

Engineering Grassroots Transitional Justice in the Balkans:

The Case of Kosovo

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The initiative to establish a truth commission in the successor states of the former Yugoslavia (RECOM) presents a rich case study of the performance of the “toolkit” that transitional justice professionals propose on a global scale: an inclusive package that offers truth, justice, reconciliation and stability. Whether these goals could be achieved is the subject of a critical debate that questions overly ambitious projects of truth commissions, especially their sensitivity to local understandings and practices of transitional justice. We aim to contribute to this debate by examining the reception of RECOM in Kosovo, where most local actors remain either noncommittal or outright opposed to RECOM. What these actors share is the conviction that their own narratives be taken seriously, even when this means refusing the suppression of “truths” that can be divisive. We found that giving priority to “the local” implies more than adapting the received professional “toolkit”: it might require abandoning it.

Keywords: RECOM; truth commission; Kosovo; transitional justice; reconciliation

Introduction

When Lola said that she was not prepared to meet Serbian women, not even the members of the antiwar group Women in Black, she meant it. This was in 2007, nine years after the Kosovo war. In the war, Lola had lost her brother. As the director of a rehabilitation center for women victims of violence, she knew that the Women in Black from Belgrade had no connection with the Milošević regime’s crimes. Yet, there was a gap between her rational and her emotional understanding. In one conference, she told us, Serbian women activists “took the initiative to apologize” to the

Albanian participants, feeling responsible for what war criminals had done in their name.¹ It was a momentous event that disrupted the meeting. No longer could anyone hear the speaker talk, “Albanian women were crying. Serbian women were crying. It was such a touching moment.” The event was televised and Lola’s mother, who was watching from home, cried too. She felt that because those women showed “empathy toward the victims of war” they deserved to sit at the same table with them. Lola told us this story to explain that while a public apology by the Serbian government to Albanian victims would be “an important part of transitional justice,” the current grassroots effort to establish a regional truth commission in the former Yugoslavia, known by the acronym RECOM, is not. She and her organization will not participate in RECOM without the Serbian state’s official acknowledgment of the suffering it perpetrated against Kosovar Albanians.²

Unlike Lola, meeting Serbian women is not a problem for Fahrije, whose husband went missing in 1999 with 68 of the 226 people killed by Serbian troops in the village of Krusha e Madhe/Velika Kruša. Nor is it a problem to participate in RECOM. What Fahrije wants is to find her husband and she believes that RECOM can help. She no longer has faith in the International Red Cross. After years of fruitless searches, she thought it was humorous when an official answered her question, “Have you found my husband?” with an apology and a quip: as a single woman in her forties she had never been very good at finding men. Fahrije does not trust her government or the municipality to register the local missing, and knows the current dialogue between Serbia and Kosovo on a reciprocal recovery of the missing is stalled. She stopped protesting and lobbying in 2005, when she realized that she had to find a way to put food on the table for her two toddlers. In a village without men, she was the first woman to drive a tractor, breaking a taboo. Today she runs a small cooperative that produces *ajvar*, a red pepper spread common to the region. Theoretical talks about transitional justice and the general developments of RECOM bore her. Her participation is anchored on the belief that RECOM may be the last chance to find her husband’s remains. That is all she asks.³

RECOM is a regional initiative lobbying for an official truth commission whose stated purpose would be “establishing the facts about war crimes and other gross violations of human rights committed on the territory of former Yugoslavia.”⁴ On the surface it resembles other fact finding and truth telling projects that have been used in many parts of the world starting in the mid-1980s, most notably the 1984 Argentinean National Commission on the Disappeared (CONADEP).⁵ It is an ambitious project that is strongly supported and generously funded by international donors, because with its regional and victim-centered structure it addresses the issue of dialogue among still hostile parties as much as it addresses justice. The proposed Statute for the Commission promises to deliver the truth of past violence, create a culture of compassion and solidarity with victims from all communities, and produce a shared historical knowledge, with the implicit hope of leading to a new consensus in the highly divisive successor states of Yugoslavia.⁶

Clearly, RECOM is both a bottom-up initiative and one that fits the contemporary institutionalized vision of transitional justice as a “normal” form of intervention after a conflict.⁷ For this reason, it is a rich case study of the performance of the “toolkit” that transitional justice professionals have proposed on a global scale for the past ten years: an inclusive package that offers truth, justice, reconciliation, stability, democracy, peace, and accountability—all “mutually reinforcing and complementary” goals.⁸ Whether these goals could be achieved is already the subject of a critical debate that questions the overly ambitious objectives, assumptions, and implementation mechanisms of truth commissions,⁹ especially their sensitivity to local understandings and practices of transitional justice.¹⁰

We aim to contribute to this debate by conducting a close investigation of the reception of RECOM in the local space of Kosovo, the former Yugoslav province, now a contested independent state still under international guidance after supervision technically ended in 2012. This context, where the role of international actors in international justice—whether they are governmental or not—is influential and visible, offers the opportunity for a more nuanced analysis of these actors’ impact on the local community. We tried to capture why significant sections of the victims and of the human rights movement have remained either noncommittal or outright opposed to RECOM, despite their obvious desire for justice. Lola’s and Fahrije’s stories stood out against the many we collected during six months of focused fieldwork in 2011, in dozens of interviews with relevant actors, and through observations that build on research conducted in Kosovo since 1999.

