Times of Reckoning: History, Evidence and Truth-making after Yugoslavia

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The idea that we are in a "post-truth" era is lately on everyone's lips. The popular, scholarly and comedic analyses of Donald Trump's ambivalent relationship to facticity would already fill volumes.[1] Yet the instability of meaning and the uncomfortable fit between denotational content and interpretive frameworks are not new phenomena. As I've written about elsewhere, such "semiotic indeterminacy" has been central to social movement organizing and coalition building for a long time.[2] And as sociolinguists, literary analysts and others have long argued, the slippery and contextual relationship between truth and image, sign and referent is one of the most productive features of human communication. Indeed, it might be argued that it is the keystone of sociality itself.

Legal institutions, and in particular International Criminal Tribunals, are especially interesting in thinking through the current status of "truth" because they take this slipperiness of meaning head on. In an age in which the rapid circulation of texts and images make interpretative work all the more challenging, these judicial bodies are organized to turn facts into narrative, and narrative into justice. This is by no means a simple process. It requires legal and non-legal actors to turn contested stories and affectively laden experiences into recognizable objects of intervention. International criminal tribunals are famously fact-intensive affairs, requiring exhaustive documentation of what happened, when, and where. This process is particularly contested when different actors use competing strategies to represent historical evidence because history itself is a political and discursive battlefield. This was without question the case in the wars and subsequent trials of Yugoslav Succession.

What often goes unremarked or unanalyzed are the temporalities of such legal strategies. The way in which criminal tribunals make sense of facticity requires certain logics of time and causation in establishing criminal culpability. In this post, I briefly compare the use of historical narrative at the International Criminal Tribunal for Former Yugoslavia (ICTY) and Serbian feminist activist practices of bearing witness and public protest. I suggest that prosecutors use historical narratives to structure a particular relationship between past, present and future: history became evidence for criminal culpability in ways that gave sense and shape to the goal of *transitional* justice. On the other hand, feminist activists used documentation and protest to bring and hold the past in the present as the basis for an ongoing project of truth-making and justice. These two strategies rest on very different conceptualizations of the relationship between time and space and the kind of ethical actions these relationships make possible.

History in the Post-Yugoslav Context

From the politics of memorialization, to Yugonostalgia, to the state sponsored rewriting of history textbooks, knowledge and representation of the past has been a central domain of political contestation in the former Yugoslavia. Both in and beyond the region, the importance of time as social practice has been an increasingly important area in the study of postconflict and newly democratic contexts. Elaborations of time are central to how people experience political possibility. Narratives in and of history produce spatial and temporal frameworks that shape peoples sense of cause and effect, desire and action, in short their experience of agency. History is not only a narrative or epistemological problem. It is a fundamentally ethical one.

Despite, or because of, the complexity of history in the former Yugoslavia, the ICTY has taken on the task of bringing ordered time into relationship with transitional justice. As anthropologist and human rights scholar Richard Ashby Wilson has shown, introducing history was a key evidential strategy at the Tribunal.[3] Wilson argues that historical narrative and historical expertise provided crucial context for adjudicating culpability. This was particularly important because the definition of certain crimes, such as genocide, require a conscious awareness of a collective project of systematic and targeted violence.[4] Within the ICTY, historical narrative became a crucial framework for interpreting and sequencing events. History functioned as evidence in so far as it formed the necessary connective tissue that linked actions to agents, and causes to effects. According to Wilson such narratives appealed to prosecutors because they offered "chronologies that laid out a chain of events connected by an indeterminate causality and conclude with the alleged criminal acts."[5] Such narratives allow "a conduit of information that would otherwise be closed off" for prosecutors.[6]

Within this narrative framework, individual actors provided evidence that served as plot points on a larger temporal arc. Culpability could be tied to evidence precisely because a linear history was premised on cause and effect relationships between events and actions. Such historical frames make a particular version of agency seem plausible and palpable.

This use of history was effective because it echoed other ways of structuring time and agency in representations of the region. Narrative links between history, agency and responsibility do not happen in institutional or ideological vacuums. In that that sense, historical evidence was already embedded within epistemological commitments to parse narratives for cause and effect relationships that aided the Court's ability to determine guilt. Whether historical narratives made cause and effect claims directly, the space of the Court and the logics of criminal law overdetermined certain understandings of history and agency.

Beyond the courtroom, the pressure for the ICTY to create a break between the past and the future was part of a larger complex of international policy, scholarship and NGO work that placed a heavy emphasis on transition as key to the democratic and liberal futures not only for the Former Yugoslavia but postsocialist Eastern Europe more broadly. As Hagan, Levi and Ferrales have shown, the prosecutorial strategies of the Tribunal were heavily shaped by external geopolitical pressures as well as internal institutional dynamics.[7] In addition, the ICTY was part of a larger ideological commitment to post-Cold War transitional justice. As such, the Tribunal was part of a complex of judicial practices that produced what historian Berber Bevernage has

called "allochronic" historicity.[8] As Bevernage notes in his analysis of the temporality of transitional justice," by allochronically historicizing contemporary injustice and treating it in terms of historical discourse, a distance is crated between one's own present-day activities and these allegedly past or anachronistic crimes."[9] Bevernage argues that a linear or event driven theory of history is a conditional of possibility for what he calls the "secular theodicy." Such secular theodicy is grounded in liberal democratic and post-Cold War logics that posit that evil is in and of the past. Transitional justice, as opposed to a "transtemporal approach" is structured to create conditions for "moving on" from the past.

