

The Topic of the Issue

THE LATEST INITIATIVE TO ESTABLISH A COMMISSION FOR TRUTH
IN BOSNIA-HERZEGOVINA



CONTROVERSIES OF THE "DAYTON PROJECT"

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The secrecy of the process, the non-transparency of the actors and the absence of consultations made big damage to the project.

Bosnia-Herzegovina could soon get a commission for truth, or "commission for the establishment of confidence", as it was called by sponsors of the initiative from the United States Peace Institute. Together with the process of the establishment of court institutions which will be able to effectively and professionally prosecute war criminals which is in full swing and the serious plans to adopt a state law on the rights of victims of civil war and victims of torture, the establishment of the commission for truth would make Bosnia-Herzegovina a unique society in the world. A society which works simultaneously and systematically in the most important fields of justice in transition.

From the above said it could be concluded that Bosnia-Herzegovina is a society determined to face the heritage of mass crimes and systematic violation of human rights. And that such determination implies prospects for the healing of the society and the establishment of a new system of values based upon justice and the rule of law. As many other things in this country, it sounds too good to be true.

Golden Hen

A few days of intensive insight into the political scene in Bosnia-Herzegovina will reveal that such a determination does not exist there where it is needed the most – among politicians, leaders which create the public opinion in a country which is still deeply divided along ethnic lines. The heritage of war and war crimes is still a golden hen for politicians in Bosnia-Herzegovina. The praising of one's own people; minimizing the number of victims on the "other side"; manipulating numbers, feelings and the status of victims; using hate speech and ideological premises of policies from the beginning of the nineties – all these are elements present in the public activities of Bosnia-Herzegovina's politicians. None of them, regardless of whether they are in the ruling parties or in the opposition, has as yet adopted facing the past as a priority of their political programs.

The natural state of affairs – this is what theoreticians would say, if we know that in post-conflict societies the "quantity and quality of justice" is in inverse proportion to the activity of political forces responsible for the conflict and the committed crimes.

How, then, to explain the obvious proliferation of different ideas and initiatives with the common denominator – justice and truth? Some of them, including also those most ambitious ones, like passing the law on rights of civil victims of war, develop under the direct auspices of state institutions. Is the combined pressure of the civic society, media and the international community the key factor which forces the state to react? For instance, nobody can neglect the influence of the film "Grbavica" for putting in public focus the status of women raped during the war, which resulted in announcements that the existing laws will be changed in order to secure certain benefits for such victims. Nongovernmental organizations and their activity force the state institutions to react – the obvious example is the listing of victims of war which is conducted by the Research and Documentation Centre in Sarajevo. The Commission for Srebrenica and the establishment of the department for war crimes within the Court of Bosnia-Herzegovina are the best example of the influence of international institutions in Bosnia-Herzegovina in this regard.

Each of the individual examples show that strong engagement of the nongovernmental sector and the international community can result in actions which, apart from all their deficiencies, contribute to the healing of the society of Bosnia-Herzegovina.

The Parallel

The situation is best symbolized by the Presidency of Bosnia-Herzegovina in which, let me remind, is sitting Borislav Paravac, the war-time president of the Serb crisis headquarters in Dobož. During his presidency, from Dobož was expelled the entire non-Serb population and tens of people detained, tortured and killed in camps in Dobož. If, for the purpose of illustration, we make a parallel between our country and South Africa, Borislav Paravac would, well, become our Bosnian counterpart to Nelson Mandela or, at least, to F.W. De Clerc.

Far from the Public

The initiative to establish the commission for truth should be the crown of all such efforts, because it comes from a common action of political parties, international sponsors and nongovernmental organizations. Everybody in Bosnia-Herzegovina desperately needs the truth about the recent past in order to have the society turn to the future. Everybody in this country will say this, the victims and politicians, journalists and miners, professors and football players, everybody. It is the right time for a mechanism which will establish the truth. This is probably known also to those who initiated the idea to establish a competent body, here is also the readiness of international sponsors to financially support the work of the commission and participate in its work. Well, what is then the problem?

The idea to establish a commission for truth in Bosnia-Herzegovina stems from 1997. At that time the United States Institute for Peace together with the Association of Citizens for Truth and Reconciliation initiated consultations on the establishment of the commission. The Tribunal in The Hague has strongly reacted against the establishment of any body which would jeopardize its mandate to investigate war crimes, get the witnesses and collect the evidence. The influence of the Tribunal was decisive for this initiative not to get further than consultations with political and religious leaders.

Nonetheless, until 2000 the Association for Truth and Reconciliation has managed to secure a kind of green light from the Tribunal after guaranteeing that there will be no amnesty, and that the work of the commission will in no way obstruct the Tribunal's investigations. A draft law was made, which regulated the mandate of the commission, the timeframe and the way in which the members would be elected. The draft was transferred to the then Minister for Human Rights Kresimir Zubak, but it never reached the parliamentary assembly because of the elections which brought to power the new/old nomenclature from nationalistic parties, with no interest for the establishment of the commission.

At the same time, the draft law infuriated the victims' associations which were not consulted during the preparations. The initiative and the people from the Association for Truth and Reconciliation were vehemently attacked because of the commission's mandate and the provision that members of the commission will have the income equal to that of the best paid public employees, judges of the Constitutional Court. Representatives of the associations accused the initiators for an "attempt to earn on their tragedy". It seemed that the initiative was dead.

However, in January this year the nongovernmental organization "Dayton Project" issued a statement which says that the Parliament of Bosnia-Herzegovina has formed a working group composed of representatives of eight political parties whose task it is to make a draft law on the commission for truth. The statement did not offer any details except for names of the members of the working group and the categorization of "Dayton Project" as a specific secretariat entrusted with "logistic support to the initiative". Although the public could hear rumors on hastened activities of the United States Institute for Peace for the establishment of the working group and on talks which Donald Hays, Bill Stuebner and Neal Kritz had far from the public eye and ear with the representatives of political parties and other "influential people", this statement was the first official mention of the initiative. Vehement reactions of the public followed.