We quickly found that dichotomies of universal and local justice, top-down and bottom-up approaches, and formal and informal mechanisms were not helpful. RECOM is the product of intense cooperation between local human rights groups and the International Center for Transitional Justice (ICTJ)—not a unique case of international influence, since there is substantial evidence that transitional justice “often occurs from the outside in, through INGO activism.”¹¹ It has not emerged as an organic process led by domestic efforts, nor as a top-down project imposed without grassroots participation. Instead, the complex dynamics among transitional justice entrepreneurs and participants have blurred the dichotomy between formal and informal, local and international. That being said, we could still categorize the different actors involved in transitional justice and identify critical gaps between their objectives.

A sharp divergence of objectives is the main problem.

In Kosovo, local actors may participate in RECOM out of a desire to tell their personal stories, for the chance of finding the mortal remains of their missing family members, or as transitional justice professionals. Those who do not participate—the majority of victims and human rights activists—make it very clear that their key demand is recognition. For Albanians, this means the official acknowledgement of a state-led policy of expulsion from their country and/or extermination during the Milošević era. For Serbs, it requires the recognition of their continuing role as victims

of an embattled demographic minority in their “usurped” ancestral land. In the current political situation, neither recognition is possible. The war may be over, but the conflict continues: Belgrade has vowed to never recognize the mostly Albanian independent Republic of Kosovo, and Republika Srpska acting as Serbia’s proxy in the Bosnia Herzegovina Federation, blocks the Federation’s recognition of Kosovo, while continuing to threaten its own secession.

Victims’ suspicion that recognition will not come from a regional truth commission, which is centered on victims of all communities, poses a serious complication to the project. For the international community, RECOM is mostly a tool of crisis management and stability in the region. Speakers at a European Policy Centre Dialogue event applauded RECOM because it could potentially enable an “exit from the past” and facilitate remembering, but only selectively and through a regional framework that “dilutes some of the binary opposition that is so hard to overcome.”¹² The possibility that a transitional justice toolkit could bring a seemingly intractable conflict to a “closure” is so alluring, because it makes reconciliation within reach—not a political but a social engineering issue.¹³ It is no surprise that the most enthusiastic supporters of RECOM are outside the former Yugoslavia: transitional justice professionals, international donors, and the European Union.

The detailed exploration that follows intends to contribute further evidence to the growing recognition that those directing transitional justice projects must reconcile with the fact that victims have agency and their own ideologies. Listening to them and trusting them does not mean organizing outreach programs and consultations, but giving priority to the victims’ agency.¹⁴ In Kosovo, what people mostly want is to find their missing and have their losses acknowledged. Answering their needs and aspirations might imply abandoning the received professional “toolkit,” and the idea that a regional truth commission could be established in the short or medium term. As the strong cooperation on compiling a “book of the dead” demonstrates, not only in Kosovo but also in Bosnia, a credible account of human losses in the recent conflict is a better start. Over time, needs and aspirations will change, and so will the political circumstances, stretching the process of reckoning with past violence through generations, and leaving breathing room for the emergence of multiple representations of the “truth.”¹⁵ To quote Pierre Hazan, this is good news, because “what is really at stake is society’s ability to return to the events that devastated and transformed it.”¹⁶

State Repression, Insurgency and War

Kosovo was the last chapter in the recent Yugoslav wars, but also the first in the dissolution of the Yugoslav Federation, when in 1989 Serbian strongman Slobodan Milošević answered the republics’ demands for autonomy with increased authoritarianism and stronger centralization. He began in Kosovo, by revoking its constitutional

