

EDUCATING ABOUT TRANSITIONAL JUSTICE IN KOSOVO:  
POLICY PAPER ADVOCATING FOR THE INCLUSION OF TRANSITIONAL JUSTICE  
INTO OFFICIAL HIGH SCHOOL CURRICULUM

**December 2015**

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## **EXECUTIVE SUMMARY**

Kosovo's youth is not currently being taught about issues of transitional justice, which translates into a worrying knowledge deficit on the importance of dealing with the past. More generally, this knowledge deficit is a striking feature of Kosovo society as a whole.

This situation has far-reaching consequences for reconciliation, societal stability and positive peace. Considering that Kosovo's youth forms the future of the country and that young people are particularly susceptible to politicised or manipulated versions of history, it is crucial to invest in their education and to present them with fact-based knowledge on the topic.

This paper examines the challenges posed by the absence of education on transitional justice and concludes that punctual actions taken to address the issue are insufficient. It thus advocates for the inclusion of a chapter on transitional justice in high school civic education curriculum.

## I. INTRODUCTION

The United Nations gave, in 2004, a definition of transitional justice as comprising “*the full range of processes and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation. These may include both judicial and non-judicial mechanisms, with differing levels of international involvement [...] and individual prosecutions, reparations, truth-seeking, institutional reform, vetting and dismissals, or a combination thereof.*”<sup>1</sup>

Indeed, transitional justice covers a wide range of instruments that can be grouped in 4 main pillars: criminal prosecutions, truth-seeking initiatives, reparations and institutional reforms.<sup>2</sup> This variety of instruments illustrates the variety of goals of transitional justice, serving several victims’ rights:

- to secure criminal responsibility and provide accountability - *fulfilling the right to justice*
- to bring material and symbolic reparations to the victims - *fulfilling their right to redress/reparations*
- to deliver a common truth about what happened - *fulfilling the right to know*
- to promote individual and national reconciliation, and possibilities for peace in the long term via institutional reform and progress in security and development goals - *fulfilling the right to guarantees of non repetition of the past’s abuses*

While all of the elements of transitional justice are important and complementary, their educative aspect is the center of this paper, for it builds two necessary elements to the success of transitional justice: a collective memory of the past and an informed young generation.

Educating Kosovo’s youth on issues of transitional justice and equipping them with critical thinking skills is a crucial element to promote reconciliation and ensure positive peace. Education, particularly in the fields of history and civic education, plays a major role in the formation of productive, concerned and politically engaged citizens, transmits the skills and values necessary to a democratic life and ensures that the country will not again fall prey to ethnic conflict.<sup>3</sup> In terms of economics, an educated Kosovar youth is key to ensuring sustainable development.<sup>4</sup> This is particularly important as 70% of Kosovo’s population is under 35 and as its youth represent the future of the country.<sup>5</sup>

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<sup>1</sup> Report of UNSG on the Rule of Law and TJ in Conflict and Post-Conflict Societies (S/2004/616) Available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N04/395/29/PDF/N0439529.pdf>

<sup>2</sup> A detailed introduction to these instruments can be found in annex 3

<sup>3</sup> The benefits of learning how to deal with the past are apparent in the work of international actors such as the Council of Europe, the European Union or the United Nations, as well as in the academic discourse. For recent examples: Council of the European Union, [EU’s support to transitional justice - Council conclusions \(16 November 2015\)](#), 13576/15; United Nations Human Rights Council, [Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence](#), Pablo de Greiff, 9 August 2012, A/HRC/21/46 or Council of Europe, [Recommendation 1880 \(2009\)](#), *History teaching in conflict and post-conflict areas*

<sup>4</sup> A substantive amount of academic and policy work related to education has linked education with sustainable development. For instance, education a United Nations a Sustainable Development Goals (SDGs). For recent examples: OECD (2015), [Universal Basic Skills: What Countries Stand to Gain](#), OECD Publishing; UNESCO, [Education Strategy 2014-2021](#) (2014), or UNESCO, World Education Forum 2015, [Incheon Declaration, Education 2030: Towards Inclusive and quality education and lifelong learning for all](#), ED/WEF2015/MD/3 (‘We reaffirm that education is a public good, a fundamental human right and a basis for guaranteeing the realization of other rights. It is essential for peace, tolerance, human fulfilment and sustainable development.’)

<sup>5</sup> Figures by Kosovo Ministry of Trade and industry, available [here](#)

HLC Kosovo has consistently held the position that educating secondary school students about transitional justice is critical to allow students to develop skills needed for active citizenship. High school students need to be exposed to facts concerning the recent conflicts and need to understand the necessity of dealing with the past, in order to avoid being influenced by politicised or manipulated versions of history.

Since 2011, as part of its Transitional Justice Programme, the HLC Kosovo has been implementing its Non Formal Education on Dealing with the Past (NFEDWP) Programme through which it holds educational workshops concerning transitional justice in high schools around Kosovo. During these workshops the students are explained the four pillars of transitional justice and their implementation in Kosovo and room is left for debate and discussion. In 2015 alone, the HLC Kosovo has held 16 workshops in different high schools of Kosovo, covering in total over 591 students.<sup>6</sup> Out of these, one workshop was held in a Serbian high school in the village of Verbovac.

