Panel: Human Rights Violations and Transitional Justice:  
A Critical Analysis of the Evolution of a Field

Transitional Justice Entrepreneurs and Victims' Agency.  
The Case of Kosovo

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4–7 September 2013
The RECOM’s international forum on transitional justice in Sarajevo, last May, was exceptionally broad in scope and participation, including representatives from all the countries of former Yugoslavia. For RECOM - the coalition of non-governmental groups that is lobbying for the truth commission since 2004 - it was a great opportunity to reflect on the work done, reframe its strategy and build on its strengths. If the regional approach has not yet achieved its goal of a truth commission, it has done quite well in enlarging the transitional justice debate. It has taken the debate outside the halls of war crimes tribunals, both international and national, which never gained legitimacy among the broader public. Despite lingering denial in all the communities involved in the conflict, today there is no longer any silence on the war and its legacy anywhere in former Yugoslavia. This region’s human rights activists - I am arguing here - could more successfully turn the growing cultural acceptance of transitional justice into policies, by using transitional justice less as a template than as a guiding idea for framing political opportunities.

Adapting the template of a truth commission to a non-governmental context, RECOM has provided scores of victims with the space to be heard through national forums and smaller meetings. Since one of its main goals is to give voice to victims in establishing the facts about war crimes and other human rights abuses during the Yugoslav wars of the 1990s, this is quite an achievement. Victims’ testimonies, in the broader meaning of transitional justice, have value in themselves as “truth-telling,” but collecting them has the purpose to “ensure accountability, serve justice and achieve reconciliation.” For the investigative and memorializing process initiated by RECOM, which has been defined as “bottom up” or “unofficial,” the issue remains of how to obtain institutional recognition for the information collected thereby. Failure to do so would mean that all these efforts “will remain aspirational, not operational,” in the words of Jelena Subotić, a critical observer of transitional justice in the Balkans. Would RECOM succeed in this endeavor by continuing

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1 RECOM stands for Regional Commission for Establishing the Facts About War Crimes and Other Gross Violations of Human Rights Committed on the Territory of Former Yugoslavia.

2 IX International Forum on Transitional Justice, May 17-18, Jahorina, Bosnia and Herzegovina.


to advocate for a regional truth commission? Or by reframing its function and becoming the coordinator of all the transitional justice initiatives in the region, perhaps playing the role of lobbyist for national, institutional truth commissions? Any of these paths might be more difficult than expected.

In a previous article I have written with Caitlin McCurn, we discussed the obstacles that RECOM was meeting as a lobbyist for a regional truth commission by focusing on its ambivalent reception in the local space of Kosovo. Kosovo is a former Yugoslav province, now a small and contested independent state still under international supervision, both a case of frozen conflict and an ambitious experiment in state building - an ideal context to analyze the dynamics of transitional justice intervention. The overarching problem, here appearing in bolded relief, we argued, was the global transitional justice professionals: the network of academic experts, policy analysts, consultants, transnational and national human rights activists, supranational and international bureaucrats. These interlocking actors with different interests have blurred “dichotomies of universal and local justice, top-down and bottom-up approaches, and informal and formal mechanisms.” They have fashioned a toolkit with overly ambitious and sometimes confusing objectives, assumptions and implementation mechanisms.8

RECOM itself is a complex actor - not a simple homegrown process, but the product of intense cooperation with the transnational experts at the International Center for Transitional Justice (ICTJ) - and a favored grantee of international donors. In Margaret Keck and Kathryn Sikkink’s “boomerang theory,” the interaction between domestic and international actors is crucial for promoting and understanding human rights change.9 This interaction is more problematic in the context of intervention, where influential international organizations and foreign donors with an agenda focused primarily on stability have disproportionate power. The template of truth commission included in the transitional justice toolkit is an inclusive package offering truth, justice, reconciliation, crisis management and stability.10 To achieve

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all these contradictory objectives and maintain the largest possible consensus in a region still rife with tension, this template targets only victims, and a particularly constructed category of victims - the innocent, apolitical. But victims, in Kosovo as elsewhere, are highly opinionated, political, divisive, unyielding and far from homogeneous. In Kosovo, they could neither be successfully organized in a transnational network of victims, nor as a significant national lobby to improve the state’s lukewarm reception of the idea of a regional truth commission. We reached the conclusion that the contradictory, often confusing goals of “the template of the truth commission and the way they influenced its implementation, would not be able to underwrite its effort to deal with the past.” Research focused on Bosnia and Herzegovina (BiH) found that the lobbying for a regional truth commission was stalling there too, amidst disagreements.

