

Third Regional Forum on Transitional Justice: Mechanisms for establishing the facts about war crimes committed on the territory of the former Yugoslavia

Belgrade, Serbia,

February 11th - 12th 2008

The Third Regional Forum on Transitional Justice was organized by Humanitarian Law Center (Serbia), Documenta (Croatia), and Research and Documentation Center (BiH). It was attended by over 300 representatives of associations of victims, victims who are not members of any associations, veterans, human rights organizations activists, representatives of youth organizations, journalists, judges, prosecutors, lawyers, members of parliament, jurists, historians, artists, in addition to high school and college students. The Forum was opened by the Speaker of the National Assembly of the Republic of Serbia Oliver Dulić and the Special Rapporteur of the European Parliament for Serbia Jelko Kacin. Both of them strongly supported the regional approach in the dealing with the past process. The following media reported on the Forum: Politika, Dnevni avaz, SRNA, Tanjug, Danas, Blic, Tribune, INA, RTS, TV FOX, Radio Free Europe, ZaMirZINE.net.

In a sea of assumptions, impressions, and feelings, facts about the past are the only lighthouse (...) Offering an opportunity to victims of war crimes to speak and to us to hear them, you are giving an invaluable contribution to the process of healing our societies and I believe that all of our societies, post-conflict societies are still in the middle of the healing process, and I hope that for future's sake, our future together, our regional future, that the healing will be fast and successful. Ladies and gentlemen, crimes and perpetrators of crimes must be condemned not because of the European integration process ahead of us but primarily because we owe it to the victims of these crimes and because we also owe it to our future which must not be built on the shaky foundation of denying, neglecting, and suppressing the truth. That is our debt both to our past and to our future and all of us, politicians, persons of public interest, and each citizen living in the region, we all have a future we need to think about.

Statement: Oliver Dulić, Speaker of the National Assembly of the Republic of Serbia, Third Regional Forum on Transitional Justice, Belgrade, Serbia, February 11th - 12th 2008.

During the *Experiences of Others* session, Madeleine Fullard, a researcher at the South African Truth and Reconciliation Commission

and Sofia Macher, a commissioner of the Peruvian Truth and Reconciliation Commission spoke about the establishment, work, structure, and the composition of these commissions as well as the effects they had in the overall process of establishing the facts about the past.

11.1. Workshop: Needs and expectations of victims

During the *Needs and Expectations of Victims* session participants (victims, representatives of associations of victims and veterans and human rights activists) gave priority to fact-finding, punishing the perpetrators and those responsible for war crimes, search for the missing, discovery of mass graves, identification of mortal remains, and recognition of all victims.

All victims regardless of nationality must be recognized.

I think that we in Croatia must recognize all victims because when Serbian victims are mentioned most people in Croatia believe that they are possible war crimes perpetrators who deserved whatever they got.

Statement: Ružica Spasić, Association of the families of missing and forcefully taken Serbs, Croatia, Third Regional Forum on Transitional Justice, Belgrade, Serbia, February 11th - 12th 2008.

Victims expect to establish the truth about what happened and to bring direct perpetrators and those who ordered war crimes to justice.

What we need is to identify war crimes perpetrators and those who ordered them to commit war crimes. Many of us, me included, often wonder why we are doing all this when it cannot bring my father or my brother back, but the fact is it can help prevent future crimes like this. It can help prevent the recurrence of such crimes in the future.

Statement: Snežana Zdravković, Association of the families of the kidnapped and murdered in Kosovo and Metohija, Serbia, Third Regional Forum on Transitional Justice, Belgrade, Serbia, February 11th - 12th 2008.

There are different expectations from us who outlived our loved ones. And in my case, it is the truth, to be able to hear the truth.

Statement: Sudbin Musić, Association of the concentration camp prisoners Prijedor 92, BiH, Third Regional Forum on Transitional Justice, Belgrade, Serbia, February 11th - 12th 2008.

The question all of us keep asking today, what do the victims expect, can be answered simply – they expect the truth. No compensation of any kind can bring back what has been destroyed. Unfortunately, from my own experience and the experience of people living in my community, I can tell you that we are no closer to truth than we were ten years ago

and I am afraid that in ten years the same will be true again - simply because the truth has always been the property of political elites in this region.