HLC Kosovo findings on Kosovar society's relation to the past are alarming. In Kosovo, lack of knowledge and awareness regarding the recent conflicts and the importance of dealing with the past largely prevails. This has direct and indirect consequences. Reconciliation has not yet been achieved and ethnic divisions and stereotypes remain an important feature of Kosovar society, particularly as the country is undergoing an economic and political crisis. Moreover, transitional justice instruments are largely unknown or misperceived. The causes of this knowledge deficit are multifaceted, but the lack of institutional approach to educating the youth about transitional justice is a major factor.

Although the academic and international policy discourses have given consistent attention to education in relation to dealing with the past and the importance of education reform in a period of transition, policy response in Kosovo has been uncoordinated and largely insufficient. Perhaps more alarmingly, there have been no attempts to even discuss the importance of introducing transitional justice topics within education, whether at the local, national or regional levels.

This paper, which is based on HLC Kosovo findings throughout its Transitional Justice Programme, will detail the challenges posed by Kosovo's youth knowledge deficit with regards to transitional justice, and will argue for the adoption of a long-term educational policy on the topic. In particular, it advocates for the introduction of a chapter on transitional justice in high school civic education curriculum. Annexed to this paper is the latest ICTJ report on education and transitional justice which shows the ways through which education can contribute to positive peace or otherwise fuel conflict if miscarried.<sup>7</sup>

## **II. KNOWLEDGE DEFICIT AND ABSENCE OF EDUCATION ABOUT TRANSITIONAL JUSTICE: CHALLENGES**

The knowledge deficit observed by the HLC Kosovo is spanning across multiple generations and affects all of society.

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<sup>6</sup> See annex 1

<sup>7</sup> Annex 4, ICTJ and UNICEF, Clara Ramírez-Barat and Roger Duthie, *Education and Transitional Justice, Opportunities and Challenges for Peacebuilding*, Nov. 2015

## **1. A multi-faceted education deficit**

The end of the conflicts of the 1990s has not brought general acceptance between parties of facts and figures, the causes of conflicts and its consequences, or how to deal with it. No agreement was either reached between the two sides on how to teach about the conflicts and its legacy, on what facts to present in schoolbooks, or generally on the importance of dealing with the past. Teachers have not been formed on the importance of dealing with the past, or on how to approach the topic. Schoolbooks often present biased facts and continue to perpetrate stereotypes and points of potential ethnic tensions. Moreover, they do not encompass any explanation of what transitional justice mechanisms are, nor how they have been chosen and implemented in Kosovo since the war.

The situation is even more problematic considering that students from the Albanian and Serbian ethnic communities are being taught based on different curricula, respectively devised by the Kosovar and Serbian Ministries of Education. Neither addresses topics pertaining to transitional justice nor acknowledges the importance and necessity of dealing with the past. HLC Kosovo experiences show that disparities remain in the way Serbian and Albanian communities tackle issues of transitional justice and that resistance is much stronger in Serbian parts of Kosovo. Despite numerous attempts to organise workshops in Serbian high schools, the HLC Kosovo has only been able to hold one, in the village of Verbovac. Most other contacted high schools were reluctant to hold workshops, often withdrawing their initial acceptance after having enquired about the work of HLC in Belgrade.

The duality of educational programmes in Kosovo and their indisposition towards dealing with the past directly contributes to entrenching the educational deficit in Kosovo and poisons relations between Kosovo, its municipalities with a Serbian majority, and Serbia. While a national educational reform concerning both Kosovar Albanian and Serbian curricula is desirable, this paper only focuses on educational changes taken by the Kosovar Ministry of Education, for pragmatic reasons.

## **2. The lack of educational approach in Kosovo: uninformed and misinformed youth**

The educational deficit about issues of transitional justice effectively translates into a broad phenomenon of misunderstandings and misconceptions. HLC Kosovo findings show that students lack fact-based knowledge and understanding of the conflicts and are not equipped with the necessary skills for dealing with the past. This is in turn decreasing the impact that the transitional justice enterprises chosen for Kosovo can have on the society.

### ***Students' misconceptions of the facts of the war***

Students in Kosovo have a distorted vision of the events of the war. They grossly overestimate war related casualties: when asked, some students have honestly answered that they thought the conflict resulted in over 300,000 deaths.<sup>8</sup> The HLC Kosovo has also noticed patterns showing student's lack of knowledge as to numbers of casualties from other communities: notably, many ethnically Albanian students believe that there was no ethnically Serbian victim. These misconceptions can give way to manipulations and the forming of

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<sup>8</sup> According to HLC Kosovo information, 13,549 persons died, during the conflict, from 1 January 1998 - December 2000, of whom 10,829 were Albanians, 2,199 were Serbs and 529 Roma.

inaccurate narratives about the past, the deconstruction of which is precisely the goal of transitional justice mechanisms in Kosovo.