In this paper I will keep the focus on Kosovo, where I spent two months of participant observation testing what I learned from RECOM’s past experience against more recent events, just in the past six months there have been key instances, in which issues of transitional justice were addressed, however differently, by the political elites: the negotiated Agreement between Serbia and Kosovo with the amnesty law as part of it but no mention of the missing, the debate on reparation for wartime rape victims, and the launch of an interfaith dialogue. These events represented and still do, to use Tarrow’s classic mobilization model, important “political opportunities” for transitional justice professionals and civil society groups to sustain their “conventional repertoire” by “framing” collective action and “mobilizing” people and resources. I take Tarrow’s model to be both structural and strategic. I argue that keeping the focus on a regional or national truth commission might constitute a non-workable frame for human rights groups engaged in transitional justice. One unintended consequence might also be that victims would be left alone to campaign for their own particular category of victimization without support or coordination, and would likely be unable to obtain any form of justice from institutions.

The unyielding reality that the transitional justice template struggles to capture may demand from human rights groups engaged in transitional justice the recognition that retweaking the model might not be enough. A recent UNDP experts report on transitional justice in BiH called for more inclusive, more transparent, more gender-sensitive “truth-

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11 Di Lellio and McCurn, ibid., p.15


seeking” grassroots initiatives and a coordination of the existing ones. Yet, this new blueprint will still not provide an answer for Kada Hotić, a member of Mothers of Srebrenica and the Zepa Enclaves Association, currently unable to return to her town in Republika Srpska, the BiH autonomous entity which is the product of ethnic cleansing. At the Sarajevo 2013 RECOM International Forum, after reminding the audience that her husband, her son, her two brothers, fifty six members of her family were killed, she asked, “can we give a name to the evil who killed them?” There was no answer for her, because the focus must remain on the truths of the victims - all equal in their suffering, whether combatants or non combatants, and thus deprived of political awareness.

Current criticism of the truth commission template centers on its possible lack sensitivity to local understandings and practices of transitional justice. I am arguing instead that the template might not work because the goals of transitional justice are indeed contradictory and require negotiation. Transitional justice is, by definition, a murky problem that defies templates. It is what policy analysts have defined a “swamp.” It demands paying close attention to developments in highly contested political and social contexts. The template has not only little usefulness for this task, because it implies distance from the murkiness of reality. It might be counterproductive and demobilizing, because it imposes its own frame of analysis and action that excludes learning from localized experience. But a robust civil society is what transitional justice needs to be effective in the Balkans, as a recent issue of *Studies in Social Justice* suggests.

I suggest that re-rooting straightforward human rights work in the local society would be a good way to support transitional justice and increase society’s participation in the process of obtaining accountability and justice. Reconciliation will likely follow, with time. By taking the case of Kosovo, I will illustrate this approach by presenting four political opportunities for transitional justice that local and regional civil society groups could frame

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15 The Mothers of Srebrenica and Zepa Enclaves Association is not a member of RECOM, over disagreement on including combatants in the category of victims.


18 See the introductory essay to the monographic issue: Diane Enns, “Justice after Violence: Critical Perspectives from the Western Balkans” *Studies in Social Justice* Vol. 7 (2) 2013: 181-187
as mobilizing ideas in cooperation with the victims - individuals and organizations. This model of collective action might be more successful in correcting or initiating transitional justice policies that satisfy victims’ rights.

Amnesty Law: Whose Justice?

In Kosovo, the first serious restorative justice measure since the 1999 war is the amnesty intended to integrate those rebel Serbs in the northern part of the country who have opposed its independence with criminal means. The government introduced the amnesty law in the Assembly on June 25, 2013 without any public debate, under prodding from the European Union and with the blessing of the United States. After having been voted down on July 4th, gaining only 70 yes from the 120 Assembly members, the law did pass a week later with 80 votes, but continued to face the protest of around thirty non-governmental organizations and think tanks. These groups, which included a few members of RECOM but not RECOM as a subject, objected to two things: that the law’s scope was too large and suspiciously intended to forgive crimes committed by the ruling elites as well; and that it had been drafted without any previous consultation with non-governmental groups. At no time did the discussion touch on how the trade-off between justice and reconciliation would work in practice, nor was the issue raised of the amnesty’s impact on the victims of the crimes it forgave.