Statement: Jusuf Trbić, Bosniak Cultural Community Preporod, BiH, Third Regional Forum on Transitional Justice, Belgrade, Serbia, February 11th - 12th 2008.

And if we are talking about our expectations, I would like to know who killed my mother. Not because I want that person to rot in prison but because I simply want to know who it was. And all of us here want the same thing. And I want the Croatian government to distance itself from these crimes. In other words, a criminal cannot be a hero and I am very interested to see that that is made absolutely clear. And only then will I have my satisfaction, to hear them say he is a criminal. And I also want to know and I really want them to be honest, I need no lies, I don't need anybody to tell me that 50 civilians were killed in my village if I know that the number of dead civilians is 19, and at the same time I don't want to be told that there were two civilian casualties when I know that the total number is 19, I know them, I know their brothers, sisters, I spoke to them.

Statement: Dragan Pjevač, a refugee from Croatia, Third Regional Forum on Transitional Justice, Belgrade, Serbia, February 11th - 12th 2008.

War crimes prosecution – that is our top priority, especially when coming from the municipality which is at this moment, that is the area, the municipality in which those who were victims and those who committed crimes are completely mixed.

Statement: Edin Ramulić, Association of Women from Prijedor Izvor, BiH, Third Regional Forum on Transitional Justice, Belgrade, Serbia, February 11th - 12th 2008.

I expect to hear the truth, and I also expect to see the perpetrators punished because there are perpetrators who are still at large, some of which are the most wanted ones. For 18 months I came to Belgrade to monitor the trial of the members of the Scorpions unit and I expected that justice was going to be served at least partially, although nothing can bring my father and my brother back. At the end, the Trial Chamber handed down a shameful decision.

Statement: Safeta Muhić from Srebrenica, BiH, Third Regional Forum on Transitional Justice, Belgrade, Serbia, February 11th - 12th 2008.

What I understand from my many interviews with victims is that they are much more interested in finding out the truth, but, believe, at least that's how I understand it, not the truth about how the war was brought on but what happened to their loved ones and why it happened to them. Why were they arrested in such an unprecedented way, although they were unarmed refugees with wives and small children and sent to concentration camps in Bosnia where they were tortured and

where they lost their lives.

Statement: Tea Gorjanc-Prelević, Human Rights Action, Montenegro, Third Regional Forum on Transitional Justice, Belgrade, Serbia, February 11th - 12th 2008.

I expect that in the future the world will be different, that people of all nationalities, Bosniaks, Serbs, and Croats alike will suffer no harm, and they will never have to experience what my husband did when he was only 21 years old and when he handed me our daughter who was only 11 days old and said: Take her, Refija, take good care of her, I don't know what will happen to me and whether I will survive to see her again. And he never saw her again and we have never heard anything about him in over 12 years.

Statement: Refija Alić from Srebrenica, BiH, Third Regional Forum on Transitional Justice, Belgrade, Serbia, February 11th - 12th 2008.

The most pressing issue for the victims' families are to discover mass graves, to exhume and identify the mortal remains of their loved ones and give them a proper burial.

What is very important is that the families get the mortal remains of their loved ones. What is difficult to understand is that even after 16 years, we are still searching for the mortal remains of approximately 500 victims in the Zvornik municipality alone.

Statement: Mevludin Lupić, Association of family members of the detained and missing persons from Zvornik Municipality, BiH Third Regional Forum on Transitional Justice, Belgrade, Serbia, February 11th - 12th 2008.

It is necessary that all those who know where the mass graves are come forward and tell us, help us find these people, so that thousands of killed men and children, to find them and give them a decent burial so that they can finally rest in peace. If they did not have the right to live, they should at least have the right to have their own grave, whatever you may call the final resting place.

Statement: Refija Alić from Srebrenica, BiH, Third Regional Forum on Transitional Justice, Belgrade, Serbia, February 11th - 12th 2008.