### ***Students' lack of knowledge of transitional justice***

Beyond the misconceptions about the facts and consequences of the conflict, HLC experience proved that children in high schools have close to no knowledge of transitional justice instruments and concepts. When presented with the different transitional justice mechanisms at play in Kosovo (international and local trials, truth-seeking initiatives, reparations and institutional reform), 95% of students admitted having learnt something they previously ignored.<sup>9</sup> Most of them had come across a transitional justice tool at some point, but without being aware of what it stood for or what goals it served. More crucially, almost none of them could explain the difference between them (for example between the International Criminal Tribunal for the former Yugoslavia – ICTY - and the European Union Rule of Law Mission in Kosovo - EULEX) or the pitfalls contained within them (for example the risks of inaccurate memorialisation or biased reparation programme).<sup>10</sup>

### ***Persistence of wrongly informed negative feelings***

Student's engagement with and approach to transitional justice greatly differ according to their region of origin. In the regions particularly damaged during the war, and where students personally lost someone or knew that there were victims in their community, participants were more willing to talk about the crimes and casualties committed by both sides. In parts of Kosovo where students were not as directly exposed to atrocities on the other hand, students were more inclined to talk about victims from their ethnic community and perpetrators from others. These students generally show somewhat of a lack of empathy for the victims of other ethnic backgrounds and show greater readiness to present justification for the crimes committed by persons of the same ethnic background.

HLC Kosovo findings show that the lack of accurate information on Kosovo's recent past and transitional justice measures, in spite of the regional disparities, is generally accompanied by a strong persistence of negative feelings and stereotypes towards other ethnic groups. Such attitudes feed a dangerous 'us versus them' discourse and fuels ethnic divisions. It is the direct consequence of the lack of knowledge observable amongst the youth of Kosovo.

## **3. General knowledge deficit: the living context of Kosovo's youth**

The lack of fact-based knowledge and understanding of the conflicts and of transitional justice measures noticed among Kosovo's youth is particularly problematic in light of the societal context that is also marked by a knowledge deficit. Most Kosovar have a strong awareness of the conflicts of the 1990s, notably through their personal or familial histories but lack a dispassionate, fact-based and neutral understanding. Kosovar society as a whole remains unaware of transitional justice mechanisms and their role and importance, and is largely influenced by the media whose reporting on the topic is often partial, sensationalistic and not well documented. For instance, many blunt media criticism can be heard towards the work of EULEX or the ICTY, which undermines their work and may impede the work of the future Special Chambers for Kosovo, short of an unbiased official voice to counter them.

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<sup>9</sup> see annex 2

<sup>10</sup> details of these differences and risks can be found in the annex 3

In light of this context marred by a general knowledge deficit, Kosovo's youth appears as a prime target for transitional justice education, not only because they represent the future of the country, but also because they are particularly susceptible to being influenced by manipulated or politicised versions of history and may end up adding to the general ignorance on these topics.

### **III. CONSEQUENCES AND CHALLENGES OF THE KNOWLEDGE DEFICIT AND THE ABSENCE OF EDUCATION ABOUT TRANSITIONAL JUSTICE**

The general knowledge deficit that permeates Kosovar society and the lack of educational approach on transitional justice has direct consequences.

By not being presented with an objective, fact-based approach mindful of the plurality of victims, Kosovar students are not equipped with the necessary tools to counter politicised or nationalistic rhetoric. Stereotypes, inaccurate perceptions and discriminative discourses are likely to become more impactful and students will grow into a future generation unaware of the necessity to fight them. Combined with the on-going competition for exclusive victimhood that derives from student's lack of knowledge as to the number of casualties, this situation poses a threat to reconciliation and to the consolidation of Kosovo's multi-ethnic and inclusive democracy – a required condition for the road to EU accession.

Moreover, the youth lack of knowledge of transitional justice mechanisms is hindering their effectiveness. Indeed, the success of transitional justice is overwhelmingly dependent on public perception and support. Such support involves building an understanding of transitional justice tools by means of education about their mandates, goals, and specificities. Short of such education, transitional justice instruments in Kosovo are misunderstood and rejected, and therefore sometimes counterproductive or inefficient. For example, the general public in Kosovo, including the youth, has a very limited knowledge, understanding and awareness of war crimes trials related to the recent conflict. Information about trials is sparse, rarely takes prime-time space in the mainstream media, and is not currently included in high school curricula. This lack of information is preventing genuine understanding and support of the youth for trials, therefore preventing them to efficiently contribute to the reconciliation enterprise.

The threat to reconciliation and to Kosovo's democratic character is even greater as the absence of formal education on dealing with the past leaves room for alternative means of transmission, such as the media or family and personal histories, which are generally subjective, biased, and politicised. Considering that education entertains close ties with conceptions of national identity, citizenship, shared history and sense of belonging, leaving it to unofficial channels amounts to an abdication of the State's prerogative to form a common identity and thus a strong nation.

On the long term, this situation is detrimental to peace itself. Education that does not objectively presents facts and figures and pushes students to critically think about the causes of conflict fails to offer any guarantee of non-recurrence. Yet, in light of the current political crisis in Kosovo and the resurging ethnic tensions, it is crucial for Kosovo to take every measure to prevent any resurgence of conflict.