provincial autonomy and unleashing a program of linguistic, social and economic discrimination against the Albanian majority population. His intervention was purportedly in support of the Serbian population living in Kosovo as a minority and, according to their hyperbolic nationalist and popular denunciation, risking extermination. The Albanian reaction was to establish self-styled republican institutions, and parallel educational and health structures. For a few years, the Serbian State and the "Republic of Kosovo" avoided open conflict under Milošević's martial law and his substantial indifference to a situation of virtual apartheid, while busy on the Croatian and Bosnian fronts. This changed with the insurgency of an armed guerrilla, the Kosovo Liberation Army (KLA), fighting for independence. After 1995, having played the role of peacemaker at the Dayton Peace Accord that ended the Bosnian war, Milošević's crackdown on the rebellion escalated into a brutal war against Albanian civilians. Only in 1999 did a NATO intervention put a stop to the repression, but not without a humanitarian crisis. During the war, Serbian troops expelled almost a million Albanians from their homes and sent them to neighboring countries, killing thousands along the way.¹⁷ They destroyed Kosovo's rural economy and burned down thousands of houses, including the entire urban centers of Gjakova/Djakovica, Pejë/Peć and Mitrovicë/Mitrovica. According to the most credible database of human losses, collected by the Belgrade-based Humanitarian Law Center, war casualties were approximately 13,000, more than 80% of them Albanians.¹⁸

After the war, until the 2008 declaration of independence, Kosovo was a UN-led international trustee, under the protection of NATO troops. This did not prevent a postwar migration of the Serbian minority. Beside those who had been members of the state security apparatus, there were victims fleeing from violent reprisal in some cases, and in general a climate of intimidation and ostracism. Serbs who stayed behind are concentrated today in the north of Kosovo and in specifically designed Serbian municipalities with administrative and financial autonomy. While there is a substantial truce between the two groups, one crucial exception is the North, a territory contiguous with Serbia, from which almost all Albanian residents were expelled in 2000.¹⁹ A reduced, but politically significant, international civil and military presence is still in the Republic of Kosovo with supervising functions. The refusal of the Serbian government to recognize Kosovo's independence has become the litmus test for any Serbian politician aspiring to win elections.

Transitional Justice in the Former Yugoslavia: A Short Genealogy

Calls for "dealing with the past," ignored by the states that emerged from the dissolution of Yugoslavia, have been, and are strong among international actors and some sectors of the civil society.²⁰ Since dealing with the past does not imply neutral activities,²¹ it is worth exploring how this theme became public after the end of the

Yugoslav wars (1991–1999). We propose here a short genealogy. In the 1990s, during what Teitel calls “Phase II” of transitional justice, transnational human rights activists promoted truth and reconciliation projects that incorporated “its normative discourse from outside the law, specifically from ethics, medicine and theology.”²² This approach appeared as a crucial complement to the retributive justice dealt at the International Criminal Tribunal for former Yugoslavia (ICTY), an institution that was not garnering public trust in the region for its perceived political character.²³

It was with the critical advice of the nascent ICTJ in 2001 that Serbian President Vojislav Koštunica formed the first Truth Commission.²⁴ This body was mostly composed of Serbian nationalists, some formerly associated with the Milošević regime,²⁵ who quickly assembled without any consultation or inclusion of human rights groups and representatives of other nationalities. As the international lawyer Jelena Pejić put it, that was already a “shaky start.”²⁶ At the Commission’s launching conference, there was virtually no Albanian even among the audience. It quickly became apparent that the goal of the Commission was to produce the Serbian “state’s account” of the dissolution of Yugoslavia,²⁷ according to which the war was to be portrayed as a civil war with symmetry of victimhood for all parties. In the words of the historian Latinka Perović, one of the appointed members who resigned within days, the Commission was to avoid any debate on “the policy that normalized crime: Greater Serbia and the annihilation of the opposition”; it was “to simulate cooperation” with the International Tribunal at The Hague, while trying to marginalize it.²⁸ Wary of Koštunica, the late Serbian Prime Minister Djindjić prophetically said that the country needed first to establish its “institutional hardware” and later “the software, including dealing with the past.”²⁹ The director of the Belgrade-based Humanitarian Law Center, Nataša Kandić, challenged his pragmatic approach, asking—in vain—for decisive lustration, in particular demanding that Milorad Ulemek, aka Legija, a commander of the secret police special units who had committed war crimes in Bosnia and Kosovo, be fired from his post in the state security services. Two years later, that same man led a plot to murder Djindjić, who was gunned down while walking to the main government building in Belgrade. The Commission never took off and was abandoned completely when Koštunica began his long tenure as Prime Minister from 2004 through 2008.

