

# The Promise and Peril of Regional Truth Seeking in the Balkans

The author assesses the projected ambitious goals of the recent regional non-governmental truth-seeking initiative for ex Yugoslavia, arguing that its innovative regional approach is both its strength and a significant weakness that might undermine the goal of establishing a coherent historical narrative

The past decade has seen an unprecedented surge of international interest in transitional justice - the systematic addressing of mass crimes of the past. Most of the scholarly discussion about transitional justice has focused on two major pragmatic and normative debates. The first question is whether societies coming out of violent pasts should set up any transitional justice initiatives at all or should instead focus on the future, leaving the past to rest. The second debate is about institutional design, where the choice for transitional democracies is limited to sequencing - what should come first, war crimes trials of individual perpetrators or truth commissions. In other words, the debate has been about what is more urgent for a traumatized postwar society: justice or truth and healing.



Most transitional justice literature sees reconciliation as the ultimate goal of transitional justice projects, regardless of the institutional form chosen. Reconciliation can come in many ways. It can include the creation of a reliable record of past events, offering a platform for victims to tell their stories and get some (emotional or material) compensation, proposing legal or political remedies to avoid future atrocities, and ascertaining guilt and determining accountability of perpetrators. Other scholars and transitional justice activists stress the beneficial consequences of societal catharsis that follow

By Jelena Subotic  
Puls Demokratije

truth-seeking efforts and the prosecution of perpetrators. In this view, proportionate to the punishment of the perpetrators is the acknowledgment of victims' suffering, which can come about only by the public reconstruction of the violent past, by establishing who did what to whom, why, and under whose orders. In addition, transitional justice projects can have a demonstrative effect in that procedural justice helps reinforce democratic consolidation and instill society with respect for the rule of law. Finally, some arguments in favor of transitional justice are made on purely moral grounds - it is the right thing to do, and transitional countries have a duty to bring former perpetrators to justice.

## Coalition for RECOM

A group of dedicated human rights non-governmental organizations from Serbia (Humanitarian Law Center), Croatia (Documenta), and Bosnia (Research and Documentation Center) have been working since 2006 on creating the Regional Commission for investigating and disclosing the facts about war crimes and other serious human rights violations on the territory of the former Yugoslavia - RECOM (Coalition for RECOM, 2009). The commission would also investigate the fate of thousands of missing victims, an issue of great importance to survivors of the war (Wagner, 2008) and a problem that existing transitional justice institutions (domestic and international courts) are ill equipped to deal with. The premise behind RECOM is that effective process of dealing with the past is through a regional approach that understands the

historical and political context in which crimes were committed. In other words, the crimes themselves are understood to be of regional nature, and so is any hope of true regional reconciliation. Implicit in this approach is the critique of previous, haphazard attempts at truth telling in individual post-Yugoslav states. This critique is quite warranted considering



the almost complete absence of a serious truth telling institution in Croatia, the failure of the truth commission in Bosnia and the embarrassment that was the quasi-truth commission former Serbian president Vojislav Kostunica set up. The human rights activists behind RECOM have set lofty goals for this institution. The founders claim that RECOM can put an end to continuing lies about the past; it can provide public space for victims to speak up and generate some sympathy among the general public, especially from the society of perpetrators; it can create a comprehensive database of victims thus preventing the continuing manipulation of numbers; it can help war crimes prosecutors with evidence collection and witness handling; it can help search for the missing; and can set the foundation for better understanding and tolerance among former enemies (Coalition for RECOM, 2009). In terms of institutional set up, RECOM is to be an official body formed, or at least, endorsed by the governments of the post-Yugoslav states while at the same time independent from them. It is

to be a temporary institution with a finite mandate, located on the territory where crimes were committed. It is to be non-judicial, but still capable of conducting public hearings of victims. RECOM's expansive mandate includes interviewing, evidence collecting and investigative authority, as well as capacity to issue recommendations on reparations and other types of redistributive justice (Coalition for RECOM, 2009).

The Coalition for RECOM has already organized five regional forums to discuss the institutionalization of the project. These regional meetings also included public testimonies from war victims, as examples of what a future commission would be engaged in day to day. So far, more than 500 nongovernmental organizations have joined the Coalition for RECOM, making it the most robust truth telling initiative yet in the region.