Finally, the absence of education on transitional justice represents a failed opportunity for the Kosovo State to foster civic trust – a necessary and primordial aspect of a viable democracy – both vis-à-vis public institutions and citizens and between citizens. On the international plane, the absence of channels for dealing with the past are directly plaguing relations between Kosovo and Serbia and is slowing down Kosovo’s process of accession to the EU.

To reverse these consequences, it is necessary for Kosovo to make its youth the prime target of an educational policy aimed at disseminating accurate information about the country’s past and raising awareness of the necessity to deal with it and of the ways available to do so. A state-provided education to the relevance of instruments to deal with the past has the potential to greatly improve public support to transitional justice, and therefore transitional justice impact at large.

Just as the overall knowledge deficit of Kosovar society is affecting its youth, educating young Kosovars will affect society through a spill-over effect, whether through information discussions, social media or socialisation at large.

#### **IV. COUNTERING THE KNOWLEDGE DEFICIT: EDUCATING KOSOVO’S YOUTH, A STATE PREROGATIVE AND RESPONSIBILITY**

HLC Kosovo’s findings show that Kosovo’s youth itself is particularly favourable to the idea of being taught about transitional justice. During the workshops, students have generally shown a great interest for the topic and have engaged in debate, often asking for more information. An analysis of 100 questionnaires filled in by students in 2015 has led to very positive results: 95% of students reported they had learned something they previously weren’t aware of during the workshops, and only 5% reported they did not think the information would be useful to them in the future. Although the workshops lasted 5 hours, most students considered that it should last longer, in view of the importance of the topic. Finally, 76% thought that this information was important and should be added to their textbooks.<sup>11</sup> These results show a genuine interest of the youth for its country’s past and for the mechanisms in place to deal with, that should be stimulated and furthered by the State.

In addition to these workshops, the HLC Kosovo has been working towards bringing in transitional justice through creative means, notably through a partnership with the documentary film festival DOKUFEST held annually in Prizren. It is also encouraging students to engage with the topic of transitional justice, whether through papers, short multimedia materials based on the content of the workshops, or generally through posting about the topic on the HLC Kosovo website and Facebook group.

These initiatives have so far been successful and encouraging. Yet such punctual and short-term actions are not sufficient in order to effectively tackle the persistent knowledge deficit. The HLC Kosovo, just as all non-State actors, does not have the necessary means or prerogative to systematically root issues of transitional justice into formal education. Implementing a long-term, institutional approach to bringing issues of transitional justice into formal education remains within the realm of State actions. The Kosovar State is the only appropriate and legitimate authority to change educational content in order to provide its youth with quality and objective education that will enable them to carry out their duties as

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<sup>11</sup> See annex 2

citizens. In fact, this falls under the State's responsibility to provide its citizens with the means of realising their fundamental human right to education: although not necessarily spelt out as such, the State's responsibility to provide its youth with quality education can be derived from various international documents.<sup>12</sup>

Bringing transitional justice into formal education is not a new idea and various countries in transition have done so. For instance, the Peruvian Truth and Reconciliation Commission engaged with the Ministry of education from the beginning, looking for ways to incorporate its findings into the education system. In Sierra Leone, the Special Court for Sierra Leone organised discussions about its work with students throughout the country as part of its outreach effort. In South Africa, the government undertook a far-reaching educational reform that is still ongoing today to deal with its unjust past.<sup>13</sup>

Including transitional justice in civic education official curricula has been the final aim of the HLC Kosovo NFEDWP programme since its inception. To this end, the HLC Kosovo is consulting with various stakeholders on the relevance of transitional justice issues and their possible inclusion in the curriculum: these include high school teachers and principals, representatives of the Ministry of Education, relevant NGOs and experts on education.

Benefits of including such a chapter are multiple. In addition to addressing the negative consequences previously mentioned an institutional approach to the issue would serve the long-term goal of educating future generation and making them more active in the process of dealing with the past and peace building. Making transitional justice part of formal education, thus carrying the State imprimatur, would give the issue greater visibility and authority and would signal the State's commitment to its development. In Kosovo, the government's support to various transitional justice initiatives at the institutional level, if it was to be supported by an official educational approach teaching the youth about their benefits, would be more authentic and more efficient. Through a spill-over effect, greater support and awareness for transitional justice measures could develop among students' social circles, in turn multiplying the impact of these measures.

Finally, introducing a chapter on transitional justice is a State prerogative that would directly benefit the Kosovar State through an increase of civic trust. Considering that education is one of the most visible public service, its quality and objectivity and the relevance of its content are key to enhance the trustworthiness of the education sector vis-à-vis the population (vertical civic trust) and to promote tolerance, mutual understanding and inclusion between citizens (horizontal civic trust). Beyond the national sphere, introducing transitional justice into formal education – a strong State commitment to the recognition and non-repetition of the past – would put Kosovo at the forefront of a forward looking process of regional reconciliation, thereby bolstering its role as a valuable and responsible diplomatic partner.