An international consensus formed rather quickly that the failure of the Serbian initiative was due to its top-down and national structure,³⁰ and not to the inability of the establishment to make “a single gesture” towards assuming responsibility for war crimes, in the words of Kandić.³¹ At a conference in Sarajevo in October 2004 the ICTJ, the Boltzmann Institute for Human Rights, Quaker Peace and Social Witness, HLC and other regional NGOs constituted a steering committee to “develop activities aimed at dealing with the past at the regional level.”³² The idea of a regional commission began to take shape. Dissenting voices pointed to the risk that a regional truth commission would sideline the political judgment of the war in the name of all parties’ moral equivalency in perpetrating crimes; that it would legitimize the continuity of the nationalist political elites; and that it would reproduce among victims the old

Yugoslav hierarchy of power.³³ For the Albanian human rights activist Vjosa Dobruna, the conference itself was a confirmation of her worst fears, when she was berated for speaking English rather than any variant of the former Yugoslavia's official language.³⁴

Mirsad Tokača, of the Research and Documentation Center of Sarajevo, thought that the regional cooperation agreement he had signed for in 2004 with the Belgrade-based HLC and the Croatian Documenta would be fruitful. These prominent human rights organizations had agreed to create compatible databases on war crimes and cooperate in the monitoring of regional war crimes trials. Tokača had already seen the initiative of a truth commission flounder in Bosnia, despite the support of the United States Institute for Peace (USIP) since 1997 and the work of the Association of Citizens for Truth and Reconciliation.³⁵ He had his doubts that a regional truth commission would be feasible or even desirable. The validity of the commission became nevertheless a dogma, presented as indisputable by every policy and expert publication since the ICTJ presented a proposal in 2005 for an "International Victims Commission for the Former Yugoslavia."³⁶ The proposal was for a two-stage process: first, the gathering of one million signatures on a petition to be presented to the UN Secretary General and heads of state in the region, asking to establish a truth commission; second, a regional commission on reparations and the improvement of human rights and the rule of law.

If RECOM took off, it is certainly thanks to the doggedly dedication of Nataša Kandić, who is legendary for her long struggle against Yugoslavia's and Serbia's repressive policies. She embraced RECOM as the inevitable continuation of her vigorous human rights advocacy and led the set up of an informal mechanism of transitional justice, an "unofficial truth project," that should work both as a lobbyist for an official truth commission and a "precursor" of it.³⁷ The belief is that an interethnic, transnational grassroots dialogue among victims is the best and most efficient way to begin finding out the truth of past violence, a truth with a transformative and healing power.³⁸ It is a powerful theory, one that gives primacy to human rights and reaches back to an accepted discourse on the restorative justice of truth commissions as the lynchpin of stability. Along the way, disagreement with this theory has brewed within the regional human rights world. Tokača, for example, dropped out in 2009, when it became clear that there would be no official support from any government.³⁹ More importantly, Tokača also realized that he could not buy either in RECOM's "concepts or content." He thought that dealing with the past required a much broader reckoning with politics and history.⁴⁰

The Package of Intervention

RECOM enjoys wide political and financial support among foreign governments and international institutions, whose overwhelming concern is for security. Since

2004, RECOM has conducted over 140 meetings, consultations, and forums throughout the region, reaching out to hundreds of associations and individuals⁴¹ from different sides in the Yugoslav wars. None of this would have been possible without the financial backing of multilateral agencies (European Commission, OSCE), bilateral donors (USAID, Swiss MFA), international NGOs (Germany's Forum Civil Peace Service, Norway's IPax Christi, and Sweden's Cultural Heritage without Borders) and public and private foundations (National Endowment for Democracy, Open Society Institute, Mott Foundation, Balkan Trust for Democracy, Oak, Rockefeller Brothers). Since 2008, about 2.5 million euros have been allocated to RECOM.⁴²

This array of actors and their disbursements to RECOM are impressive, and so is the coherence of their agenda. They have made transitional justice, alongside the rule of law, indispensable for the "integration of the region into Euroatlantic structures"⁴³ the promotion of "peace, reconciliation and sustainable democracy"⁴⁴ and the nurturing of "mutual understanding to improve disrupted relations between groups."⁴⁵ This discourse affirms the rationale behind the very generous funding for RECOM in Kosovo, principally funneled through the HLC office in Pristina. Domestic NGOs such as Integra, the Center for Research Documentation and Publication (CRDP), *medica Kosova* and the Youth Initiative for Human Rights (YIHU) receive small grants for implementing their work.

Nowhere is the dominant association of transitional justice with stability more evident than in the negotiated agreement leading to Kosovo's independence. Under the UN envoy Marti Ahtisaari's Comprehensive Proposal for the Kosovo Settlement, transitional justice is a constitutional obligation.⁴⁶ The International Civilian Office (ICO), whose purpose was to implement the settlement, before disbanding in September 2012, recruited a special advisor on "Dealing with the Past" from Switzerland. In an interview,⁴⁷ the ICO advisor said that "dealing with past is part of the state-building as such." When asked where the ICO set priorities and why, her response was, "rule of law, rule of law, rule of law." The ICO has publicly announced their approval of RECOM and so have the United Nations and the European Union, which earlier this year formally recognized RECOM in the annual enlargement strategy document.⁴⁸ 2011 was the first year that the European Instrument for Democracy and Human Rights (an agency that awarded one million euros to Kosovo NGOs) encouraged proposals that "builds towards a consensus on disputed or controversial areas of policies." Suggested projects dealt with "mediation or resolution of conflicts" and "transitional justice and reconciliation including the specific role of women in such processes."⁴⁹