The amnesty needs to be seen within the context of a negotiated settlement between Kosovo and Serbia. On April 19 this year the two countries signed the “First Agreement of Principles Governing the Normalisation of Relations.” The title of the agreement is a misnomer, since Serbia does not recognize Kosovo as a state and relationships can hardly be normal before recognition. Not quite a full fledged peace agreement, it mostly addresses a major pending issue - the integration of the northern part of Kosovo, whose almost exclusively Serbian population has consistently opposed any cooperation with Kosovo’s institutions. The agreement is a settlement in which Serbia promises to relinquish its support to northern Kosovo, and Kosovo allows the creation of an autonomous assembly of northern

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Serbian municipalities. A restorative justice measure, the amnesty, was included in the negotiation. The rationale was a classic one in favor of amnesties as a form of transitional justice - the argument that “restraint in the punishment power ... heralds the return to the rule of law.”

In this case it facilitates the integration of a rebel population by forgiving crimes committed while resisting the separation of Kosovo from Serbia.

The amnesty is considered so crucial to the overall possibility that the northern part of Kosovo would become part of the new state, albeit with special status, that foreign governers and international organizations supported it, even when the government’s first draft of the law included all citizens and crimes, even murder, well beyond its required scope.

Weighing in with public statements, but not dwelling on the detail of the law, were EU foreign policy representative Lady Catherine Ashton, the UK Ambassador Jon Preston, and Deputy Assistant Secretary of State Philip Reeker. These were not just supporting observers, but institutional actors whose priority is regional stability. It is not a secret that the successful negotiation of the Agreement was due to EU conditionality, or the promise of a European future to both parties if they created a more stable environment. In the words of Štefan Füle, European Commissioner for Enlargement and Neighbourhood Policy, the approval of the law would show the Kosovo Assembly’s “vision and courage” in taking a difficult and painful decision “for Kosovo to be able to turn the page and become a peaceful and prosperous member of our European family.”

That the inclusion of murder and other grave crimes in the amnesty did not perturb these leaders, at least not publicly, is just another confirmation that for them restorative justice and reconciliation are other names for stability.

The first attempt at passing the law was defeated thanks to a few defections of Assembly Members from the governing coalition. The issue was Article 3 of the law, “Conditions for Granting Amnesty from Execution of Punishment.” Here a discounted sentence or complete exemption from punishment were given to a variety of crimes,

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21 Conspicuously, the Deputy Prime Minister Hajredin Kuçi presented the draft law as an amnesty for all, “It was not planned at that time to have an amnesty only for Albanians, just as today we are not planning an amnesty just for Serbs.”

 See is speech on the website of the Kosovo Government [http://www.kryeministri-ks.net/?page=2,9,3603](http://www.kryeministri-ks.net/?page=2,9,3603) (Accessed August 12, 2013)


including “murder committed in a state of mental distress” (3.1.1.1), “negligent murder” (3.1.1.2), “murder of infants during birth” (3.1.1.3), and other less serious but no less suspicious ones, such as “contracting for disproportionate profit from property” (3.1.1.23), “providing irresponsible veterinarian assistance” (3.1.1.25), or “sale or removal from Kosovo of wild animal trophies” (3.1.1.28). The revised text finally approved by the Assembly excluded all the above crimes, most importantly murder and bodily harm.25

While Kosovo’s leading opposition party Vetëvendosjë (Self-Determination) rejected the Agreement in its entirety as an attack to Kosovo’s sovereignty, a social opposition to the amnesty crystallized in the “civil society,” as Kosovo non-governmental groups collectively call themselves. The protesters were incensed mostly by the possibility for the law to allow individuals other than Serbs in the north to be granted a free pass for their criminal behavior. Believing that their government is corrupt, they also believed that the blanket amnesty was a ploy to erase all culpability from the actions of public officials and their cronies. “Civil society” collected more than 12,000 signatures requesting changes in the law even after the rewrite. Two are the main points of contention. First, the seeming universal applicability of the amnesty to crimes such as “economic crime, smuggling, property usurpation, illegal possession of weapons, arson, unauthorized border crossing, or engaging in unlawful medical and pharmaceutical activities.”26 Second, the lack of limitation for the applicability of the amnesty, since the law only talks of crimes committed “up to 20 June 2013,” without specifying any starting date.