I would like to say at the very beginning, when we first started talking about the needs and the expectations of the victims, [they include] truth, justice, security, financial security, and of course, social, legal, and health care.

Statement: Branka Antić Štauber, Strength of Woman Association, BiH, Third Regional Forum on Transitional Justice, Belgrade, Serbia, February 11th - 12th 2008.

Victims need to be heard: they require compassion and support.

It is a huge support and it is very empowering to feel somebody's words or to accept a hand of support.

That's what we need. And I think that we have gathered here precisely because that is what we need. To say what we feel and what we need. To tell our truth and to see if later, or the next day, when things have settled down, there are people who will say "listen, I have been touched by your words, and I would like to help you in this way".

Statement: Štefica Krstić, Association Victims of homeland war, Croatia, Third Regional Forum on Transitional Justice, Belgrade, Serbia, February 11th - 12th 2008.

Association of the families of missing Serbs in Kosovo ask that all missing persons' families should gather together to mark the international Missing Persons' Day.

Our families would like to initiate a request to create a memorial centre for all victims in the region. I think it is really important all our families from all our regions should come together to one place to commemorate 30 August, the International Day of the Disappeared. So that we can all pay our respects to all those who lost their lives.

Statement: Verica Tomanović, Family's association of kidnapped and missing person on Kosovo and Metohija, Serbia, Third Regional Forum on Transitional Justice, Belgrade, Serbia, February 11th - 12th 2008.

Young people should inherit the truth from us.

What I understand from the testimonies of young people here is that we are as a matter of fact responsible to them to discover the truth and leave it behind us. They have to know the truth and they should only continue their lives knowing the truth.

Statement: Julijana Rosandić, Association of Civilian Victims of the Homeland War, Croatia, Third Regional Forum on Transitional Justice, Belgrade, Serbia, February 11th - 12th 2008. *Nothing can bring my father back (...) No compensation or anything else can bring him back, but the truth and justice mean a lot to me. They can help me and all other victims restore our faith in the future because most politicians are saying that the future depends on the young but I personally, don't see any future if we don't figure out the present together with you.*

Statement: Kenan Keserović, a delegate of the House of Peoples of the Parliament of Federation of Bosnia and Herzegovina, BiH, Third Regional Forum on Transitional Justice, Belgrade, Serbia, February 11th - 12th 2008.

Public hearings are necessary; they should be broadcasted over the media, and listened to by politicians and the general public.

As for the public hearings of victims (...) well, I think it's very important that people can testify about their tragedies, and it is especially important that it is organized because there are hardly any public events such as conferences or seminars allowing victims to see and hear each other. I think that we need such public hearings and I think that various

media outlets should broadcast it and that politicians should listen to it in all these countries.

Statement: Ružica Spasić, Association of the families of missing and forcefully taken Serbs, Croatia, Third Regional Forum on Transitional Justice, Belgrade, Serbia, February 11th - 12th 2008.

Participants of the Third Regional Forum on Transitional Justice suggested that the European integration process should be conditional upon the successful processing of war crimes, the discovery of mortal remains of the missing, an apology and a societal dialogue in all countries formed on the territory of the former Yugoslavia.

They should set that condition for joining the European Union, to process war crimes first and also to be efficient in finding the missing... to find them so that their families can bury them and be able to go on with their lives. And also, they need an apology for everything that happened.

Statement: Tea Gorjanc-Prelević, Human Rights Action, Montenegro, Third Regional Forum on Transitional Justice, Belgrade, Serbia, February 11th - 12th 2008.

We have reached a consensus to appeal to the international community to block the access to Euro-Atlantic integrations to each country which has not resolved the issue of imprisoned and missing persons.

Statement: Ivan Pšenica, Alliance of associations of the families of imprisoned and missing Croatian homeland defenders, Croatia, Third Regional Forum on Transitional Justice, Belgrade, Serbia, February 11th - 12th 2008.

There are veterans who want to accept responsibility thus demonstrating their solidarity with victims of war crimes.

War veterans are also victims in a way and they are marginalized and their families are under great pressure. Work with young people whose fathers are traumatized is very difficult therefore it is important that they become a part of the process and be included in the dialogue, counselling, etc.

