each situation. The fact that nearly 8,000 innocent men and boys were killed in Srebrenica is indeed a horrifying and terrible fact of this war, but to have lost someone under different violent circumstances is no less devastating. Suffice it to say that grief is a constant in this conflict, and that no atrocity is less acceptable than another.

Dealing with the past is as much about prosecuting the guilty as it is about acknowledging that there is suffering on all sides; this is what the Scorpions video established beyond any reasonable doubt. But the fact remains, nearly every version of the “truth” in the region does not cater to such recognition. This is why the work of *The Humanitarian Law Center*, *The Research and Documentation Center*, and *Documenta* and other civil society organizations is so important. Establishing indisputable facts is certainly essential, but it is the methodology used, the act of listening and of acknowledging individual’s experiences that has the most potential for deconstructing ethnically based mistruths. Croatian sociologist Srdjan Dvornik writes that,

If [the truth] is revealed to the general public, this information will have the most profound effect on the important component of collective awareness- namely, one’s perception of one’s own community as the collective victim. Concrete information that someone, a person, family, whole village, etc. were victims of ‘our’

⁴² Interview. Tamara Smidling, *Centre for Nonviolent Action*. Sarajevo, BiH. December 1, 2006.

side negates the main argument of the defensive policy of collective identity.⁴³

If people can begin to see each other as individuals, then the arguments of relativity will cease to exist; the contention that ‘we may have done this to *them*, but look at what *they* did to us’ might then be replaced by a mutual understanding of the other’s suffering, and, consequently, a desire not to inflict any more pain. The perpetrators of crimes and those responsible for the suffering need to be punished, as *individuals*, not as members of groups. After all, stories of interethnic solidarity, of neighbors protecting neighbors and “enemies” saving each other, are not a rarity in this war. The lines are not simply black and white, and that is something to build upon.

The key to all of this, the missing ingredient, will be empathy. In this respect, there is hope. Nowhere is this clearer than in the story of A., the younger sister of one of the young men executed in the Scorpions video. When Natasa Lambić of the Humanitarian Law Center interviewed her, A. was in Belgrade to testify against the man who had killed her brother. When they spoke, A. did not speak at all about the way in which her brother had been killed; she did not even mention the video or his death. Instead, Natasa told me, A. told her about the things that she and her brother used to do, about the games they had played, and about the love between them. I remember that Natasa paused after she told me this and then she said, “She doesn’t *hate* anyone. You know, she said that ‘If they would give me his brother I would never kill him’, the killer’s brother, ‘because I know what a loss would it be to him.’”⁴⁴ It is the hope that by establishing the truth and punishing the perpetrators, more people will be able to reach the same conclusion. There is nothing that can undo the terrible violence which defined this war. What can be done, though, is to acknowledge the past such that it will not be used to incite future suffering. In the words of one survivor, Hazrudin Bilic:

I think the only thing that could help Muslims and Croats in Ahmici to reconcile with each other would be an honest talk... It would mean a lot to me if they said, ‘We didn’t participate in the massacre but we didn’t do anything to stop it, either, and we regret that.’ This would be important for the future of our children.⁴⁵

III. Conclusion

There exists a commonality in the accounts of this war, and that is the singular sense of confusion concerning the roots of the conflict in Bosnia and Herzegovina. Factual information surrounding the conflict has been deliberately

⁴³ Abazovic, Dino and Branko Todorovic, eds. Balkan Yearbook of Human Rights 2005: Confronting with the Past, Consequences for the Future. Dvornik, Srdjan. “Facing the Past: Overcoming our True Nature”. Balkan Human Rights Network. Sarajevo. 2005. Page 30.

⁴⁴ Interview. Natasa Lambic. Humanitarian Law Center. October 20, 2006.

⁴⁵ “The Hague Tribunal and Balkan Reconciliation.” Page 17.

reshaped beyond recognition by politicians whose power base is contingent upon fear of the “other”, and as a result the truth of the matter has been entirely obscured. However, I wonder to what degree there has been a *willingness* to believe these ethnically based truths; perhaps it is easier to believe the lie than to fully recognize the sheer senselessness behind such terrible violence, and to realize one’s own responsibility in the process. Such a realization will be a painful and necessary one if peace is to become a reality in Bosnia and Herzegovina. This is the nature of dealing with the past.

The war crimes tribunals and the work of NGOs across the region have worked to create an atmosphere hostile to the existing mistruths, and there is promise that this is having an affect. When I spoke with Tamara Smidling of Sarajevo’s *Centre for Nonviolent Action*, she told me of the public forums this organization has worked to organize with war veterans associations; many of the former combatants, she said, feel a great deal of regret for their actions and a few have even taken the opportunity of the forums to apologize for their involvement in the war, but nearly all of them have articulated that they feel they were manipulated and used by the politicians at that time. While this does not remove any responsibility on their part or help to undo any of the harm done during the conflict, it does shed light on the ability to acknowledge responsibility. Overall, however, this has not tended to be the case for the vast majority of survivors.

If interethnic relations are ever to normalize in present day Bosnia and Herzegovina, an undiluted account of the war must replace the array of mistruths which currently exist. The work of various NGOs in the region and the efforts of the regional organizations to account for each individual victim have helped to initiate the process of dealing with the past at the local level, and the courts have successfully prosecuted large numbers of perpetrators from all sides. It remains to be seen whether either of these approaches will succeed in restoring trust between those who once lived side by side, but it is the hope of those advocating such initiatives that the truth will at least open a window of opportunity in this direction. No amount of artificial divisions can change the simple fact that needs no proof: pain and loss remain the same wherever you go. But then, the people of Bosnia already know this. After all, once they were neighbors.

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