
“Bosnia-Herzegovina And The Balkans: 20 Years Later Memory, Reconciliation, Politics. The Challenges For Old And New Generations”.

On November the 22nd, at the Johns Hopkins University SAIS Bologna, took place an international conference titled **“Bosnia-Herzegovina And The Balkans: 20 Years Later Memory, Reconciliation, Politics. The Challenges For Old And New Generations”.**

The conference started with the opening remarks of Kenneth Keller, Director of Johns Hopkins University SAIS Bologna Center, Italy, who welcomed speakers and participants, and immediately stated the importance of the sense of the academic history of cooperation in the city of Bologna, both in the 58 years of life of John Hopkins University and in the 10-centuries academic framework of the University of Bologna. Vice-Rector of University of Bologna for International Relations, Carla Salvaterra described the long history of cooperation between the two institutions, not just in institutional terms, but also in the direct involvement of students. She also stressed the importance of memories in constructing collective identities and the duty and right to reconstruct history for the purpose of reconciliation. Matteo Lepore, Councillor for International Relations of the City of Bologna put an emphasis on the dialogue as a challenge and as a matter of politics by remembering the World War II events of Montesole and Marzabotto.



Jasmin Imamovic, mayor of Tuzla brought the greeting from the city he represents stating the important role Bologna has in connecting and empowering cities. He added, in fair and equal opportunities terms, that Bologna and Tuzla are to be called “sisters” and not “brothers”. The welcoming session closed with Susanna Mancini, Professor of International Law at Johns Hopkins SAIS Bologna who mentioned the active role of the school in the Balkans by organising since many years study trips in Sarajevo and summer schools in Montenegro. She concluded with a special remark on

the importance of IECOB and the role of Stefano Bianchini as a world-leading researcher on the Balkans.

Transitional justice

Transitional justice refers to the set of judicial and non-judicial measures that have been implemented by different countries in order to redress the legacies of massive human rights abuses. These measures include criminal prosecutions, truth commissions, reparations programs, and various kinds of institutional reforms.

Source: – International Centre for Transitional Justice

The morning session continued with Norman Farrell, Deputy Prosecutor of the International Criminal Tribunal for the former Yugoslavia who kept a speech on the role of transitional justice in Bosnia-Herzegovina. He first stated that international courts role is to substitute local courts not willing or not able to sue war criminals. So first of all, ICT adopts a complementary approach and its success lays on its accountability. While recognising the contribution of ICTY in collecting

memories for the purpose of reconciliation and not for victimisation, Mr. Farell underlined that four critical factors impact the work of the ICTs: first of all the development of a form of collective memories of larger groups as a memory of victimisation; secondly, the critics raised to the ICTY for its presumed selective justice, since it cannot prosecute all criminals of war; third, the Court as an individual not political prosecution: if an individual hasn't committed a crime doesn't mean that the crime didn't exist (Gotovina case); last, the Court might be used for the purpose of propaganda as in the Seselj case.

Mr. Farell concluded that the future of transitional justice is national justice and the enhancement of ongoing dialogue with local courts, therefore the main objective of the ICTY is the development of national capacities.

SAQ-Scientifically Asked Questions

1) What will be archive of ICTY once its mission is finished?

2) What are the limits of transitional justice, when does transitional end? Does it lay only on the decision the international part?

Former Deputy Chief prosecutor answered that there are archives of more than 8 million pages, and millions of kilobytes of electronic material, plus numerous films and photos. There is much debate over this huge archive since it is UN-owned, however all the not highly confidential material will be

The Gotovina case

On November 16th 2012, the presiding judge at the tribunal for the former Yugoslavia, Theodor Meron, said the court had entered "a verdict of acquittal" for General Gotovina and General Markac, both aged 57. Last year the two men were convicted of murder, persecution and plunder.

Judges at the time ruled that they were part of a criminal conspiracy led by late Croatian President Franjo Tudjman to "permanently and forcibly remove" the Serb civilian population from Krajina.

But on Friday, Judge Meron said there had been no such conspiracy.

The appeals judges also said the 2011 trial chamber had "erred in finding that artillery attacks" ordered by General Gotovina and General Markac on Krajina towns "were unlawful". Court officials also said prosecutors would not appeal against the ruling, describing it as "the final judgement"

Source: BBC NEWS, retrieved on November 17th 2012, from <http://www.bbc.co.uk/news/world-europe-20352187>

Sejdić and Finci v. Bosnia and Herzegovina

(27996/06 and 34836/06) was a case (merged from two) decided by the Grand Chamber of the European Court of Human Rights in 2009, in the first judgment finding a violation of Protocol No. 12. The plaintiffs were the Citizen of Bosnia and Herzegovina, Dervo Sejdić and Jakob Finci, who are Roma and Jewish respectively. The Constitution of Bosnia and Herzegovina provides that only ethnic Bosniaks, Serbs and Croats can be elected members of Presidency and House of Peoples of Bosnia and Herzegovina. The applicants, being a Roma and a Jew, contested these provisions. The Court has found that applicants' ineligibility to stand for election to the House of Peoples violates Article 14 of ECHR (ban of discrimination in the field of Convention rights) taken in conjunction with Article 3 of Protocol No. 1 (free elections), by 14 votes to 3, and that their ineligibility to stand for election to the Presidency violates Article 1 of Protocol No. 12 (general ban of discrimination).

duplicated in a "residual mechanism" and stored in several Information Centres. Regarding the second question, Mr. Farell admitted that there is an open debate on vagueness of the definition of transitional justice, however the cornerstone of its action lays on the complementary approach.