From the point of view of transitional justice, protesters are right in demanding a narrower, specific law with temporal limitations. Amnesties are usually top down, and very debatable means to pursue reconciliation. They must be very carefully considered. It might be too late to change the law now, although it is still under review by the Constitutional Court and no decision is expected before mid-September. Yet, once it becomes operative, non-governmental groups, especially those engaged in the regional network lead by RECOM, should act as watchdogs over the implementation. They should ask the fundamental question on the value of this law in the context of northern Kosovo, or on its negotiating power to


26 The inclusion of this latter crime seemed particularly suspicious, given the scandal raised by the proximity to the government of a prominent doctor involved in an international organ trafficking ring in Pristina, and given the ongoing international investigation on Kosovo Prime Minister’s alleged responsibility in similar activities during the war.
pursue reconciliation. And they should engage with the very people who will be affected by the law. The individuals who are the beneficiaries of the amnesty have given no assurance that they will comply with Kosovo’s law from now on. Nor has there been any discussion involving the thousands of internally displaced people from the north of Kosovo, with record losses of property and more. Only 1600 of them transferred to the south after the violence of February 2000, when ten Albanians were killed in their homes by Serbian mobs. Here a regional approach, or even just cooperation between Serbian and Kosovo civil society groups, would be fruitful to measure the extent of actual loss, establish some accountability and perhaps compensation.

What About The Missing?

Conspicuously absent from the Agreement, and from the debate on it, is the issue of the missing. The Kosovo missing - 1754 individuals from the end of the war according to the official ICRC list, the overwhelming majority of them Albanians - are not absent from public discourse. On the August 28 2013 quarterly report to the Security Council on the situation in Kosovo, Secretary General Ban Ki Moon weighed in the debate, saying that the full normalization of relationship between Kosovo and Serbia requires the resolution of the missing. Yet, the issue was mentioned only once during negotiations. The words of the EU’s representative in Kosovo, Samuel Zbogar, might help understand why. Speaking to a group of relatives of missing persons in Gjakova during the negotiation of the Agreement, he said “I hope normalisation of relations between Kosovo and Serbia, which we hope to achieve in this [EU-backed Pristina-Belgrade] dialogue, will help to solve this issue as well.” He also added that, “it is probably best to leave it [the issue of missing] to the humanitarian field and not to make it too political”.

What seems to be lost in this discussion is that the issue of the missing is not only
intensely political, it is a matter of law. Whether or not the “right to truth” is a norm in its broader understanding, it certainly is a norm when regarding the relatives of missing persons.\textsuperscript{31} It is explicitly codified in international humanitarian law,\textsuperscript{32} which also imposes obligations on belligerent parties to respond to the problem of missing combatants and establish a central search agency.\textsuperscript{33} Both the International Red Cross and the Red Crescent Movement recognize that the right to know the truth about victims of forced disappearance applies to situations of international and internal armed conflict.\textsuperscript{34}

Finding the truth is a major tenet of transitional justice as well. Yet, this past spring the families of the missing were left alone once again in Kosovo to lobby their governments and international organizations. In March, when they asked to be received by Lady Ashton, they were denied access.\textsuperscript{35}

Despite public proclamations, the search for the missing has virtually stalled, says the ICRC. The Missing Persons Commissions of Kosovo and Serbia initiated contacts in December 2012 - a welcome event by EU diplomats. The Commissions met twice since then. Even the Kosovo Commission has been having trouble assembling. The families of missing persons boycotted its March session, after being shunned by Ashton.

New evidence of mass graves continues to surface, and it does mostly in the north of Kosovo, according to Prenk Gjetaj, the head of the Kosovo Missing Person Commission. The EU’s rule of law mission in Kosovo, EULEX, recently announced it had exhumed the remains of seven bodies thought to be those of wartime missing people and also found a further two parts of skeletons at a Muslim cemetery in northern Mitrovica. But if during 2012

\textsuperscript{31} I have been alerted to this aspect of the issue by James Sweeney’s article, “Restorative Justice and Transitional Justice at the ECHR,” \textit{International Criminal Law Review} 12 (2012): 313-337. The concept of “missing” in international humanitarian law is certainly much broader than that of “forced disappearance” as formulated in international human rights law. “Missing” in international humanitarian law covers all those situations in which the fate or whereabouts of a person are unknown.

\textsuperscript{32} Article 32 of the Additional Protocol to the Geneva Conventions, of 12 August 1949, relating to the Protection of Victims of International Armed Conflicts.

\textsuperscript{33} In particular Geneva Conventions, of 12 August 1949: Geneva Convention relative to the protection of civilian persons in time of war, arts. 16 and 17; Geneva Convention for the amelioration of the condition of wounded, sick and shipwrecked members of armed forces at sea, art. 122 and subsequent provisions; Geneva Convention for the amelioration of the condition of the wounded and sick in armed forces in the field, art. 136 and subsequent provisions.