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<sup>12</sup> See *inter alia* UNESCO, [World Declaration on Education for All and Framework for Action to meet basic learning needs](#) (1990), adopted by the World Conference on Education for All, 5-9 March 1990 or Council of Europe, Parliamentary Assembly, [Recommendation 1283 \(1996\) History and the learning of history in Europe](#) and [Recommendation 1880 \(2009\), History teaching in conflict and post-conflict areas](#)

<sup>13</sup> For more details, see ICTJ report in Annex 3

#### IV. CONCLUSION AND RECOMMENDATIONS

The negative consequences deriving from the knowledge deficit about issues of transitional justice that characterises Kosovo's youth and society are reversible and the youth represent a particularly important target group to do so.

HLC Kosovo actions aiming to bring transitional justice into the classrooms have been welcomed but they represent only a fraction of what should be done to truly address the problem in a satisfying manner. A long-term institutional approach, formally introducing transitional justice into official education is required.

To this end, the HLC Kosovo proposes the following recommendations:

- The Ministry of Education of Kosovo should consider education as being part of a wide societal response to its violent past. To this end, it should **work towards introducing a chapter on transitional justice in high school civic education schoolbooks**, in a way that is conflict-sensitive, gender-sensitive, culturally adequate, and socio-emotionally informed.
  - The chapter should be included in civic education schoolbooks, rather than history schoolbooks, considering that the aim of transitional justice is not simply to learn about the past, but rather to learn how to deal with it in order to form educated future citizens.
  - This chapter must detail and inform students about all aspects of transitional justice that exist (the four pillars) and are useful to dealing with the past, detailing specifically those who are currently at play in Kosovo. It should also prepare the ground for future transitional justice initiatives (the Special Chambers, RECOM, etc.)
  - This chapter should aim to equip students with critical thinking skills to analyse and interpret information effectively and responsibly, to recognise the complexity of issues and to appreciate cultural diversity. It should avoid containing any stereotypes or any other distortions based on national, racial, religious or other prejudice. It should include all aspects of societies (social and cultural history as well as political) and should give proper recognition to the role of women. Finally, it should include both local and national (albeit not nationalist) history as well as the history of minorities and should mention positive mutual influences.
- In this process, the Kosovar Ministry of Education should **consult, engage with and seek to obtain the support of all relevant stakeholders** in this action. This includes relevant NGOs – and in particular the HLC Kosovo – transitional justice practitioners, experts on education, members of the inter-ministerial commission on dealing with the past, school administrators, teachers, parents and students. Consulting with a wide range of actor will ensure ownership of the efforts to educate about dealing with the past and will help overcome potential opposition and raise support for the initiative.
  - Debates, roundtables and consultation meetings should be organised to exchange on the content and form of this chapter. The aim would be to best compile a multi-referenced document presenting facts in an objective, clear and concise manner and aiming to develop students' critical thinking and taste for debate.

- The Ministry should not assume that all actors may be supportive of a curriculum reform to include transitional justice, and should identify obstacles which are likely to be challenged and overcome from those that are not.
- The Kosovar Ministry of Education should **measure the potential impact** of introducing a chapter on transitional justice in high school curriculum, notably by monitoring reactions in classrooms.
  - While introducing this chapter will have positive consequences, it is important to manage expectations by acknowledging the limitations of this measure.
  - The Kosovar Ministry of Education should consider how to manage the reactions stemming from addressing potentially sensitive histories and narratives in school, such as anger, distress, embarrassment, humiliation, and resentment.
- The Kosovar Ministry of Education should bear in mind that **the HLC Kosovo is offering its assistance and expertise at all levels of this process** and is eager to work in close cooperation with the Ministry towards creating synergies between their respective fields of transitional justice and education. Due to its previous and on-going work, HLC Kosovo staff has gained considerable experience in handling young people and interesting them to the transitional justice debate and has developed the necessary flexibility and adaptability needed to address young audiences. In addition, HLC Kosovo staff has recently designed a manual on transitional justice<sup>14</sup> that will become a reference point for its educational activities and could form the basis of the future chapter, albeit under a simplified form.

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<sup>14</sup> see annex 3

## ANNEX 1.

### LIST OF HELD WORKSHOPS

In 2015, the HLC Kosovo held the following 16 workshops in different high schools of Kosovo, covering in total over 591 students:

1. **Hamdi Berisha** – Malishevë - 21.01.2015 ( 30 students participated)
2. **Ulpiana** - Lipjan - 26.01.2015 ( 31 students participated)
3. **Ismail Qemali** – Kamenice - 28.01.2015 ( 36 students participated)
4. **Tehnicka Ekonomska Skola**- Vrbovac - 03.02.2015 ( 27 students participated)
5. **Haxhi Zeka** – Istog - 18.02.2015 - ( 42 students participated)
6. **Hamzë Jashari** – Skenderaj - 03.03.2015 ( 37 students participated)
7. **Ruzhdi Berisha** – Dragash - 10.03.2015 ( 31 students participated)
8. **Gjon Buzuku** – Prizren - 12.03.2015 ( 62 students participated)
9. **Vëllezërit Frasheri** – Deçan - 20.05.2015 ( 35 students participated)
10. **Skënderbeu** –Kaçanik – 01.10.2015 (32 students participated)
11. **Mederesja e mesme Alaudin** – Prishtinë - 10.11.2015 (33 students participated)
12. **Dardania** - Hani i Elezit - 13.11.2015 (31 students participated)
13. **Selajdin Mullaabazi - Mici** - Rahovec - 16.11.2015 (35 students participated)
14. **Xhevdet Doda** - Prishtinë - 24.11.2015 (28 students participated)
15. **Hoxhë Kadri Prishtina** – Prishtinë - 02.12.15 (69 students participated)
16. **Shkolla teknike “28 Nëntori”** - Prishtinë - 09.12.2015 (32 students participated)

