

Chapter 3

Dealing with the Past in Post-war Croatia: Perceptions, Problems, and Perspectives

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Introduction

Documenta—Centre for Dealing with the Past¹ is a civil society organization from Zagreb, which was established in 2004 in an attempt to encourage the processes of dealing with the past and the establishment of factual truth about the war. As part of its work, the organization conducted research concerning attitudes of the Croatian public about dealing with the past and the perception of victims of the 1991–1995 war. Multi-dimensional research of the public opinion in Croatia was conducted in the summer of 2006, and research results were collected, analyzed and published in October 2010² under the title “Dealing with the Past in Croatia: Attitudes and Opinions of Post-War Actors and Public”. This research tried to cover some of the basic thematic units concerning dealing with the past in contemporary Croatia as a phenomenon which social scientists in Croatia have not found particularly relevant for researching so far.

¹ *Documenta*—Centre for Dealing with the Past is a civil society organization from Zagreb which aims to develop social and individual processes of dealing with the past in order to build sustainable peace in Croatia and the wider region, through deepening of public dialogue and initiating debate on public policies which stimulate dealing with the past, gathering and publishing documentation and research of war incidents, war crimes, and violations of human rights; as well as monitoring judicial processes at local and regional level as a contribution to the advancement of judicial standards and practices in the processing of war crimes. Results of the survey mentioned in this chapter have been analyzed, and the chapter written, during my employment with *Documenta*.

² Although conducted back in 2006, this research is still relevant for understanding dealing with the past processes in Croatia, since it usually takes longer time for changes in this field to take place and for people to change their attitudes and opinions as a result of certain public activities and processes. Moreover, no similar scientific research has been done in the meantime. The research was published as late as 2010 due to difficulties in securing financial funds for its publishing.

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Results of this first comprehensive research on this important subject in Croatia enabled a wide view on the relation of citizens and various public actors to many aspects of this issue. This book chapter offers a review and an analysis of these results, but also opens up a discussion on the meaning of these results for the process of dealing with the past in Croatia. Moreover, it gives an overview of the developments and improvements that have occurred since the time when the research was conducted.

Furthermore, the chapter discusses transitional justice mechanisms which foster reconciliation in post-war Croatia. It looks at mechanisms such as war crimes trials, regional commission for truth-telling (RECOM), but also at public apologies and memorialization practices, and gives a brief overview of the latest events in these fields, as well as an assessment of their role in post-conflict reconciliation and dealing with the past.

The hypothesis of this book chapter is that progress has been made in the field of transitional justice in Croatia during the past decade, particularly in war crimes trials, and that political will to deal with the past has also occurred since president Ivo Josipović was elected in 2010. However, much work still needs to be done. The chapter concludes with recommendations for future actions that need to take place in Croatia in the upcoming period, in order to foster reconciliation and speed up the process of dealing with the past.

Dealing with the Past and Transitional Justice: A Theoretical Overview

The term “dealing with the past” refers to coming to terms with violent history and violence committed against all victims, regardless of their ethnic, political, or any other background. This process usually needs to occur on a number of different levels, “from the micro-level of an individual in a small community, to the macro-level of national, regional and global political bodies” (Stubbs 2003). In this chapter, “dealing with the past” is understood as coming to terms with the events that took place during the war of the 1990s and with the consequences they have had for post-war reconstruction and reconciliation.

In former Yugoslavia, it has been often argued that failure to deal with the past after WWII left the people with a legacy of mistrust and with different and conflicting “truths” about past events, which were passed from one generation onto another. This legacy enabled political elites from different ethnic groups to use the power they had to change and influence the meaning of historical facts and to create different myths, producing, in this, way, their own “truths” at the beginning of the war of the 1990s. David Bruce Macdonald argues that “these ‘stories’ proved to be absolutely essential in creating and supporting war” (MacDonald 2002, p. 214). Such interpretations of history served to bring back into public memory past events which the public never dealt with and which were never publicly discussed or acknowledged. Each side portrayed themselves as the greatest victims, and managed, by

manipulating public opinion within their own countries, to create an atmosphere of victimhood. Self-identification which is grounded in a collective victimization can end in dangerous results, particularly in terms of the group's relations with others and their reconciliation. Initiatives in the area of truth-telling, justice, and reparation contribute to the definition of who will be included in the category of victims. These initiatives, along with many others, are usually put under the common denominator of "transitional justice" and have the overall aim to serve society as a means to deal with past human rights abuses. A key goal of transitional justice is to contribute to sustainable peace and the rebuilding of a society based on the rule of law and respect for human rights (Teitel 2003).

According to Louis Bickford, "transitional justice refers to a field of activity and inquiry focused on how societies address legacies of past human rights abuses, mass atrocity, or other forms of severe social trauma, including genocide or civil war, in order to build a more democratic, just, or peaceful future" (Bickford 2004, p. 1045). Transitional justice seeks recognition for victims and promotion of possibilities for peace, reconciliation, and democracy. Since the Nuremberg trials, it has been possible to trace the genesis and history of politico-legal organization of international memory of victims and perpetrators of war crimes (Savić 2006).