Statement: Amela Suljić, Youth Initiative for Human Rights, BiH, Third Regional Forum on Transitional Justice, Belgrade, Serbia, February 11th - 12th 2008.

I just wanted to say that there are veterans who want to accept their responsibility and get involved in the peace building process and their help could be very useful. They are as ready as they can be to deal with their own past and accept their responsibility, and they want to show their solidarity with the victims.

Statement: Novica Kostić, Association Veterans for peace, Serbia, Third Regional Forum on Transitional Justice, Belgrade, Serbia, February 11th - 12th 2008.

In the *Regional Approach in Establishing the Facts about War Crimes* session, the participants of the

Forum, mostly judges, prosecutors, and human rights defenders were very decisive in supporting war crimes trials as the most important legal instrument in the process of establishing individual criminal responsibility, but are aware of the fact that the trials alone cannot yield the complete truth about what happened.

11.2. Workshop: Regional approach to truth-seeking about war crimes

participants (mainly judges, prosecutors and human rights defenders) decisively supported war crimes trials as the most important instruments for establishing individual criminal responsibility. However, they were aware that the trials do not provide the complete truth about what had happened in the past.

Participants support regional approach and the formation of a regional body for finding the facts about the past.

First of all, I'm in favour of the regional approach and I support the creation of a regional body for one very simple reason – the things that happened across the former Yugoslavia were interdependent. Because there are many who came to Bosnia from different places in the former Yugoslavia, to Srebrenica for example, and committed crimes. They are now geographically separated, so to say, they live in different countries, and it is different to obtain information about who did what and where. So, for the sake of truth and reconciliation, it is very important to have the regional approach.

Statement: Amir Kulagić, Citizens Association Women of Srebrenica, BiH, Third Regional Forum on Transitional Justice, Belgrade, Serbia, February 11th - 12th 2008.

And this is something that can help us all in terms of our responsibility to future generations. And the young people have made it very clear here today with the message We are not responsible for what had been done here but we want to be responsible for our attitude towards the things that had been done. For that reason it is important that we think about the fact-finding process in terms of finding an instrument which will help and support war crimes trials to disclose as many facts and shed as much light on the legacy of the past.

Statement: Nataša Kandić, Humanitarian Law Center, Serbia, Third Regional Forum on Transitional Justice, Belgrade, Serbia, February 11th - 12th 2008.

I already told you that regional cooperation is underway between the associations of those who are looking into ways to solve the fate of the missing. That has been on-going for a while now but we have reached a lack-of-political-will barrier. However, some progress has been made. Today, we have search commissions in Serbia, Bosnia and Herzegovina, and in Croatia meeting in Brčko and criticizing the work of these associations. Just listen

to them; they are criticizing in Serbia, in Croatia, and in Bosnia and Herzegovina. Why? Because they feel they are under pressure. But this time it is not a single-national pressure, but a joint pressure from all sides aimed at those whose job is to solve the issue.

Statement: Ivan Pšenica, Alliance of associations of the families of imprisoned and missing Croatian homeland defenders, Croatia, Third Regional Forum on Transitional Justice, Belgrade, Serbia, February 11th - 12th 2008.

War Crimes Trials are the most important legal instrument for establishing individual criminal responsibility but they have serious limitations (courts are overwhelmed, it is a time-consuming process, witnesses age and they die, etc.) which can be overcome by an adequate regional body tasked with establishing and telling the facts about war crimes.

We need to form a regional body which will create an atmosphere of reconciliation, a climate in which it will be possible to uncover more evidence, and more witnesses, and it will certainly effect the ongoing trials making them more efficient. If something like this does not happen, war crimes trial will be slowed down, very few war crimes perpetrators will be sentenced although they are highest-ranking officials holding prominent civil and political functions. And that regional body would definitely be able to offer a multitude of evidence which could be used by war crimes trial chamber and regular courts as well as prosecutors

Statement: Ibro Bulić, Prosecutor's Office of BiH, Third Regional Forum on Transitional Justice, Belgrade, Serbia, February 11th - 12th 2008.