Each workshop starts with a short documentary movie, highlighting the risks contained in societies who did not deal with their past and refrained from implementing the four pillars of Transitional Justice. The short movie also serves well as a base ground for a debate that later opens the path for introduction to Transitional Justice. In the second part of the Workshop, HLC Kosovo informs students briefly with the history of Yugoslavia (Dissolution: Wars, Casualties...etc.), with a focus on Kosovo. Examples are then presented to students, together with facts and findings, after which they are being taught about all four pillars of transitional justice and their respective particularities.

For a better understanding of the topic, as well as for greater engagement, HLC Kosovo offers students a chance to participate in a mock-truth commission: students take on different roles (Commissioners, Victims, Perpetrators and Observers) and mock the work of a truth commission during a public hearing. They are also asked to prepare a one paragraph “report” containing their recommendations.

## ANNEX 2.

### ANALYSIS OF EVALUATION SHEETS

At the end of each workshop, students fill out evaluation sheets designed by the HLC Kosovo. Below is an analysis of 100 copies of evaluation sheets of the workshops held by HLC Kosovo during 2015, that is, taking into account two different generations of students (as a school year goes from September to June).

Amongst the 100 sheets analysed, 40 of them came from the HLC Kosovo's last four interventions in schools (after September 2015, when a new school year started/new generation). The other 60 sheets were taken from workshops held before June 2015 (when the school year ended).

The analysis focuses on three specific questions taken out of the evaluation forms, in the section where students are asked to provide their impressions on the usefulness of the workshops. Below are the results observed from the study sample. Considering that the randomly selected evaluations sheets are those of students aged differently, belonging to different generations and coming from different schools and different regions, the derived results are deemed to be representative of a global trend.

<b>I gained new information</b>	<b>95 %</b>
<b>This information will not be useful for me in the future</b>	<b>5 %</b>
<b>This information should added (included) into our textbooks</b>	<b>76 %</b>

## ANNEX 3.

### INTRODUCTION TO TRANSITIONAL JUSTICE

#### I. Meaning and goal: dealing with the past to build the future

Transitional Justice (TJ) is, literally, a form of *justice* adapted to societies transforming after a dark page of their history, and seeking to deal with the past so that it never reoccurs.<sup>15</sup> It is a framework – or a set of practices - for addressing the legacy of mass atrocities and human rights abuses in societies recovering from conflict.

TJ has two aspects: it is **backward-looking** (it deals with the events of the past), but also **forward-looking**, as it intends to prevent the recurrence of these events.

TJ can include various different measures, such as criminal prosecutions (retributive justice), reparations, truth-seeking (restorative justice), memorialisation (monuments, ceremonies, bank holidays, public statements, etc), and institutional reforms (such as vetting).

This variety of instruments illustrates the variety of goals for TJ: to secure criminal responsibility and provide accountability, to bring redress/reparation to victims, to deliver a common truth about what happened, to promote individual and national reconciliation, to promote possibilities for peace in the long term, and to advance security and development goals (such as demobilisation, disarmament and reintegration (DDR), and addressing socio-economic disparities) as well as the rule of law. All of these goals tend to deal with the past and build the future.

#### II. The 4 main pillars of Transitional Justice

There is a wide choice of TJ instruments. These can be divided in 4 main pillars.

##### 1) Criminal prosecutions

These can take different forms. They can be international, like the trials held by the International Criminal Tribunal for the former Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR) or the International Criminal Court (ICC). They can be local, such as in the specialized War Crimes Chamber of the Belgrade District Court or the Section for War Crimes within the State Court in Bosnia. They can also be hybrid, mixing international and national elements, as in the Special Court for Sierra Leone (SCSL), or the trials held by the EU Rule of Law Mission (EULEX) in Kosovo.

The importance of criminal prosecutions after conflict can be established by several observations. Firstly, punishing offenders allows the fostering of a democratic culture, contributing to the legitimization of the new authority after the conflict and to the entrenchment of the rule of law on which the new state will be based. Accountability for past offenses is fundamental for securing a new order based on legal security and citizen accountability. It also serves to create trust in the newly formed institutions and to fund the state structure in accordance with international legal norms. By ending impunity, trials deter future crimes and therefore contribute to stability. Secondly, trials realize the fundamental

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<sup>15</sup> Davis (2014).

right of victims to justice. By putting behind bars those who have done wrong to them, it brings redress to the victims, and is an important acknowledgment of their suffering and an act of respect to their memory. Fulfilling this individual right is essential to peace and stability, and to enabling victims to move on. Finally, trials are also often expected to help achieve social peace by reconciling former enemies, because they individualize guilt and therefore take responsibility away from the masses. Trying those who bear the greatest responsibility, it has been argued, allows the deflation of the collective blame phenomenon that is a recurrent feature of contemporary civil wars, by exposing the leadership's role in exacerbating hatreds and manipulating opinions. In a post-conflict context, normalisation of relations between two communities previously opposed cannot be achieved as long as war crimes on both sides have not been prosecuted, so that the myths from the past on which both communities have based their irreconcilable opinions are deconstructed.