\textsuperscript{34} Resolution II of the XXIV International Conference of the Red Cross and Red Crescent (Manila 1981).

excavations were planned in 36 locations, only 19 were completed. Gjetaj says that EULEX cannot carry out all the planned excavations because of lack of security. The north, which is the subject of the Agreement, might hold the answers to the questions of many families. It will keep its secrets more easily, however, since there is nothing in the Agreement that facilitates the search for the missing, both Albanians and Serbs. These latter are a small minority of the missing, but differently from the Albanians, whose remains have been scattered and later found outside of Kosovo, are all likely to be within Kosovo. As EU representative Zbogar diplomatically put it, the missing are a political hot potato and the governments will not raise the issue. Civil society groups seem to be doing the same, with the exception of the relatives of missing persons.

It should be no surprise that these particular victims were mostly wary of RECOM’s transitional justice practices, while exhibiting some confounding behavior. McCurn and I found that the families of missing persons are more focused on action, rather than talk. Those few groups and individuals that joined RECOM did it just because they would have joined anything that held even the slightest hope of finding their missing. But hope is all they got. There was nobody other than the relatives of the missing persons lobbying to include their issue in the Agreement, arguably the most important settlement to date between Serbia and Kosovo since the war.

Finding the missing should be a priority for any transitional justice initiative in Kosovo and elsewhere in former Yugoslavia, where the missing are still more than ten thousands. It should be the focus of a concerted regional effort of civil society groups, putting real pressure on international institutions and the relevant national governments.

Wartime Rape Victims: Between Silence and Recognition

This past spring the Kosovo Assembly hotly debated the inclusion of rape victims in the “Law on the Status and Rights of Martyrs, Invalids, Veterans, Members of the Kosovo Liberation Army, Civilian Victims of War and their Families.” The umbrella of women’s groups Kosovo Women’s Network (KWN) - not a member of RECOM - supported the idea of

36 Edona Peci, ibid. 22 Feb 2013.
37 Di Lellio and McCurn, ibid., pp.12-13
a separate category in the law. The same position was adopted by the opposition party Vetëvendosjë. One of its leaders, Nazlie Balaj, publicly announced the intention of the party to work on a revision of this law to add wartime rape victims as a special group, and she was herself subsequently assaulted by unidentified aggressors. The issue could not obtain any further support among human rights or other civil society groups.

The issue of sexual violence during war and the stigma that it carries complicates the debate. For the War Veterans Association it is a no brainer - rape victims should be included in the same broad category of civilian victims, and not stand alone. The Minister of Welfare recently said that the government could never afford the expense of such reparations. Politicians in the government coalition raised other problems, some of them legitimate - for example, how to identify beneficiaries who for the most part have chosen silence, after so much time has passed since the war. But they expressed their doubts in highly offensive language. The reaction they provoked among women’s groups was strong and quick, but fizzled soon after.

As we discovered researching transitional justice in Kosovo, talking about wartime sexual violence has been so difficult for the victims, that most of them have refused to be open about it. The estimate of wartime rapes in Kosovo if of 20,000 according to the Center for Disease Control in Atlanta. Medica kosova, an organization that has provided medical support and counseling to 8,600 women since the war, told us that fewer than hundred have spoken about sexual crimes. Hundreds presented clear of trauma and they did ask for counseling. But when invited to take part in the Balkan Women’s Court set up by women activists friends, they declined to do so. They chose silence for many reasons, one of them is that they felt violated again by the type of voyeuristic and insensitive public attention attracted by some confessions.

In the template of the truth commission which is predicated on “truth telling” there is no plan to deal with victims’ silence. Yet, the above research suggests that silence is a relative notion. Individual victims prefer anonymity, but seek and accept counseling when it is offered unconditionally. This is a good starting point both for civil society groups - not only women’s groups - but also the governing elite, to think about the appropriate reparations for an unspeakable crime.

_Just Short of an Official Apology_

In late May 2012 the Kosovo Mufti Naim Ternava, the Catholic Bishop Dode Gjergji and the Serbian Orthodox Bishop of Raška and Prizren Teodosije stood together in the hall of
the Dukagijn hotel in Peja. It was quite a miraculous sight. The three religious leaders had come to speak at the Interfaith Conference on “Faith and Reconciliation” organized by the British charity Soul of Europe and the Balkans Institute with the external support, among others, of the Kosovo Foreign Ministry. This is yet another political opportunity created by the Kosovo elites and engaging mostly the elites, that could promote opposing parties’ mutual recognition at different levels of society.