I think that an investigative body formed at the regional level and working together with non-governmental organizations in tackling these issues should exist by all standards. That body would also support the judiciary in the region.

Statement: Mevludin Lupić, Association of family members of the detained and missing persons from Zvornik Municipality, BiH, Third Regional Forum on Transitional Justice, Belgrade, Serbia, February 11th - 12th 2008.

The association of victims from Srebrenica believe that the consequences are important but that the causes of the war and war crimes should be established first.

We talk very little about what caused the war crimes that occurred here. No one has been sentenced so far for causing the war and when justice is not served victims remain victims. Who had the right to kill my child and drive me from my town, from my house or my apartment? They forced me out so that they can move in, to be able to take what is mine. Who has that right? And it was a handful of them who thought they had the right to do that. It was not masses of people, or the

states. It was a handful of people who started it; they adopted that criminal ideology, the idea to do that. And nobody talks about it at meetings like this one. We always talk about consequences and discuss the consequences. I'm not saying they are not important, and we definitely have to talk about them so that everybody knows, those who did not suffer any tragedies, how bad it can be. That is very important, but to me it is also important to have some sort of satisfaction. My dead family members cannot be brought back. No one can take me back to my town which was taken away from me. It is somebody else's town now. It is no longer mine.

Statement: Kada Hotić, Association Mothers of Srebrenica and Žepa Enclaves Movement, BiH, Third Regional Forum on Transitional Justice, Belgrade, Serbia, February 11th - 12th 2008.

The issue of amnesty should be considered very seriously when discussing possible solutions for the issue of mass graves.

Maybe that method could be amnesty for those who were just mere executors, or at least for those who in any way stood up against the order to kill or massacre or rape or, let's say move the bodies from one grave to another thus destroying the mortal remains found there.

Statement: Amir Kulagić, Citizens Association Women of Srebrenica, BiH, Third Regional Forum on Transitional Justice, Belgrade, Serbia, February 11th - 12th 2008.

The regional body tasked with establishing the facts about war crimes is not a replacement for court proceedings: it is instrumental in achieving better efficiency in an effort to collect new facts that can be used by the police, courts, and prosecutors.

We don't want a regional body to replace court proceedings. Nothing can replace the courts. They are something that must remain as the most important instrument. We believe however that courts alone cannot process thousands and thousands of perpetrators.

Statement: Nataša Kandić, Humanitarian Law Center, Serbia, Third Regional Forum on Transitional Justice, Belgrade, Serbia, February 11th - 12th 2008.

A body that is capable of establishing the facts can only be useful to courts. That can be a foundation and a starting position for investigation by police and prosecutors. It is true that a court established

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fact is a little too factual and lacks an emotional dimension with respect to victims. These are some shortcomings of the court-established truth. On the other hand, the testimonies given before the truth and reconciliation commissions are far more sincere. I am sure that much more witnesses told the truth before these commissions than when testifying in court, and it has to do with the context in which the statement is given – it is given in public, directly, and not in a secluded court atmosphere.

Statement: Miroslav Alimpić Novi Sad District Court, Serbia, Third Regional Forum on Transitional Justice, Belgrade, Serbia, February 11th - 12th 2008.

The regional body should organize public hearings of victims and is necessary to find a way to include perpetrators in the truth-telling process.

As a person who lost many family members and friends, it is very important to hear the testimony of those who killed my loved ones. I would like to look that person in the eye and ask: Why? I support the regional approach and the creation of a regional body because of one simple reason: the things that happened across the former Yugoslavia were interdependent. Because there are many who came to Bosnia from different places in the former Yugoslavia, to Srebrenica for example, and committed crimes. They are now geographically separated, so to say, they live in different countries, and it is different to obtain information about who did what and where. So, for the sake of truth and reconciliation, it is very important to have a regional approach.

Statement: Amir Kulagić, Citizens Association Women of Srebrenica, BiH, Third Regional Forum on Transitional Justice, Belgrade, Serbia, February 11th - 12th 2008.