In an attempt to get any information on the creation of the commission, the Centre for Free Access to Information, a nongovernmental organization from Sarajevo, addressed the Parliament of Bosnia-Herzegovina, the founder of the working group. However, the answer from the Parliament says that such a group was formally not founded and that for all information they should address the "Dayton Project".

In investigating the issue the media went the furthest - the magazine "BH Days" and after that also BIRN. These media published that behind the initiative was the United States Institute for Peace which initiated the forming of the working group, mainly counting on the influence of the former deputy of Paddy Ashdown, Donald Hays. Neal Kritz, one of the most frequently mentioned members of the Institute, distanced himself by saying that the initiative was "completely from Bosnia-Herzegovina", and that he and other representatives of the international community were only "consultants". However, this statement was denied by one of the members of the working group who claimed that "this is not at all about a local initiative, but about an initiative of international organizations which was accepted by

political parties”.

Published were also some details related to the mandate of the commission as envisaged in the draft law. According to these writings the commission would try to realize a few aims within two years. The first task is to establish the number and identity of the victims, including the missing persons, persons who died, who suffered physical injuries, who were tortured, who were sexually misused, illegally detained, deported or in some other way forcefully displaced or were prevented to leave their area, as well as to make a list of locations and dates. It should also be established what is the number and identity of military personnel who died, were wounded or missing during the war, as well as to establish mass graves, facts on destroying religious and cultural monuments, or facts on the destruction and illegal acquisition of private property.

The other task is to investigate the circumstances which lead to the “creation of ethnic mistrust and non-understanding”. The third one is to establish the “role and moral responsibility of individuals, organizations and institutions which through their activity, or failure to act were supporting or not preventing violation of human rights”. The fourth aim is to establish the “role of relevant actors beyond Bosnia-Herzegovina who through their acting or omission were supporting violence”. And finally, the commission should establish the “existence and activities of individuals who refused to participate in haunting and torture... and who despite of the danger for their own lives have preserved the feeling for humanity”. After investigation, the commission should “enable the public... to get to know the events that happened and the violence committed”. On the basis of findings the commission should “recommend necessary measures to solve the committed violence and to prevent their repeating in the future”.

Besides, published were also other details related to the election of the members of the commission, the way of their appointment and the relation with judiciary institutions. Apart from these writings, details on the establishment of the commission remained far away from the public. It is clear that much was already agreed upon among representatives of the eight political parties which constitute the working group.

“Innocent Until The Contrary Is Proven”

The association of families of those missing “Izvor” from Prijedor reacted with consternation to the fact that one of the members of the working group was Mile Mutic, former director of local papers and radio stations and member of the SDS’s wartime crisis headquarters. In the verdict for the president of this body, Milomir Stakic, the judges of the Tribunal in The Hague described also Mutic’s role in the prosecution campaign against the non-Serb population. According to the explanation of one of the supporters of the initiative - Mitic is “innocent until the contrary is proven”, and the non-existence of a court trial for war crimes qualifies him for participation in the work of the working group. So we got the situation in which the act on the commission for truth are preparing, among others, persons involved in crimes which the commission should investigate.

And most probably this would be so had “Izvor” not been persistent in its demands that Mutic be expelled from the working group, simultaneously asking for transparency of the working group and the inclusion of the victims into the process of drafting the law. Mutic withdrew, but the initiators of the project did not change anything in their relations with the public. Talks on the draft law continued in secrecy.

The Entire Society Should Be Consulted In Regard To Consensus

Victims’ associations have again reacted with deep revolt, asking to be included in the process of drafting this law. A group of nongovernmental organizations, including the most numerous victims’ associations, asked for the process to be stopped and be brought back to its beginning. Representatives of international organizations were divided into those who thought this was a good idea, that that was the right moment to establish the commission, and those who thought that the establishment of so important a mechanism cannot be initiated from the outside, that it was crucial that the initiative come from Bosnian society.

So the entire process dipped into a controversy even before the public in Bosnia-Herzegovina got the opportunity to discuss it. It could be said with certainty that the secrecy of the process, the non-transparency of the actors and the absence of consultation inflicted big damage to the latest initiative for the establishment of the commission for truth in Bosnia-Herzegovina.

Establishing the truth on war in Bosnia-Herzegovina is impossible without genuine consensus in the society on whether it is necessary to do it. Such consensus maybe already exists, the question should only be asked, the society should be consulted in its different segments, and there should be public debate in which the citizens of this country will be given the opportunity to say whether they want the

commission or some other form of mechanism which would establish the truth.

Only after that will come the turn for questions on the mandate of such a body, its jurisdiction, on whether it should establish historical facts on causes of conflicts or be a forum for the victims to speak about the evil which they suffered, on the need to approach the establishment of truth regionally, with the participation of institutions and organizations beyond Bosnia-Herzegovina and on many other aspects crucial for the success of such an undertaking.

The worst that can happen is that the commission be established despite opposition in a big part of the public, that its work be politicized, used in dirty election campaigns, and the result eventually be rejected by the majority of citizens. This would make it impossible to establish a similar mechanism in the future, when the internal need of the society of Bosnia-Herzegovina to accept one version of the events from the recent past becomes sufficiently strong to produce an authentic mechanism. A mechanism whose main success must be the acceptance of truth because this is most needed in our society.

The need to "have us asked", that we participate in the establishment of the institutions which deal with our tragedy is huge. This should keep in their minds the actors of any initiative whose denominator are so difficult and significant notions as truth and justice.