In the Kosovo war, ethnicity, culture and religion were bundled by the Milosevic regime to incite mass killing. Two-thirds of the mosque were destroyed by Serbian troops. One of the legacies of that war is the fear that Serbian Orthodox religious monuments and properties are Serbia’s avant post in Kosovo and many were destroyed for this reason. The other legacy is a political and constitutional arrangement designed by the Ahtisaari Plan and incorporated in the Constitution that grants the Serbian Orthodox Church special autonomy. It unintentionally promotes ethnic and religious separation, hence more mistrust and fear.

In Peja, for the first time since the war, Bishop Teodosije went straight for the political issue at the core of the current conflict between the Serbian Orthodox Church and Kosovo’s society. His speech has an enormous importance, both symbolically and substantively. It should not be overlooked. It would be a missed political opportunity for groups involved in transitional justice.

Turning the page from the Serbian state media’s and extremist Orthodox religious leaders’ relentless depiction of Albanians as an Islamic threat, Teodosije said, “The conflict in Kosovo is not a conflict of religions. It is essentially an interethnic conflict which in this form originates primarily from the nineteenth century when modern Serbian and Albanian national ideologies, emerging from the Ottoman Empire, clashed over the ownership of this region.” War propaganda made use of dehumanizing portrayal of Albanians and Teodosije implicitly recognized and corrected that when he said “‘The Other’ is not an enemy, as some ideologies teach us, but another manifestation of our common human nature and above all the bearer of the image of God. He/she may be different from us in ethnic origin and language but even science proved the truth of God that we are all more similar to each other than we would admit and that most of our differences stem from different socio-religious context in which we grew and received our education.”

Although not religious, the Kosovo conflict reflected on religion, making religious sites symbols of those national ideologies at war. But Teodosije offered that changing this

perception is the Church’s primary task. And he just began to do so. The Orthodox Church feels under attack in Kosovo, he said, yet, “If we want others to understand and respect our pain, we must first be ready to recognize and embrace the painful heart of our neighbor, to ask forgiveness and forgive.” There was an unprecedented opening in Teodosije’s words: “we want to preserve the original identity of religious and cultural sites and at the same time make them open for members of other communities with which we share this beautiful land. One of our main intentions is to make these sites bridges of reconciliation and understanding.” The beautiful monuments that have been built all throughout Kosovo belong to the Serbian Orthodox Church, he said, but, even more importantly, “they are also a part of the rich heritage in Kosovo, Europe and the World.”

Bishop Teodosije’s words just came short of an official apology. They are important words and civil society groups should pay attention to them, working with this willing clergy to open the doors of churches and monasteries to Kosovo Albanians, not just the elites. Conflicting issues of property and planning are still open and they mar the relationships between the church and the broader society. They should be discussed, beyond framework imposed from the outside, because they are little understood or not at all by the very people who are affected by them.

The transitional justice movement should take notice of the opportunity created by Bishop Teodosije’s speech, which is not an isolate act of reconciliation. The monks of the Decani monastery, under the leadership of father Sava Janic, have recently obtained Kosovo’s identification cards, despite Serbia’s hostility to the new state. Albanian civil society groups should directly engage with a clergy that has lived under siege for the past 13 years under threats of retaliation for what their state did and parts of the church hierarchy condoned. Both parties could learn a great deal from each other, and perhaps contribute to bridge broken ethnic relationships.

Conclusion

As a brief concluding remark, I would reiterate what I stated at the beginning of this paper. Transitional justice is a swamp issue, in the Balkans and elsewhere. As its professionals try to engineer solutions, they meet resistance from social and political actors and structures of power. Grassroots initiatives in this field would do better if they abandoned templates, because what templates lack is politics. Following Tarrow’s classic mobilization model, I argued that they should use instead transitional justice as a cultural and political
repertoire to strategically frame political opportunities and mobilize the civil society to obtain justice.

I focused on Kosovo, where the concept of a regional - or national - truth commission has not gained much traction, and offered the example of four recent key instances as opportunities for transitional justice: the negotiated Agreement between Serbia and Kosovo with the amnesty law as part of it but no mention of the missing, the debate on reparation for wartime rape victims, and the launch of an interfaith dialogue. Local and regional civil society groups, in cooperation with the victims, should ground their action on this structure of political opportunities to generate the necessary “bottom-up” power for making transitional justice a state policy.