Establishing the identity of victims, and making an accurate list on a name by name basis of all those who lost their lives, who were killed or who disappeared is a way to prevent manipulation and misuse of victims.

All these victims must be given their own identification card containing their first and last names, the way how they died, etc. That is our No. 1 priority because of the responsibility we have with respect to victims and because it is an instrument for preventing, as Mr. [Mirsad] Tokača said, manipulation and misuse of the number of victims which has become a common practice on the territory of the former Yugoslavia.

Statement: Ljiljana Palibrk, Helsinki Committee for Human Rights, Serbia, Third Regional Forum on Transitional Justice, Belgrade, Serbia, February 11th - 12th 2008.

The regional body should focus on the victims of war crimes committed in the past but should also be responsible for freeing the young people from the responsibility of the past.

And this is something that can help us all in terms of our responsibility to future generations. And the young people have made it very clear here today with the message. We are not responsible for what was done here but we want to be responsible for our attitude towards the things that were done. For that reason it is important that we think about the fact-finding process in terms of finding an instrument which will help and support war crimes trials to disclose as many facts and shed as much light on the legacy of the past.

Statement: Nataša Kandić, Humanitarian Law Center, Serbia, Third Regional Forum on Transitional Justice, Belgrade, Serbia, February 11th - 12th 2008.

One such regional forum should be able to create a climate in which we will be able to go to each individual community and tell a story about what

happened and then that person would make sense and we will know something and we will not be able to say that we did not know when it is clear that we did.

Statement: Zdenka Pantić, International Rehabilitation Council for Torture Victims, Croatia, Third Regional Forum on Transitional Justice, Belgrade, Serbia, February 11th - 12th 2008.

11.3. Workshop: The Role of the media in creating positive environment for truthseeking

It was concluded that civil society, non-governmental organizations and media should play the main role in creating a positive environment for the promotion of the need and obligation of truthseeking and truth-telling about war crimes. Media should support the integration of war veterans, their role in the demystification of stereotypes about enemy soldiers as criminals.

The media can help create a more complete picture about war crimes, solidarity and the feeling of empathy toward victims from other communities.

The example of the Croatian TV show Latinica which openly discussed the crimes committed by the Croatian army in Bosnia and Herzegovina convinced me that it is possible to use public service TV stations to show a story which is objective and well documented from all aspects.

Statement: Borka Rudić, BH Journalists, BiH, Third Regional Forum on Transitional Justice, Belgrade, Serbia, February 11th - 12th 2008.

The national level of awareness is important but the regional approach makes it possible to hear and see victims from other communities affected by the war.

I think that you are quite right when you say that the first thing that should be done is the creation of a regional mechanism because that is the only way we can obtain a picture about what you have done and how you are doing it.

Statement: Milica Tomić, visual artist from Belgrade, Serbia, Third Regional Forum on Transitional Justice, Belgrade, Serbia, February 11th - 12th 2008.

Why do we need a regional cooperation and a regional understanding again? Because we cannot create a positive climate of truth-seeking and truth-telling in Montenegro if our next-door neighbour is still at the same position as in 1992 or if those who committed aggression against us are still at the same position as in 1992. That is why it is important to take it to the regional level.

Statement: Šeki Radončić, Monitor Weekly Magazine, Montenegro, Third Regional Forum on Transitional Justice, Belgrade, Serbia, February 11th - 12th 2008.

Media outlets in one part of the country can only report on the crimes committed by the other side and

murderers and criminals are always on the other side. For that reason I believe that it is very important to be able to overcome these barriers regardless of whether they are drawn between entities, states, regions, or municipalities etc.

Statement: Borka Rudić, BH Journalists, BiH, Third Regional Forum on Transitional Justice, Belgrade, Serbia, February 11th - 12th 2008.

Public hearing of victims

During the *Public Hearing of Victims*¹ session, victims and family members of victims from Croatia, Bosnia and Herzegovina, Serbia, Montenegro, and Kosovo testified about injustices and suffering they had been exposed to during the war. Two friends, Jusuf Trbić and Đorđe Kostić, told a story about how they became friends for life at the time Arkan was the lord of Bijeljina [April 1992].