Although the concept of transitional justice³ has been constantly and dynamically developing, it usually includes a combination of different mechanisms such as war crimes trials, establishing of truth commissions, developing reparations for victims' families and survivors, memorialization initiatives for remembering the victims, etc. Possible combinations of the abovementioned mechanisms keep rising, but at least some of these mechanisms (not necessarily all of them) are applied in each particular case and they are in many respects complementary (Mobekk 2005, p. 280). Transitional justice has, however, often been criticized for being too normative and abstract, and lacking context and historical background. For this reason, the effectiveness of each of these measures depends on the broader context in which it unfolds, including its relationship with other dimensions of transitional justice (Orentlicher 2007). Thus, for example, public apologies made by high-ranking state officials do not make a great effect unless they are accompanied with other actions. These can vary from public campaigns, which would raise the public awareness about the suffering of all victims, to their inclusion in school text-books in order to make them part of educational materials.

Recently, the literature on transitional justice has focused less on perpetrators and more on the explicit goal of "healing" the victims (Andrieu 2010). Thus, some authors argue that the focus of transitional justice research has recently shifted more to the victims and their concerns, and has been less focused on political questions. "Victims and reparation for victims have become quintessential elements in the debate on transitional justice and how to deal with the past" (Rombouts 2002, p. 217).

Transitional justice initiatives, such as prosecutions and truth-telling, challenge distortions of the truth that allow groups only to see their own members as "victims".

³ According to Louis Bickford, the term itself is misleading, as it more commonly refers to "justice during transition" than to any form of modified or altered justice. See (Bickford 2004, p. 1045).

They can also challenge claims of historical “victimhood” of entire groups and help to demonstrate the fact that members of other groups have been abused as well, which contributes to reconciliation among different groups and helps them deal with the difficult past.

Public Opinion About Dealing with the Past in Croatia

In order to put an end to elicitation and manipulation of war crimes for political purposes, human rights organizations and victim associations in Croatia have grown very insistent about dealing with the past. The key reason for this initiative emerged from the experience of the concealment and forgery of war crimes and other war events, which influenced the more recent past of the former Yugoslavia and post-Yugoslav societies.

In Croatia since the end of the war there has been a widespread public understanding of the nature of the 1991–1995 war as “just and legitimate, defensive and liberating, and neither aggressive nor conquering” (Declaration on the Homeland War 2000). A radical understanding of its nature was given by a Supreme Court judge and former president of the Supreme Court, Milan Vuković, who said in an interview that no war crime could be committed in a defensive war (Ivanišević 1995). Although much progress has been made since this statement, the opinion that there were no crimes in this war committed by “our side” is still present in the Croatian public. This shows that the problem of not understanding or having sympathy for “the other side” still remains present in Croatia. In order to answer the questions why this lack of sympathy and understanding for the victims from “the other side” occurs, why persons accused of war crimes still enjoy support among the Croatian public, even years after the war had ended, and what the public opinion on war crimes and violence committed during the 1991–1995 war in Croatia is, *Documenta* conducted, in 2006, a survey among the Croatian public.

The research consisted of three parts: qualitative research of the public opinion conducted with the use of focus groups method, qualitative research of the attitudes of public opinion creators conducted with the use of in-depth interviews method, and quantitative research of the citizens’ attitudes conducted with the use of a survey. The research was conducted on a sample of the general population of Croatian citizens (regardless of their nationality), as well as two additional sub-samples. The first sub-sample consisted of citizens of Serbian nationality from war-affected areas, while the second sub-sample consisted of citizens of Croatian nationality from war-affected areas. The basic goals of the quantitative research included:

- Attitudes and level of awareness on dealing with the past, i.e., on the events and experience of the “Homeland War”⁴

⁴The “Homeland War” is the official name of the war fought for state sovereignty and territorial integrity of Croatia, which took place between 1991 and 1995.

- The general public's perception of victims and survivors
- Attitudes of the general public on the support to victims and survivors
- Perception of war crimes committed during the war
- Attitudes on processing of war crimes⁵

Survey results showed that, in general, the majority of Croatian citizens and actors supported dealing with the past in Croatia: they thought that dealing with the past was important for future stability of the Croatian society, as well as for sustainability of peace in Croatia and the region. Those who were directly affected by war and suffered its consequences more often felt that the term carried negative connotations. Thus, when analyzing survey results, it can be seen that, among the general population, 14% felt the term “dealing with the past” had an exclusively negative meaning, but for the majority, 41%, the term had a neither positive nor negative connotation (Kardov et al. 2010, p. 54).

Considering the perception of victims of the war in Croatia, more than half of the general population respondents (52%) thought victims of the war were exclusively Croats. Almost a third (31%) thought that victims from the Croatian side were far more numerous than Serbian victims, while none of the respondents from the general population said they thought there had been more victims on the Serbian side (Kardov et al. 2010, p. 69). There is also a significant difference in the perception of war victims between two target sub-samples, between Serbian respondents from war-affected areas and Croatian respondents from the same areas. The majority of respondents of Serbian nationality (84%) felt that Croats and Serbs were equally primary victims of the war, while only 12% of respondents of Croatian nationality felt the same (*ibid.*).