Transitional Justice Toolkit from Instrument to Ideology

The institutional discourse on transitional justice insists that local knowledge and context-specific approaches lie at its heart. For Kofi Annan's report to the Security

Council on transitional justice, the local, identified as the nation-state, is as important as international norms and standards.⁵⁰ RECOM has duly incorporated networks of civil society organizations to avoid the critique that transitional justice is a neo-colonial, one-size-fits-all intervention. Yet, despite honest efforts to include locally owned initiatives, there is a fundamental aspect of the process on which local input is actively discouraged: the professional “toolkit” and its subordination to the goal of stability. This is evident in the focus that donors place on training, whether through workshops, conferences, or study tours, where local actors must listen more than be heard. It may explain the allocation of funds. For an initiative that prides itself on a grassroots approach, more significant funds have been spent on the ICTJ support groups, consultants, and experts than on Kosovo’s RECOM activities.⁵¹ The rationale is the need for professionalization in transitional justice.

In an interesting twist, what counts as RECOM’s success in Kosovo is probably due mostly to the sensibility of Nora Ahmetaj, a longtime collaborator of Kandić and a personable woman, who changed the approach of the consultation process. Entering rural communities, where many older people are illiterate, and speaking to them about “mandates and transitional justice mechanisms” was not only a waste of time, she thought, it also created a deeper divide between the NGOs and the people they were trying to help. Instead, she insisted on listening to victims in a sympathetic way, expressing solidarity. According to Abdullah, a “peace expert” at Forum ZDF, “There is a manual that clearly describes how the consultations should be organized and Nora disregarded that . . . the original consultations were not working. People were not participating. Nora brought a more . . . human approach to the consultations. She didn’t just bring [people] to the meetings, she went out to them.”⁵²

Yet even seasoned human rights activists are invited to reframe their work according to a “DwP” (Dealing with the Past) conceptual model. They learn from Germany’s commemorative cultures, discuss historical dialogues/reconciliation strategies with activists from dozens of different countries, and look into the role of religion in DwP. While commemorations, history writing, and religious cultures are issues of tremendous importance that deserve attention, on those occasions they are reduced to abstract buzz words such as “DwP tools.” For example, the Yugoslav conflict was not a religious one, but religious institutions took sides, with devastating consequences for their moral credibility. Appeals to putative ecumenical religious sentiments to heal past wounds that gloss over a serious understanding of this conflictual reality do not have much meaning. Yet because religion is an important tool in the prescribed professional kit, conferences and workshops on the theme are promoted and funded. Let’s take a Catholic priest’s welcome to Central/Eastern European transitional justice trainees in Vukovar, a Croatian town devastated by Serb troops during the war: “Vukovar has become known as a city of tolerance, but to live in that [kind of] atmosphere is not enough. One should also commit himself to love one another.”⁵³ One wonders about the relevance of such statement in the town itself, which almost twenty years after the conflict is still very ethnically

divided. To trainees from Kosovo, where for historical and political reasons neither the Serbian Orthodox Church nor the Albanian Islamic Community have been or seem poised to become agents of reconciliation, it sounded even more abstract and meaningless. As Nora commented, "Religion doesn't play a role when it comes to victims' behavior. I guess they would rather listen to the political leaders than religious leaders, and this goes once again at the recognition problem. They would appreciate forgiveness from the enemy side (an apology), but not to be asked to forgive because an imam or an abbot or a priest asks them."⁵⁴

The stubborn refusal to confront the deeply rooted nature of the conflict that caused egregious violations of human rights in Kosovo and elsewhere has its consequences. The regional approach of RECOM, for example, creates the illusion that there is a common working language. Instead, for some CSOs and victims' associations, language has become a controversial issue. Occasionally materials have only been printed in Serbian and English, or there will not be translations on the websites or during events for Albanians. This was more of a problem earlier on in the campaign, and now special attention has been paid to translating materials into all the languages. Yet during the 2009 regional consultation at Budva, Montenegro, the issue presented itself as more than mere technical. As only one Albanian translator, and a weak one, was provided by RECOM, the fifty Kosovo participants, not all well versed in Serbian or English, were unable to fully understand what was going on in the four workshops or appreciate the two documentaries screened in Serbian with English subtitles. At the plenary session of the conference, Igo Rogova asked to speak and after commending the organizers for their vision, said: "We cannot call ourselves a regional endeavor until a part of the region is . . . entirely involved."⁵⁵ She thought the rights of Albanians had been violated and also strongly objected to the statement made by the Montenegrin President of the Parliament, who in his opening remark had said: "Nema više bivše jugoslavije nego južnih slovena" (There is no more Yugoslavia, there are only Southern Slavs), disregarding that Albanians are not Slavs. Rogova was berated by Kandić for having made a political speech about problems, like language, which for RECOM were merely a matter of "logistics." Later a Serbian activist whom she had known for fifteen years accused Rogova of having turned into a nationalist.⁵⁶ For Rogova and many other Albanians, the issue is obviously political. Since they became victims of Serbian State violence for their aspiration to have independence as a nation, they see the minimizing or denying of their linguistic, cultural, and even ethnic specificity as the attempt to build a narrative of the past that obliterates exactly what they want to remember and to have remembered.