## 2) Truth-seeking measures

Achieving a common version of history, a common memory of the past, is also essential to reconciliation and moving forward. This is done via truth-seeking processes. The establishment of an official truth on which everyone agrees can prevent future generations from falling in revisionism, and political elites from manipulating events from the past to fit their own political agenda. Truth also allows victims to obtain redress and accomplish the process of their mourning. While many TJ instruments contribute to truth-seeking (such as trials or listing of victims), the most appropriate instrument is the truth commission.

## 3) Reparations

The right to reparations is an extremely important aspect of the delivery of justice to victims, and therefore an essential transitional justice component. On the one hand, reparations made to victims contribute to some form of symbolic acknowledgment of their loss, allowing recovery from war trauma. It allows victims to exercise their right to redress, and is an important tribute to those they remember. On the other hand, armed conflict generally affects the poor and vulnerable groups of society more strikingly, so reparations are an indispensable element of post-conflict justice if victims are to be able to re-establish their dignity, resume their lives and participate in society on an equal footing.<sup>16</sup> While monetary compensation is the most common form of reparation, many other methods can be used (restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition), all containing important the social and psychological functions of rehabilitation, reintegration, and tribute to the victimized. Symbolic reparations via apologies, acknowledgments, and memorials, are also useful for honoring victims' memories and establishing facts.

## 4) Institutional reform: building trust in institutions

In addressing mass atrocities and a legacy of conflict, it is also necessary to fundamentally change those institutions responsible for human rights abuses, in order to restore the rule of law and abolish the culture of impunity that has been established. Because public institutions (such as the police, military, and judiciary) often become the instrument of human rights abuses during conflicts, it is essential after transition to drain and reform them. Institutional reform is therefore the process of restructuring the state so that it comes to abide by human rights norms and the provisions of the rule of law, as well as purging it of perpetrators both to

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<sup>16</sup> Stover (2005)



provide individual accountability and secure non-repetition. Institutional reform can involve measures targeting individual deficiencies (vetting processes to eliminate from public service abusive and corrupt officials) and structural deficiencies, via organizational and legal reforms (restructuring institutions, new laws and amendments, Security Sector Reform, Disarmament, Demobilization and Reintegration, etc.), as well as by educative measures. The goal of institutional reform within TJ is to send a message to citizens that they are the rights-bearers and to build trust between them and their institutions.

### **III. The Challenges of Transitional Justice**

- **Each TJ instrument has its limits**

While TJ is a very important enterprise, none of the detailed mechanisms available is perfect, and they all have their inherent limitations. Prosecutions, for example, are designed for societies in which the violation of the law is the exception. In civil conflicts such as that of former Yugoslavia, those violations became the norm, and therefore prosecutions entail a significant commitment of time and resources almost impossible to obtain, and that has led international courts to proceed with great selectivity. Because of the amount of crimes, one needs to accept that prosecution can only ever be a partial way to dealing with systematic human rights abuse. Moreover, whether these prosecutions are held locally or abroad has an impact on their effectiveness. Finally, mistakes in the management of local and international criminal trials (issues with outreach, witness protection, perception of the courts by victims) have often hindered their efficiency.<sup>17</sup> Reparations also contain risks, as they may exacerbate political tensions. They can be perceived as biased by some of the victims. The choice of how to distribute reparations is politically sensitive and can leave those left out very frustrated, creating discord between communities, exacerbating grievances, and further marginalizing some individuals.

- **TJ operates in a very sensitive context**

One needs to remember that TJ is a very difficult and sensitive enterprise in a very complex and unstable context. The wide array of aims that was previously detailed is obviously too ambitious to be realistic, because the diverse issues arising after conflict are too complex to be solved by only one approach to TJ. Moreover, the field of TJ encounters many practical difficulties: the scale and political nature of the crimes, the risk of altering a delicate political balance and creating instability, and the resistance that can be opposed by the national leadership. The management of expectations is a crucial element of the perception of TJ's success by the general public. Moreover, there is no single solution applicable to all post-conflict contexts, and each society engaging in TJ must choose its own path, in accordance with the cultural and social background. TJ is extremely context-specific and victim-dependent. It is sensitive, politicized and political. While it aims to offer a way for societies to deal with their past and achieve long-term transformation/transition, it also has great potential for destabilization, misuse and mismanagement.