It is also interesting to look at the answers to the question which war crimes have the respondents heard about. Almost all of the general population of respondents (99%) have heard about the bombing and devastation of the town of Vukovar, while almost the same percentage (97%) have heard about killings of captives from the Vukovar hospital at Ovčara.⁶ The same respondents have heard to a far lesser extent

⁵The research included a sample of the general Croatian public and two sub-samples. In the sample of general population, 700 people were interviewed. In each sub-sample (people of Serbian nationality from war-affected areas and people of Croatian nationality from war-affected areas) 150 people were interviewed. All respondents were older than 18.

⁶Ovčara is an agricultural property near the town of Vukovar where a war crime was committed by members of the Yugoslav National Army and Serbian paramilitary forces in the night between November 20, 1991 and November 21, 1991. More than 200 civilians and soldiers were killed, who were mostly patients at the Vukovar hospital from which they were taken and brought first to a camp and then killed at Ovčara. It is considered to be the largest slaughter of individuals committed during the war in Croatia. Thirteen people were found guilty in March 2009 before the War Crimes Council of the District Court in Belgrade for the war crime committed at Ovčara. They were sentenced to between five and twenty years in prison. Moreover, the ICTY sentenced, in the third non-appealable verdict made in December 2010, Yugoslav National Army major Veselin Šljivančanin to 10 years in prison for helping and supporting the crime at Ovčara. He was granted an early release on July 5, 2011. Mile Mrkšić was sentenced in 2009 to 20 years in prison for “having aided and abetted the murder and torture of prisoners” (ICTY 2007).

about killings of Serbian civilians during the operation “Storm”⁷ (68%) and about seizure of property from Serbs in Croatia (58%), while the smallest percentage has heard about killings of Serbian civilians in the town of Sisak (44%) (Kardov et al. 2010, p. 86).

The survey also showed that only 22% of the general population was sure that Croatian citizens and army members committed war crimes against Serbs, while 64% of Serbian respondents from war-affected areas thought that the Croatian side had committed war crimes. However, it should also be emphasized that a quarter of respondents of Serbian nationality did not know or did not want to say whether they thought crimes had been committed against Croatian citizens of Serbian nationality by the Croatian army (Kardov et al. 2010, p. 83).

Support was expressed for punishing perpetrators of all war crimes and for prosecuting those responsible for crimes at war crimes trials. Thus, the majority of general population respondents (61%) thought that perpetrators of all crimes should be punished, while a third of Croatian citizens (32%) thought there were some crimes committed which could be justified and their perpetrators need not be punished. The majority of respondents of Serbian nationality (87%) believe all perpetrators should be punished, while only 8% feel that some crimes are justifiable (Kardov et al. 2010, p. 89).

The general support of the prosecution of all war crimes does not, however, mean that citizens supported every individual war crime prosecution. This could be best seen at the example of Croatian general Ante Gotovina, who was accused by the International Criminal Tribunal for the former Yugoslavia (ICTY) for committing war crimes against Serbian civilians after the operation “Storm” and for whom an indictment was issued after he had left Croatia and went into hiding in 2001. A poll conducted in early 2005, while Gotovina was still on the run,⁸ during the broadcast of one of Croatia’s most popular political TV shows *Latinica* showed how this war crimes suspect was considered to be a hero rather than a war criminal.⁹ Viewers were asked if they were to encounter Gotovina, would they report him to the police or help him hide. Only 8% of the respondents said they would turn him in, while

⁷ During the military operation “Storm,” which happened on August 5, 1995, all of the occupied Croatian territory was brought back under the Croatian legal order, except for Eastern Slavonija which was peacefully re-integrated later. “Strom,” next to the “Flash,” was the crucial military operation, which led to the end of the war. During the operation, some 18.4% of Croatia’s territory was liberated. In April 2011, the ICTY brought a first degree verdict against two Croatian army generals Ante Gotovina and Mladen Markač, who were sentenced to 24 and 18 years in prison respectively for war crimes committed against Serbian civilians during the operation “Storm.” The verdict also directly identified President Franjo Tuđman as part of a joint criminal enterprise dedicated to expelling Serb residents of the country’s Krajina region. The ICTY, however, did not rule that Operation “Storm” as a whole was a “joint criminal enterprise.” Rather the judges ruled that some aspects of the military offensive violated international law (ICTY 2011).

⁸ Ante Gotovina was arrested on the Canary Islands and extradited to the ICTY in The Hague in December 2005.

⁹ For an extensive analysis of the “hero” and “martyr” symbolism of Ante Gotovina in the perception of the Croatian public see (Pavlaković 2010).

92% said they would help him avoid arrest. Of those who said they would help him, 76% said they believed he was innocent (Latinica 2005). Moreover, according to a poll conducted in 2006, after his arrest, 64.8% of respondents said they had had a “positive” or “mostly positive” opinion of Gotovina, while only 4.7% had a “negative” or “totally negative” view of him (Đula 2006). This testifies to the fact that socially constructed versions of Croatia’s past and its role in the 1991–1995 war, which were firmly established in the collective public memory of the war through political propaganda and media reporting¹⁰ and which were implemented in the public sphere during and after the war, are still relatively strong and powerful.