The conference continued with the presentation of Justin Frosini from CCSD and Bocconi University on Human Rights And Institution

Building: What Does The Future Hold After

“Sejdic And Finci V. BiH”?. He focused on the Sejdic-Finci vs BiH “constituent peoples” case and on the impact Dayton Agreements had on BiH constitution, on their role in halting conflict and in the same time cementing ethnic division. He thoroughly described the complex system of power sharing in Bosnia-Herzegovina, its two-dimensional federalism and the ambiguities in the use of the language in a constitutional framework.

SAQ- Scientifically Asked Questions

1) Is it a good idea to judicialize a political question?

The Mayor of Tuzla, Mr. Imamovic answers that BiH was given a straight jacket to wear. Now, who can take it off? On his opinion only the ones representing the institutions who signed the Dayton Agreements, which were good enough to stop the war but which nowadays are stopping the development of normal life. Justin Frosini added that Dayton presidentialism as a form of government is most probably not a good idea for BiH, underlined that in his opinion BiH should keep its actual form of government and modify the electoral law. However, he stressed one should not be legally arrogant when speaking of comparative constitutional law and its capacity to be transplanted tout court in other legal orders.

The morning session closed with the speech of the Mayor of the City of Tuzla, Mr. Jasmin Imamovic. He supported the assertions put forward from during the conference that the constitutional arrangements of Bosnia and Herzegovina were imposed on a basis of prejudice because of war. He stated Josif Broz Tito, when referring to the delicate situation in BiH “Bosnia is the iris of the eye, as important as delicate”. He added that there is a need to establish a balance between crime and punishment in BiH. Lastly, he stated that the solution for Bosnian fear can be the NATO Pact, and that the future of the cities, like Tuzla, is to work more and receive more powers to promote and protect human rights.

In the afternoon session, Dora Komnenovic (MIREES Academic tutor) held a speech on anti-war movements in the nineties in Croatia, Bosnia and Herzegovina and Serbia. She stated that there was a war of remembrance which failed to escape institutional embeddedness, that these anti-war movements had little support in public and private levels, mainly because of fear, disillusionment, lack of funds, archives and documentation. However, for their memory not to be lost, she named and described thoroughly all the past and present movements, both in the urban and the rural contexts.

The session continued with the speech of the Ambassador of the Republic of Croatia in Italy, Mr. Damir Grubisa. He started emphasising the Croatian ambiguity towards Bosnia and Herzegovina in the nineties, which was considered a war inside the war. He described very well all the historical events bringing to the Karadjordevic talks between Serbia and Croatia, the Croatian official and unofficial policies toward Herzegovina and the past manipulation of communities in Bosnia. However, ambassador Grubisa, stressed the fundamental importance of the European integration process in helping to solve ethnic tensions. It was this process which induced the Croatian government to publicly declare in 2010 that the problems of Herzegovinian Croats are to be treated and solved within the Federation of Bosnia and Herzegovina. He concluded stating that the European Union should make an exemption for the BiH integration in the EU, by approving a fast and personalised track given its particular political, social and economic situation.

Scientifically asked questions

1) Are the secret archives of war being opened?

Ambassador Grubisa answered that insofar only the transcripts of presidential palace are opened, but they are substantially empty. It is difficult to rely on written archives because the majority of military and political orders were oral ones.

The afternoon session continued with the speech of Stefano Bianchini (University of Bologna). He stated that there has been a contradictory behaviour of the European Union towards the conflict in Bosnia and Herzegovina and that there was no ground for antiwar movement. On the one hand, we could mention the positive, although not very cited, Baladur initiative. Former French prime minister invited all potential candidates States to negotiate and settle their bilateral relations, mutual minorities and border issues. As a result 98 bilateral agreements were signed. On the other hand, the EU has sent contradictory messages in supporting different international treaties (Dayton, Ohrid, Belgrade), by setting different models of state-building. With the Ohrid agreement, a devolution based on municipalities was established. Dayton established in Bosnia and Herzegovina two entities, based on the idea of the nation-state as the only source of legitimacy, while in the same time it established the same decision-making processes as in socialist Yugoslavia (rotating presidency, ethnic representation, veto etc). Prof. Bianchini concluded reminding that Yugoslav collapse began after a long period of economic and financial crises and huge external debt. So nationalism became a good argument of organising consensus and homogenization, which proved to be the beginning of the end. He added that nowadays similar situations occur (Eurozone crises, North/South cleavage, anti-German feelings), and that the solution should not be based on the paradigm of the Nation-state but on a system of shared governance.

The conference closed with the speech of Melita Richter who stressed the role of women empowerment and cross-border solidarity and active war campaign as a common heritage not to stop but to further develop.

To close with, a Bosnian say was mentioned during the International Conference: “The dog is barking not because of the village but because of himself”.

Nowadays’ problematic issues in BiH are mostly internal (prosecutors, conflict of interests, closed lists for elections, imperative mandate, etc). But this constitutes an issue for a further international conference...

By Endri Xhaferaj