Interethnic dialogue, a goal of RECOM, is also a pivotal principle in the "tool kit" acquired through hundreds of hours of training. Projects are only realized when they align with it. In a recent consultation organized by CDRP with a victims' association in Mitrovica under the RECOM umbrella, signatures of the women and their ethnicity was required. Evidently, donors needed to see that the process was being inclusive,

even if there was only one minority, a Bosnian woman, attending. Donors are happy to fund workshops in which Albanians and Serbs sit together to hear lectures on topics related to transitional justice. The question is, would they fund something different from “painting with Serbs and Albanians” or “football matches with Serbs and Albanians,” as Gigi, the Director of Integra, wishes.⁵⁷

The move from interethnic workshops/conferences to practical activities is most difficult. Promoting conflict-sensitive journalism was one of Forum ZFD’s projects to bring Serb and Albanian radio hosts together to work on programming about the past that would help foster reconciliation. Nothing came out of it. Most journalists agreed that the project would not be feasible. The Youth Initiative for Human Rights developed a wall of names of missing Serbs and Albanians in Prishtina/Priština. The project failed when Serbian names were desecrated and the wall was forcibly removed. Significantly, the emotional moment recorded by Lola at the 2007 Conference of the Women’s Peace Coalition did not produce much more than a poignant memory. When Kandić suggested that she would talk to Albanian women about sexual violence during the war, human rights activists Igo Rogova and Sevdje Ahmeti said, “no, they will not talk to you, they will not see you as an activist” but as a Serb.⁵⁸ For Kandić, the women’s resistance to RECOM’s initiative was almost incomprehensible. She is generally welcome in Kosovo for her two decades of involvement in human rights, her defiance of Milošević and the nationalist establishment, and her work in defense of victims. How could she, all of a sudden, become the enemy?

The answer to this question has obviously little to do with Kandić and much to do both with the political judgment of the past and the structure of RECOM. Those who participated in RECOM’s outreach campaign and met strong opposition among victims had the opportunity of surveying their reasons. Gigi of Integra says: “RECOM is a complex idea. Let’s bear in mind that it is a regional commission. So immediately you have to think that you will be cooperating with the perpetrator, the killer; the killer who killed your family, society etc. etc.”⁵⁹ Abdullah of Forum ZFD says that in the former Yugoslavia’s framework of RECOM many “saw that there was a great influence from Serbia. Even with Kandić—who of course had never been involved with crimes—there was such an aversion to work with her because she was Serb.”⁶⁰

Testimony, Discovery, and Acknowledgement

Many Albanian victims are not willing to work with those they see as their perpetrators because members of the state planned and executed violence against them but never acknowledged it. They may never be ready to cooperate. Nezrete Kumnova, the founder of Mother’s Cries from the city of Gjakova/Đakovica, still does not know where her son is: “I was asked to participate [in RECOM]. But I will

never be part of it. As long as Serbs are also part of it, I will never be part of it. I will not support it. . . . They took everything from me. Every Albanian mother thinks like me. . . . I am quiet now in my house. I rarely speak. I try to make it easier for my family who has suffered so much.”⁶¹ Abdullah said that victims’ associations are against the process because they believe that it would equalize responsibility, that “Serbian crimes and Albanian crimes would be judged equally.”⁶² They find confirmation of their fear in the fact that Serbia has not taken responsibility for war crimes, apologized, excavated mass graves, or paid reparations. Recent developments are troubling: Gen Ljubiša Diković, an officer who rose through the ranks for his activity in the Kosovo region of Drenica, where the Serbian army perpetrated mass killings of Albanian civilians, has just been appointed Chief of the General Staff.⁶³