In accordance with such an interpretative framework, the survey showed that respondents mostly viewed crimes committed by “their” ethnic group as individual incidents which happened by accident and were directed at individuals, while they viewed crimes committed on the other side as hate crimes directed at the whole nation (Kardov et al. 2010, p. 74–91).

This problem’s full capacity is understood when one takes into account that citizens primarily rely on their own experience and that collective memory, for many, comes before historical facts. A lack of information and of willingness to learn about victims “on the other side” and the reluctance of political structures to deal with the past contribute to slow pace of determining facts about the war. What also proved to be widespread among the Croatian citizens according to this survey is a lack of knowledge about already established facts, as well as low familiarity with the ongoing war crimes court proceedings.

It should be emphasized that, for these results to acquire full meaning, it is necessary to take into consideration that dealing with the past is a long-term and dynamic process which takes place at different levels in a society and that many activities that accompany it differ in their efficiency and extent. The dynamics of this process is not connected only to changes on the institutional and general support, but also to specific demands that dealing with the past puts before each member of a society. Thus, difficulties in meeting those demands result in different meanings which citizens attach to the term “dealing with the past.”

Recent Developments and Changes Brought by Transitional Justice Mechanisms and Their Effect On Dealing with the Past in Croatia

War Crimes Trials

First war crimes trials in Croatia started already during the war in 1992, at the county courts in the towns of Karlovac, Šibenik, Sisak, and Varaždin. However, the

¹⁰ For a more detailed discussion on the role of the media during the war in former Yugoslavia see (Đerić 2008), (Skopljanac Brunner et al. 2000), and (Thompson 1999).

trials were often characterized by ethnic partiality, lack of witness protection, and unprofessional court proceedings (Subotić 2009). Indictments which included a large number of persons were being issued exclusively against members of the Serb military and paramilitary formations. Those indictments were imprecise and insufficiently supported with evidence. Verdicts were pronounced, in most cases, in the absence of accused persons (464 persons were found guilty *in absentia* in 118 cases) (Stojanović and Kruhonja 2011).

A turning point in war crimes trials is related to the opposition coalition's coming to power in 2000,¹¹ when the Croatian Parliament, under the pressure from the EU, adopted the Declaration on Cooperation with the International Criminal Court in the Hague (2000).¹² The State Attorney's Office dropped charges against 1,403 members of the Serb military formations; the number of trials in the absence of accused persons was significantly reduced, and trials were also instituted for crimes committed by members of the Croatian military units (*ibid.*). Cooperation with the Prosecutor's Office of the Republic of Serbia and the Prosecutor's Office of Montenegro was established. Regional cooperation between Serbia and Croatia started officially on October 13, 2006 by signing an agreement which allowed transfer of war crimes trials to the country of the accused, which is not necessarily the country where the crime had been committed (*ibid.*).

Moreover, in order to fulfil the requirements for accession to the EU, concerning judicial reform, the Croatian parliament adopted, in October 2003, the Law on the Implementation of the Statute of the International Criminal Court and on the Prosecution of Crimes against the International Law of War and Humanitarian Law.¹³ According to that law, four specialized war crimes chambers were set up at county courts in Zagreb, Osijek, Rijeka, and Split.¹⁴

Since 2001, war crimes committed by Croatian military forces members have also been investigated and prosecuted, while in 2010 the number of such cases has

¹¹ The so-called "coalition of six" won the parliamentary elections in 2000 against the ruling HDZ party (Croatian Democratic Union), which had been in power for 10 years. The coalition consisted of six left-oriented parties: Social-Democratic Party (SDP), Liberal Party (LS), Croatian Social-Liberal Party (HSL), Istrian Democratic Party (IDS), Croatian Peasants' Party (HSS), and Croatian People's Party (HNS).

¹² See Narodne novine [the Official Gazette], 41/2000, April 18, 2000.

¹³ See Narodne novine [the Official Gazette], 175/2003, November 4, 2003.

¹⁴ However, war-crimes cases were not transferred exclusively to war-crimes chambers at these four courts, and such cases continued to be prosecuted at other county courts. Human rights organizations, however, continued insisting that exclusively these four courts needed to be authorized for prosecuting and trying war crimes, in order to make trials more professional, unbiased, and more effective. See (Stojanović and Kruhonja 2011) This was made legally possible due to the amendment to the Law on the Implementation of the Statute of the International Criminal Court and on the Prosecution of Crimes against the International Law of War and Humanitarian Law, which was adopted in October 2011 (Stojanović and Sjekavica 2012).

significantly risen.¹⁵ Thus, for example, the trial of General Mirko Norac before the county court in Rijeka, which started in 2007, for war crimes committed against Serbian civilians in the town of Gospić and the renewed trial of officers of the military police for war crimes against prisoners of war at the military prison “Lora” in Split,¹⁶ marked a break with the practice which existed in Croatia up to that moment to exclusively indict and try persons of Serbian nationality. In the course of the trial, Serbian victims testified for the first time.