### **The Promise and Obstacles**

RECOM has much to recommend it. It is the brainchild of major human rights and transitional justice activists in the region. Its parent organizations have a well established track record as transitional justice leaders in the region. The quality of leadership, therefore, is not the question. In addition, the Coalition for RECOM has systematically applied lessons from other international contexts as well as from previous failed truth telling experiments in Serbia and Croatia. Two lessons stand out as particularly salient. First, involving broad segments of civil society, including victims groups, local human rights organizations, individuals, and experts is critical for the commission's long term success. This is one of the principal lessons from the scholarship on transitional justice, and especially research on truth commissions.

Second, the Coalition realized early on that in order to have any serious impact, the Commission needs to be recognized as an official body, endorsed by governments, and not only a civil society initiative detached and isolated from the corridors of power. To this end, the Coalition plans to carry out comprehensive social outreach, raise awareness of crimes of the past through public victim testimonies, and ultimately collect a million signatures of ordinary citizens, a symbolic gesture that is meant to put pressure on governments to endorse the commission as an official truth telling body (Coalition for RECOM, 2009).

This is, in fact, RECOM's biggest strength as well as its biggest potential weakness. The commission faces significant challenges as it moves on, as none of the governments in the region have endorsed the project, and the societies themselves are deeply divided on what kind of a truth institution is most appropriate. Without official support, it is unlikely that the commission will have a broad social and political impact.

As valuable such an initiative is for future research into mass atrocities in the



region, its findings will be largely irrelevant if there is no political will on either side to take the results seriously and streamline them into the political process. What the countries of the Balkans so desperately need are courageous political leaders who can say what was done was wrong, this is why, and this is why it can never happen again. So far, the only regional leader with some initiative in this regard has been former Croatian president Stjepan Mesic, who made repeated public claims that dealing with the past is important for Croatia's democratization and Europeanization. The newly elected president of Croatia, Ivo Josipovic, himself a premier international justice scholar, has also made similar claims. The region needs more of this approach, but no other politicians in the region show much interest in addressing past violence. In the Balkans, politicians seem to believe that dealing with the past is something that will lose you votes and is therefore not to be attempted, unless it can be used to whip up nationalist frenzy and electoral support.

RECOM's decision to adopt a regional approach is also a double edged sword. The Coalition founders make a strong argument that the national commissions attempted so far have produced no results, and that a new approach is needed. It is unclear from this logic, however, why is the solution to regionalize the project instead of reconceptualizing a

better national initiative? A more persuasive argument for regionalization is to overcome a unique obstacle to transitional justice in the former Yugoslavia - that fact that victims and perpetrators no longer live with one another in the same state which has made domestic calls for justice much more difficult to push through official state channels.

Another problem RECOM will have to face is the qualitative difference in types of crimes committed throughout the region. RECOM has made a decision to include minor conflicts, such as those in Slovenia and Macedonia, presumably in an effort to provide as comprehensive an account as possible. The political background and local dynamics of these conflicts, however, are fundamentally different from the "core" conflicts in Bosnia, Croatia, and Kosovo and an attempt to place these conflicts under one historical narrative will prove to be very difficult.

### **The Importance of Dealing with the Past**

With these obstacles in mind, the initiative for RECOM is still an incredibly worthy pursuit. Even if the Commission fails to accomplish all of its lofty goals, just keeping the memory of past atrocities in the mind of the public and state officials is valuable enough. But more importantly, initiatives such as RECOM are important if the Balkans have any chance of moving forward politically in a peaceful manner.

There is a direct connection between continuing instability in the region and failures to address legacies of the past. Systematic addressing of past abuses is not just a luxury of consolidated democracies. It is particularly critical for transitioning states, for states coming out of a violent era. It is important to find the truth about past atrocities, societal complicity in them, and political and ideological structures that made them possible. It is important to justify right from wrong politics, to become a "normal" society again. It is important for transitioning states to shift to a new political practice that clearly delegitimizes violence, intolerance, and ethnic hostility as a normal way of conducting policy. Only then can we begin to talk about democratic consolidation and reconciliation in the Balkans.