Victims directly affected by violence demand recognition and action on the missing. Not all in the same way. Action is all the families of the missing ask for. Like Farhije in *Krusha e Madhe/Velika Kruša, S.V.*, a mother from Skenderaj/Srbica who lost two sons during the conflict, joined RECOM because she would join anything that could provide her with even the slightest hope of finding her missing children: “What was done to find the missing persons? How is it possible that twelve years after the war, there is no information? . . . I hope that if accepted, RECOM will take into consideration our requests and will support us despite many allegations in regard to its implementation.”⁶⁴ Victims expressed similar sentiments elsewhere.⁶⁵ Avni Melenica, founder and member of May 22 Family Association, mentioned practical considerations in his defense of RECOM. Avni, who has traveled all over the world as an advocate for RECOM with Kandić, is unique in suggesting that interethnic dialogue on the past can also facilitate acknowledgement of suffering and therapeutic results: “In 2005 I hated Serbs. After time it changes. After you speak, you feel free. The experience of going to Belgrade and talking about what happened made me braver. Serbs cried when I spoke.”⁶⁶ In the end, it is the theme of recognition—“Serbs cried”—which reemerges in his story.

Nezrete Kumnova also wants her son’s body, but thinks differently. She challenges the idea that gathering victims would produce any result and in the following story she explains why: “The ICMP [International Commission on Missing Persons] sent us to Macedonia to do a workshop. I was angry. They wanted us to speak with Serb mothers. They tried to involve us in another reconciliation building project. . . . We rejected it because they tried to get us to sit with Serb mothers. The ICMP has tried many times to hold meetings with mothers of missing Albanians and Serbs. I am not against them [Serbian mothers]. But they do not know where my son is. I do not know where their children are. They make us sit together and discuss personal issues. Some people can do that. Not me.”⁶⁷

In one extraordinary meeting, the Serbian women of *Hoça e Madhe/Velika Hoça* and the Albanian women of *Krusha e Madhe/Velika Kruša* shared their anguish at not knowing what happened to their relatives or where they could be found, dead or alive.⁶⁸ RECOM’s consultation with Serbian victims in Kosovo does not have the same reach as the consultation of Albanians.⁶⁹ The reason is demographic—Serbs are a minority—but also political, as most Kosovo Serbs see the Humanitarian

Law Center as an emanation of the international community that in 1999 bombed their country. Yet the women of Hoça e Madhe/Velika Hoça have come forward in the hope of discovering the remains of their loved ones and to learn about the circumstances of their disappearance and death.

On several occasions, we observed that what victims mostly wanted to do was talk. Whether it was a meeting to present the mechanism of RECOM, a gathering to talk about the issue of possible reparations, or a major consultative conference, women and old men stood up to recount what happened to them. They often recited confusing stories with unclear timelines and overlapping events, showing the lingering effects of trauma, more than ten years later. Some became frustrated at the attempt of the moderator to stop a meandering and long account on behalf of a smooth working of the event. The outcome of the meeting mattered less to them than their personal narrations.

“Leave Us Alone”: The Possibility of Silence

Most victims of rape instead have chosen silence. According to Lola, out of the 8,600 women that Medica Kosova has counseled and provided medical support to since the war, fewer than hundred have spoken about sexual crimes. Yet there are hundreds with clear symptoms of trauma. They go to group and individual counseling and talk around rape. Even apart from RECOM, when Igo Rogova approached them to discuss the idea of creating a Balkan Women’s Court she was setting up with women activists, they rejected the invitation to speak out. A few women are the exception. The others said, “leave us alone.” The interethnic collaboration of women has continued on a purely political level, but no transitional justice initiative has been undertaken so far.

In the tormented itinerary of Kosovo victims, there are more stories buried underneath the surface of the Serbian–Albanian conflict that might emerge only with time, and first through the opening of the debate within the local society. Victims of sexual violence might have chosen silence for very personal reasons, but silence was imposed on them also from the outside. Before the war started in earnest, rapes were also occurring and were being documented by the Council for the Defense of Freedom and Human Rights (KMLDNJ). Researchers such as Vjosa Dobruna were not allowed to take down the names of the victims, or write they had been raped. Reports mentioned assaults in the words of the victims, which followed a standard format: “They made me strip and make coffee for them.”⁷⁰ After the war, many of the victims were shunned by their families and, they felt, by society. Some became pregnant and gave birth, most of them without any economic independence, and there were those who left their babies behind in the hospital. When the daily *Koha Ditore* published a front-page article under the headline “Children of Shame!” women who had been raped felt they were being “re-raped” by the sensationalist coverage of their stories.⁷¹

Whose History?