However, trials still take place in an atmosphere of tolerance for “own” war criminals. Thus, for example, a county court judge in the town of Sisak, while reading a verdict to four Croatian army members tried for war crimes against a Serbian family, said she was sorry Croatian soldiers had to stand trial before Croatian courts for odious crimes which we were used to have been committed by “the other side”, “especially in the days when we light candles for the victim of Vukovar” (Charges for War Crimes 2010). Moreover, the public space has been dominated by support for Branimir Glavaš, who was sentenced to 8 years in prison for war crimes against civilians committed in Osijek in 1991. The support came mostly from his own party (HDSSB), which nominated him in 2008, while he was still standing trial for war crimes, a member in the Parliamentary committee for human rights and rights of national minorities (Božić and Rešković 2008). Furthermore, in more recent events, Glavaš, although sentenced to prison by a non-appealable verdict, was named in October 2011, the head of HDSSB parliamentary elections list, which was possible due to a loophole in the Law on the Election of Representatives to the Croatian Parliament (2003).

The culture of non-prosecution of crimes also includes a lack of political responsibility for committed crimes, as for example former deputy Speaker of the Croatian Parliament, Vladimir Šeks, remained on duty despite the fact that the non-appealable verdict determined and proved the existence of a secret military troop, which was taking away, torturing and killing civilians, at the time when he was the head of the Regional Crisis Headquarters (Stojanović and Kruhonja 2011). Instead, the media speculated that he would be appointed coordinator for closing Croatia’s EU negotiations in Chapter 23,¹⁷ but this did not happen in the end. On the upside, in 2010, an investigation was launched against Tomislav Merčep the Croatian Interior Ministry Adviser during the war, and commander of reserve police units in Pakračka Poljana and at the Zagreb Velesajam, for executing 43 civilians, while performing these duties (ibid.).

¹⁵ According to the State Attorney’s Office, quoted in their annual report on monitoring war-crimes trials by three human rights organizations, *Documenta*—Centre for Dealing with the Past, Civic Committee for Human Rights and Centre for Peace, Non-Violence and Human Rights Osijek, by the end of 2011, 104 members of Croatian army forces have been tried, while 29 have been convicted based on non-appealable verdicts. See (Stojanović and Sjekavica 2012).

¹⁶ In March 2006, after the Croatian Supreme Court annulled the acquittals from August 2004, all eight accused were convicted and sentenced to 6–8 years in prison.

¹⁷ Chapter 23 was a chapter in Croatia’s negotiations on the accession to the European Union, which related to the state’s judiciary and fundamental rights.

A serious setback happened in October 2011, when the Croatian Parliament adopted a law according to which all legal acts related to the 1991–1995 war, which find Croatian citizens accused or indicted of war crimes, became null. This was a direct consequence of Serbia sending Croatia a list of indictments against Croatian citizens charging them with war crimes. Croatian president Ivo Josipović publicly criticized this law as something which called into question Croatia’s readiness to prosecute war criminals (President Josipović on the Occasion of Passing the Annulment Law 2011).

Further improvements in processing war crimes were stalled due to the lack of political will to strengthen the independence, expertise, and efficiency of judicial bodies through specialization of courts and state attorney’s offices. The problem that was prevailing until the end of 2011 was the continuation of holding trials before local courts, in areas where crimes occurred, instead of before four specialized war crimes chambers (Centre for Peace, Non-Violence and Human Rights Osijek 2008). Legislations related to war crimes trials and trial proceedings mainly improved due to the EU accession process,¹⁸ although the EU has made no serious conditions for progress in the accession process on domestic war crimes trials, as compared to the ones on cooperation with the ICTY (Human Rights Watch 2004). As Jelena Subotić argues, this allowed Croatian elites “to preserve almost intact the Croatian national understanding of the character of the war and Croatia’s role in it” (Subotić 2009, p. 121).

However, in Croatia, no broader strategy in which war crimes prosecution is connected and supplemented with other key elements of transitional justice, such as truth-telling mechanisms, reparations to victims, public apologies, or institutional reform, is developed.

Truth-Telling Projects

The truth about past war crimes and human rights abuses has to be promoted by other mechanisms of transitional justice and peace-building and not just through war crimes trials. National legal instruments are not enough in order to achieve truth-telling and truth-seeking. What is needed is a regional level public agreement about the mechanisms for establishing and telling the facts about the past.