- **TJ must be multi-faceted and contextual**

Of all the different instruments of TJ, none should have preference, for they all are complementary. For example, while criminal prosecution of perpetrators is necessary, it is not

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<sup>17</sup> Orentlicher (2010)

sufficient for bringing justice to victims, for the right to just reparation is a separate and equally essential part of providing post-conflict justice to civilian victims of war crimes. Indeed, many studies show that when asked, victims do not define ‘justice’ as punishment of criminals only, but instead as an ensemble of social and economic rights as well.<sup>18</sup> Similarly, if some perpetrators are punished but state institutions remain plagued with abusive officials, TJ will be lacking. Victims’ expectations after conflict are diverse, for war affects victims in many different ways, and therefore meeting the objectives of TJ requires using the different mechanisms available in a holistic, creative, and specifically tailored manner.<sup>19</sup>

#### **IV. An overview of TJ in Kosovo**

##### **1) Criminal prosecutions of the war crimes committed in Kosovo**

Criminal prosecutions of the crimes committed during the war in Kosovo have been carried out by three different mechanisms. On the one hand, the international trials at the ICTY have dealt with the most high-profile cases. On the other hand, Kosovo’s judicial system has been engaged in prosecuting war crimes locally with the help of the United Nations Interim Administration Mission in Kosovo (UNMIK) and EULEX. Finally, trials have also been heard in front of Serbian courts. Recently, it has been announced that local criminal procedures will be expanded by the establishment of a new court, often referred to before the public as the “Special Court” or “Special Chambers”, which will deal with the crimes committed by former senior officials of the former Kosovo Liberation Army (KLA) during and in the aftermath of the conflict in Kosovo. Besides the obvious complexity of this system, which can lack transparency, the record of criminal prosecutions for the crimes committed in Kosovo has been mixed. Many observers have denounced the lack of results of the ICTY, and criticized the work of UNMIK and EULEX, illustrating how complex the issue of dealing with past crimes is in the Kosovo context.

##### **2) Truth-seeking in Kosovo**

Due to the regional character of the wars in the former Yugoslavia, including the Kosovo conflict, and due to the movement of victims and perpetrators across the region, regional cooperation must be an essential element of any Transitional Justice effort. The RECOM<sup>20</sup> process was initiated in order to provide for a collective, regional, truth-seeking effort. It is now driven by the regional Coalition for RECOM with more than 1,900 members, comprising organizations and individuals from the post-Yugoslav states. After years of lobbying, it is expected that a Regional Truth Commission will be established in the near future. RECOM’s overall objective is to establish a fact-based regional consensus about the past thereby advancing the process of reconciliation between different communities, and between states themselves. Unfortunately, national political agenda throughout the Balkans and poor awareness of regional projects within the population often hinder progress in this field.

##### **3) Reparations in Kosovo**

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<sup>18</sup> Stover (2005)

<sup>19</sup> Davis (2014)

<sup>20</sup> the inter-state Commission for Establishing and Disclosing the Facts about all Victims of War Crimes and Human Rights Abuses in the Territory of the Former Yugoslavia from 1991 – 2001

In Kosovo, the Law<sup>21</sup> providing for war crimes reparations is flawed with many shortcomings, and in particular the discriminatory definition of a civilian victim, excluding many civilian victims and particularly in disfavor of Serbian victims of the war in Kosovo. The perceived bias against Serbs perpetuates a wrong ‘black and white’ narrative about the war, preventing an accurate and fact-based narrative. It is also perceived as politically motivated and discriminatory, creating discord amongst victim communities, and so detrimental to reconciliation between the two communities. The use of symbolic reparations such as memorials is also very controversial in Kosovo, for it promotes a one-sided history of the war.

#### 4) Institutional reform in Kosovo – building trust in institutions

In Kosovo, while structural and legal reforms have been carried out in the immediate post-conflict time-frame as part of the state-building effort, institutional reform is still missing on some aspects. Indeed, there has been no vetting process, and many of Kosovo's most prominent ethnic Albanian political leaders played an active role in the 1999 conflict as members of the Kosovo Liberation Army. While some of them have been indicted or are subject to investigation, many have simply remained in power and are prominent leaders today. In terms of restoring the trust of citizens in their institutions, it seems that the task has been left incomplete. Most ethnic Serbs believe that there is a lack of genuine political will to protect the rights of the Serb community. The extensive legislative and institutional system in Kosovo aimed at the protection and promotion of the rights and interests of minority communities was never fully implemented, nor was it efficient. For example, while the Serbian and Albanian languages are accorded equal official status on paper, in reality it is difficult to access public institutions and information in Serbian. Moreover, the ethnic Albanian population also distrusts public institutions, because of repeated corruption scandals. Some commentators argue that one of Kosovo’s main challenges in its forward-looking TJ effort is to create such trust.

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<sup>21</sup> The full name of the law is: “Law on the Status and the Rights of the Martyrs, Invalids, Veterans, Members of the Kosova Liberation Army, Sexual Violence Victims, Civilian Victims of War and their Families”. It will be referred thereafter to as the Law on Reparations

**ANNEX 4.**

**ICTJ REPORT, NOVEMBER 2015**

**EDUCATION AND TRANSITIONAL JUSTICE:  
OPPORTUNITIES AND CHALLENGES FOR PEACEBUILDING**