The uproar caused in 2011 by RECOM's appointment of former Yugoslav leader Azem Vllasi as Kosovo's representative in the regional lobby points to the complexity of both a regional initiative and this country's past. Vllasi's appointment made sense if the concern was with the viability of RECOM in Serbia, as he would be a partner with whom Serbs may be willing to talk. It did not make sense for the victims, who will never forget Vllasi's attempt to accommodate Milošević, until he also fell out of grace and was sent to jail. Nor could they forget that Vllasi was part of the same socialist nomenclature that ruled hard prison sentences and tortured thousands of Albanians throughout the 1980s.⁷²

Dealing with the past of state repression in Kosovo means to address a decade not covered by RECOM's truth commission, whose time span goes from 1991 to 2001. Thousands of Albanian "prisoners of conscience," according to Amnesty International (the members of the Association of Former Prisoners are about 60,000), were dealt harsh sentences, not only by a Serbian state but by the Autonomous Province of Kosovo. For Tahir Rraci, jailed in Dubrava during the NATO war, recognition means a public apology from Serbia: "I think that Serbia should apologize to us first and admit the crimes and then it is up to our honour and conscience to see what we are going to do next, but it is clear. . . . We are the second step."⁷³ For many others, that might be only the opening of a debate on state repression in Kosovo. The former political prisoner Hyadjet Hyseni views his detention in the 1980s as part of a much larger story of Albanian persecution, one that cannot be contained within the Milošević regime or addressed by RECOM. From Hyseni's perspective, "the history of Kosovo is a history of detention."⁷⁴

Serbian participants in a recent consultation have also strongly objected to the time frame that RECOM has chosen.⁷⁵ Ending the examination of the past with 2001 leaves out the riots of March 2004, in which Serbian individuals, homes, and churches were targeted all across Kosovo by Albanian mobs. Three Serbs were killed in the violence. The inclusion of that episode in the work of RECOM would be coherent with the approach to every human loss as a human rights violation. From the point of view of Kosovo Serbs, it confirms their status of victims, a condition which they believe began before the conflict and continued during the war as well as after. In a recent television appearance, Rada Trajković, a Serbian member of the Kosovo Assembly, apologized for all the victims of Serbian violence.⁷⁶ It was a stunning public act, but without any further development.

Conclusion

RECOM has been billed as a grassroots initiative, but it is not. It is not a top-down experiment either. We found divergent power structures and considerable tensions

inherent in the process. Its abundant promises might be effective in engaging various actors, but are these goals compatible or even realistic? Can we achieve recognition, justice, peace, and democracy by dealing with the past, or will certain goals inevitably be suppressed? By listening to the inconsistent discourse of the various RECOM supporters and participants in Kosovo, we have to wonder whether the claustrophobic goals of the transitional justice dominant template—the truth commission—will underwrite its effort to deal with the past.

Victimhood is central to the project, a useful identifier, both for the survivors of war crimes and the architects of RECOM. The architects understand “victims” as a passive category of participants, essential to the outcome of a successful and stabilizing commission. Kosovo’s coordination group for RECOM encountered a challenge when the individuals they consulted did not meet their expectations of how a “victim” should behave (innocently, apolitically). Instead of conforming to the mold of a submissive victim, they were far from homogenous, highly opinionated, political, divisive, and unyielding.

Neither participants in RECOM nor its critics are passive recipients of discourses on human rights and transitional justice or carriers of particular interests that are alien to those more general ideas. If civil society’s engagement with the initiative for a regional truth commission is patchy and inconsistent, the reason is not that local actors fail to understand or accept “western” notions of justice. With their different needs, interests, and knowledge, they are dealing with the past in different ways: they speak out as victims or exercise their right to be silent, refuse to be represented by others or become spokespersons, appropriate the vernacular of transitional justice professionals and produce collective memory through their own initiatives. What they all share is the demand that their unique experience and their own narratives be taken seriously, even when this means refusing the suppression of “truths” that can be divisive.⁷⁷

Victims want to remember. They are terrified that the dead and the missing will be forgotten. They have supported any activity that provides an outlet for their memories and acknowledges their suffering. This might be why Kandić’s project, *The Memory Book*, has met only praise, despite being a collection of data on the casualties of war from all sides, realized through rigorous investigative techniques that focused on accuracy rather than empathy with victims. It includes personal information of all the victims, as well as the circumstances of their death. Agron, the main researcher, said, “Only once has someone refused to speak to me. Most people thank me; they hug me when they see me.”⁷⁸ The book will not help find missing family members, or allow victims to attain reparations. Everyone is aware of what the book is for: “They see it as a memorial.” According to Agron, people like to receive recognition, they are happy that their stories are published and that they would now be able to have a written record of what happened to their families during the war. This is a great achievement of classic human rights investigation techniques. It accompanies parallel research on accounting for human losses in Kosovo and

elsewhere.⁷⁹ In Bosnia, the publication of a *Book of the Dead* is scheduled for April 2012. Like the *Kosovo Memory Book*,⁸⁰ it will list all the casualties of war, regardless of their ethnic belonging. This does not guarantee the acknowledgement that an official truth commission can provide, but it is an important step toward a factual account of violence and human rights violations.

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Notes

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