For this reason, civil society organizations from Croatia and other post-Yugoslav countries have been advocating joint strategies to address past human rights abuses: prosecution of perpetrators, addressing reparations and compensation issues, efforts to honor the memory of victims, analysis of institutional culpability, and efforts to reform institutions. A few years ago human rights and peace organizations have started discussing the possibility of establishing and eventual usefulness of a truth

¹⁸ A discussion on the role of the EU accession process and EU conditionality on transitional justice processes in Croatia falls outside the scope of this chapter. For an extensive analysis see (Subotić 2009), (Batt and Obradovic-Wochnik 2009) and (Rangelov 2006).

commission. Recognizing the importance of systematic regional cooperation, on level of documenting war events and advocating justice for victims, a protocol on cooperation between three non-governmental organizations¹⁹ was signed, followed with work on joint regional projects. At the First Regional Forum on transitional justice held in Sarajevo in May 2006, partners launched consultation process on the regional truth-telling mechanism leading to an initiative for the establishment of a Regional Commission mandated to establish and disclose the facts about war crimes committed in the former Yugoslavia (hereinafter RECOM) (Kostovica 2009). At the Fourth Regional Forum, held on October 28 and 29, 2008 in Prishtina, Kosovo, more than 100 organizations and individuals, including victims and victim associations from Bosnia and Herzegovina, Croatia, Kosovo, Montenegro and Serbia, as well as associations of citizens, human rights organizations, media associations, and other civil society groups from across the region, formed a Regional Coalition for RECOM (Consultation Process 2011).²⁰

In April 2011, civil society activists across the region started collecting signatures for the establishment of RECOM, with the aim of handing in the signatures to governments and parliaments in the region, which are supposed to support it and adopt a decision on its establishment. The forming of RECOM has so far been publicly supported by Presidents of Croatia, Serbia and Montenegro (Ivo Josipović, Boris Tadić and Filip Vujanović), as well as President of BiH Federation Živko Budimir, Prime Minister of the Autonomous province of Vojvodina Bojan Pajtić, and Prime Minister of Montenegro Igor Lukšić (Political Support 2011).

In Croatia, the initiative received first strong public support by President Ivo Josipović at the Transitional Justice Forum held in Zagreb in October 2010. The President stressed the importance of “determining the faith of the missing and paying respects to victims, which is where I see the capacities of the future regional commission and it is necessary for the society as a whole to make additional efforts in order for families of victims to receive satisfaction” (Political Support 2011). A petition for the establishment of RECOM and the RECOM Statute proposal were submitted to the Croatian President on June 21, 2011, when he said he would promote the Initiative for RECOM as part of his regional activities and in communication with the Republic of Croatia government and political parties (Public Advocacy 2011).

However, a survey on the public opinion, conducted in March 2011 by an agency for public opinion research, showed that only 55% of Croatian citizens would sign a petition on the establishment of RECOM, as opposed to 95% of Kosovo citizens, 85% of BiH Federation citizens, and 63% of citizens of Serbia (Survey of Opinions 2011). Moreover, citizens of Croatia were the most pessimistic about the success of RECOM, compared to citizens of other post-Yugoslav states, while the largest

¹⁹These are: *Documenta*—Centre for Dealing with the Past from Zagreb, Humanitarian Law Centre from Belgrade, and Research and Documentation Centre from Sarajevo.

²⁰For an extensive discussion about RECOM initiative see Jill Irvine and Patrice McMahon. *A Movement in the Making? The “REKOM” Coalition and Transitional Justice in the Balkans* in this volume.

percentage of citizens from Croatia never even heard about the initiative (only 6% have heard about it, compared to 25% of Montenegro's citizens or 11% of Serbia's citizens) (ibid.). Furthermore, a report issued by the Youth Initiative for Human Rights from Croatia, which coordinated the collection of signatures for the establishment of RECOM, showed that only some 20,000 signatures were collected in Croatia in the period April 26–June 30, 2011, as opposed to some 122,000 signatures collected in Bosnia and Herzegovina and some 100,000 collected in Kosovo (Youth Initiative for Human Rights Report 2011).

It is not surprising that Croatia's citizens did not show a high degree of interest in a regional initiative for dealing with the past, if we take into account that *Documenta's* research on public attitudes on dealing with the past in Croatia showed that 41% of respondents felt the term had neither a positive nor a negative meaning, which points to low-level familiarity of respondents with the concept and low-level interest in it and its meaning (Kardov et al. 2010, p. 54).

Moreover, it has to be taken into account that low public support for RECOM in Croatia depends on a number of different factors, the most influential of them being the ICTY sentence to general Ante Gotovina from April 15, 2011,²¹ when he was found guilty and sentenced to 24 years in prison for participation in a criminal enterprise the aim of which was to permanently remove the Serbian population from the Krajina region (ICTY 2011). Prime Minister Jadranka Kosor called the verdicts "unacceptable" and promised that the government would do everything it could to overturn them on appeal, and even President Ivo Josipović expressed his shock with the verdict (Kosor: The Verdict is Unacceptable 2011). The ruling provoked protests by, mainly, war veterans, as the indictment was perceived in the Croatian public as an indictment to the entire "Homeland War", and not just the accused generals. Most of the people in Croatia believe that the offensive was a legitimate military action taken to regain territory that had been seized by the Serb forces. What sparked the protests was a wrong interpretation of the indictment, which was understood as labelling the entire "Homeland War" as "a joint criminal enterprise". This was mostly due to the propaganda of the Croatian media, which did not ground its reporting in factual information and thus created a very biased and misleading picture of the indictment and its meaning.²²

Public reactions after the reading of the indictment showed that Croatia was not yet ready to acknowledge and face the crimes committed by its army generals during the "Homeland War", mostly due to the existence of a strong public narrative about the war as a "just and legitimate defence...to defend its internationally recognized borders against Greater Serbia's aggression." (Subotić 2009, p. 91)

²¹ However, many other factors which influenced low support to RECOM need to be taken into consideration, such as a hard economic crisis in the country and high level of unemployment of the population, which left people more concerned with problems of everyday survival, rather than with regional cooperation on fact-finding and reconciliation.

²² For an extensive analysis of Croatian National Television's (HRT) reporting on the indictments to generals Ante Gotovina, Ivan Čermak, and Mladen Markač see (Preliminary Results 2011).

Public Apologies

Acknowledgment of crimes committed on every side during a conflict is crucial for reconciliation of all warring sides.

Acknowledgment is an act, or, more precisely, a process of responding to the crime, whereby we publicly express and recognize our knowledge of the fact that killing and other forms of most brutal harming of the innocent people took place in the recent past, and that these atrocities were carried out in our name (Dimitrijević 2011)

Official apologies are expressions of regret issued by political elites in power, which represent a community or group in the name of which atrocities were committed.²³ The first official apology came from President Stjepan Mesić in September 2003, during his visit to Belgrade. Mesić said he apologized “to all those who have suffered pain or damage at any time from citizens of Croatia who misused or acted against the law” (Presidents apologize over Croatian war 2003). After his successor, Ivo Josipović, became president in 2010, more apologies followed. In mid-April 2010, Ivo Josipović visited Sarajevo and delivered a speech in which he expressed deep regret for Croatian politics toward Bosnia-Herzegovina in the early 1990s. He followed this apology with a visit to the Bosnian village of Ahmići, where Croat forces carried out a notorious massacre of Bosniak civilians in 1993. He was the first Croatian official to pay tribute to the Bosniak victims of the Ahmići massacre. However, the ruling party, HDZ, condemned President’s speech and apology, saying they had a potential of “adding Croatia to the list of aggressors” in the wars of Yugoslav disintegration of the 1990s (Jović n.d.).

The next apology happened in the village of Paulin Dvor near Osijek, where members of the Croatian army killed 18 Serbian and one Hungarian civilian in December 1991. Josipović said that “the crime deserves to be condemned, the victims deserve to be respected, and those who were left behind the victims deserve our apology” (Presidents Josipović and Tadić Laid Wreaths at Paulin Dvor 2010). This apology followed Serbian president Boris Tadić’s apology at Ovčara, who laid a wreath on the monument at Ovčara and expressed his regret for the crime committed there.²⁴ Part of the Croatian public saw the Serbian and Croatian presidents’ visits as a new chapter in Croatian-Serbian relations and as a great contribution to the reconciliation process. However, the other part of the public condemned Josipović’s apology seeing it as an attempt to belittle the tragedy that happened at

²³ Due to the number of official apologizes that can be heard, Nenad Dimitrijević remarks that “we seem to be living in an age of political apology” (Dimitrijević 2011).

²⁴ President of Serbia, Boris Tadić, is the first high-ranking Serbian official who apologized in June 2007 to citizens of Croatia and members of the Croatian nation for crimes committed in the past war by some of his co-citizens, in the name of the Serbian people. He apologized while appearing on the TV show “Nedjeljom u 2” (Sundays at 2) on the Croatian National Television. Moreover, some more informal apologies should also be mentioned, such as the one given by a non-governmental organization Women in Black from Belgrade. Members of the organization went to Vukovar in November 2006 to ask families of victims of crimes committed in Vukovar for forgiveness (Tadić ponovio ispriku Hrvatima zbog rata 2007).

Ovčara and as an attempt of relativizing the guilt for crimes committed in the war. Low-level support to public apologies by state representatives could already be discerned from *Documenta's* survey, in which only 3% of the respondents said they thought an apology would help family members of war victims to deal with their losses (Kardov et al. 2010, p.73).

It could be, thus, concluded that, as much as they play an important role in facing the past and reconciling the sides in a conflict, apologies have to be understood and viewed in the context of other actions and efforts made by political elites. In case they are not accompanied with a real and strong political will for establishing dialogue and acknowledging all victims of a conflict, apologies face the danger of becoming empty gestures, void of any real importance and meaning in fostering reconciliation.

Monuments and Memorialization

Other actions which help recognizing the suffering of all victims during a conflict are monuments and memorials erected in the memory of victims. Public memorials after conflict can contribute to acknowledging the harm caused to victims and to restoring their dignity. However, they can also cement divisions between communities and strengthen barriers to communication across the conflict divide.

From the perspective of the state, the goals of public memorials are more often, in the words of Benedict Anderson, related to nation-building and defining an "imagined community" (Anderson 1983). Public monuments can play an important function in telling the story of a national group, which reinforces the group's chosen self-image. Through erecting monuments, the goal of states, therefore, may be to assert particular identities in the public space that support narratives needed for political legitimation, and these narratives may even be harmful for victims. It is, thus, interesting to note that the Croatian Law on Marking Sites of Mass Graves of the "Homeland War" Victims problematically defines victims of the "Homeland War" as "Croatian war veterans and civilians who died in mass executions during Serbian and Montenegrin chetnik aggression and aggression of the Yugoslav army on the Republic of Croatia" (Law on marking sites of mass graves of the Homeland War victims 1996).

Rare memorials to Serbian war victims in Croatia exist in two villages in the Dalmatian hinterland, Gošić and Varivode, where the Council of Serbian National Minority erected in August 2003 wooden crosses and plaques on which victims' names were written in Cyrillic. However, in April 2010 unidentified perpetrators damaged the monument to nine civilians killed in Varivode in August 1995, during the operation "Storm". The new, restructured monument was opened in October 2010 by President Josipović, who said that a terrible crime had been committed against them and that they were innocent victims of revenge which should not have taken place (President's Office Press Release 2010).

That the Croatian public is still not ready to face crimes committed by Croatian army members during the operation "Storm" can also be seen at the example of an

attempt made by a civil society organization, Youth Initiative for Human Rights, which put up, in August 2010, a plaque in the memory of all civilians who had to flee their homes during operation “Storm”, many of whom never returned. The plaque was put up at the exit from the town of Knin, through which refugees fled in August 1995. The plaque read that it was put up “at the 15th anniversary of the Croatian army action “Storm”, (...) by Croatian citizens who offer their apology to victims, due to the lack of an apology from the responsible” (www.yihr.org). It also stated that its erection was financed by the Croatian government, but the government’s human rights office immediately reacted denying financing the plaque. The plaque was removed by city authorities within 24 h, with the explanation that no permission had been issued for its erection.

Another controversial example happened in September 2011, when local population of the village Golubić near Knin put up a monument in the memory of all local Serbs from Golubić who died during the war. The controversy stemmed from the fact that some of the victims whose names were listed on the monument died in 1991 and 1992, which left the public speculating if those were members of rebel Serbs’ army who died in fighting. Opening of the monument was banned by the interior ministry, saying it was put up unlawfully on state’s property, but the monument was left standing, since names and dates of victims were removed and the new plaque read it was being erected in the name of all people from Golubić who died in wars, without mentioning when or in which war they died.

Thus, the scarcity of monuments to victims “of the other side” (and destruction of the few existing monuments) reflect the results of *Documenta*’s survey, in which more than a half of the respondents (52%) of the general population said they believed that victims of the war in Croatia were exclusively Croats (Kardov et al. 2010, p. 69), while 34% of the respondents felt that Serbian civilian victims and their families should not be given any reparations (*ibid.*, 73). Moreover, only 5% of respondents from the general population felt that a memorial or a monument erected in the memory of victims would help victims’ families to deal with their losses (*ibid.*).

The mentioned examples of erected monuments also point to how complicated, and potentially how dangerous, memorials are in terms of post-conflict reconstruction. New public memorials built after the war in Croatia are mainly ethnically exclusive and reflect the view that the role of victim belongs exclusively to the majority community. Although there are examples of allowing victims of “the other side” to enter commemorative practices in the memory of war victims, it seems that some time will still need to pass before official narratives start talking about and remembering all innocent victims of the war, regardless of their ethno-national and religious belonging.

Future Perspectives

Dealing with the past in post-war societies has an important role for reconciliation, because denial of violent past and refusing to take responsibility for past war crimes prevents full social, economic, and political development of a society. The prospect

of further normalization, as well as insuring preconditions for social and economic development in Croatia, seems to be largely dependant on increasing the capacity of the civil society, political leaders, academic community, media, as well as of the judiciary, to deal with the past.

One of the mechanisms to achieve this is prosecution of war crimes at domestic courts. In Croatia, these trials have significantly improved in the last decade, although problems still exist. Trials are still conducted in the context of social tolerance toward “one’s own” criminals, particularly in the context of the 2011 parliamentary elections. Moreover, in war crimes trials, the focus of public interest still lies on perpetrators instead on victims, while the general public still lacks compassion toward victims from other ethnic communities. Since the political will to prosecute criminal acts committed by members of Croatian army units was lacking, there was no awareness about the need to pay respects to the victims of those crimes either.

During the last several years, however, the situation has changed. Steps forward undertaken by the highest-ranking state officials during 2010 might significantly influence the creation of a political and public opinion which condemns crimes while at the same time supports reconciliation processes.

Thus, erecting monuments and paying respects to all victims by the highest state officials on the sites of detention and killings of innocent people not only represents an act of paying respects to all war crimes victims, but it is also necessary in order to make those sites become places of remembrance, with a clear message of condemning the crimes committed there.

However, a national perspective is not enough in order to achieve truth-telling and truth-seeking. A regional cooperation is necessary in all post-war societies of the former Yugoslavia, since a regional approach could have a better chance at dealing with the past than a national one. For this reason, it would be of great importance to the former Yugoslav states to form a regional commission, which would make efforts to establish facts about all crimes committed and all victims who suffered during these wars, so that these crimes could never again be manipulated for political purposes and would not lead into another conflict. A regional commission will certainly not be able to fulfil its mission without a clear and direct support from all states, which is why advocating for its establishment seems particularly important at the moment.

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