Yes this is *not* the kind of relationship between history and responsibility with which many activists in Serbia operate—at least not exclusively. Certainly activists, human rights groups, and feminist advocates were central to the work of the ICTY. But this work of documentation was grounded in activist practices that both encompassed and exceeded the approaches to history that were institutionalized in the Tribunal. For many activists, documentation and judicial frameworks were one way of structuring the relationship between past, present and future. Other practices come much closer to Bevernage's notion of the "transtemporal" arc of justice.

Activists in the region also mobilized a different relationship to evidence, history and truth that came out of the particular struggles over representation during the wars of Yugoslav Succession. In this context, ethical post-war reckoning also drew on a sense of transtemporaity that ground evidence of crimes and responsibility in an ongoing, embodied present. My goal here is not to critique the Tribunal or to diminish the ethical commitments or legal ramifications of the ICTY in adjudicating egregious human rights violations in the wars of Yugoslav Succession. The ICTY compiled one of the most comprehensive archives of evidence in the history of transitional justice. This body of evidence continues to serve as a resource for the everyday work of justice that so many advocates in the region have undertaken. As sociologist Eric Gordy has noted, the real impact of the tribunal is in its reception, and the work yet to come, however imperfect or partial it may be.[10]

But there is much at stake in understanding "reception" of the work of international Courts. In contrasting different chronotopic logics and their ethical implications we see the points of friction and potential translation among approaches to history, agency and justice.[11] If criminal courts have particular evidentiary standards for documenting, admitting and recognizing "facts," what do ethical commitments to truth *l*ook like for activists. Where is the truth of history practiced? How is it embodied and witnessed?

Being Politics: Ontologies as Ethics

Given a widespread denial or silence around Serbian complicity in war violence across the former Yugoslavia, it was often not enough for activists to document crimes of the past. Such documentary evidence needed to be translated into embodied practices that forced people to contend with truth in ongoing and public ways. It was not enough then to *know* a truth. One had to also put oneself on the line in the form of public witnessing. The necessity to anchor truth not only in narrative but in material practices makes sense in response to a constant battle over the meaning of the past in Serbia. "Perspective" was a form of power often used by the Milošević regime, apologist politicians, and broader mass-media representations of Serbian victimhood. In

Serbia, narratives about the meaning of the past are a constantly shifting battleground in which facticity and evidence are not anchoring points capable of grounding the relationship between experience and reality, self and other.[12] As I have written elsewhere, this constant sense that meaning is up for grabs, that reality can be unlinked from narrative, has produced a particular desire for agency in postwar Serbia in which people might fix intentionality to efficacy in the world.[13] In such a context, activists may ground themselves by situating a self in relationship to absolute moral truth.

In response, much feminist and antiwar activism in Serbia was premised on a commitment to speaking out against violence and war atrocities. Organizations like Women in Black and human rights practitioners and documenters like those involved in the Humanitarian Law Center and the Helsinki Committee for Human Rights put a great deal on the line in documenting human rights violations across the region. For this work, these activists were declared traitors to the nation and often excoriated in the mainstream press and threatened verbally and physically. For many of these activists, engagement with corrupt and morally compromised institutions was antithetical to activist work. Human rights work, particularly in response to the denial of war crimes required *holding on* to the past in the present, rather than moving toward reconciliation or, worse, forgetting.

Revelation and documentation formed the backbone of resistance to widespread denial and silence. Such evidentiary practices looked more like those used in international criminal settings. But at home, there was no guarantee that such documentation would be interpreted or represented in ways those activists intended. Activists had to contend with at best misunderstanding and at worst a refusal to read evidence in the way in which they intended. Documentation and representation did not translate into agreed-upon truth. Because historical evidence has been a semiotic and political battleground, activists found other ways to link evidence to truth-making. And it is here that the temporal logics of evidence, history and documentation contrast most with those of the Tribunal. For many activists in the region, the project of justice did not stop at building an archive. Truth necessitated a way to ground or hold accountability in the present, to force an encounter with interpretative frameworks in the context of denial. It required an ongoing act of *being* rather than interpreting truth.

So what did this look like? If you cannot then know the truth of history or identity, the only option is to ground truth in an everyday praxis. In other words, the shifting and contested nature of historical narrative—the uncertainty about the link between representation and reality—forced an epistemological crisis that shaped feminist activism for many. Committed women came face-to-face with the challenge of grounding either action or ethics in identities outside ethnicized essentialisms or historical narrative. For example, Lepa Mladjenović, Vera Litricin and Tanya Renne captured the emerging dilemmas vividly in an early piece titled "Belgrade Feminists: Separation, Guilt and Identity Crisis." Despite a rich history of feminist action and solidarity across the former Yugoslav space, the violence of the wars produced a new set of uncertainties for activists that centered on the interplay of action, structural and war violence, complicity, and subjectivity. In this context, women faced "completely new questions … : Can a feminist be a nationalist chauvinist? Can a pacifist be a nationalist?"[14] Activists confronted some of the most central questions of the nature of human subjectivity. Here the performative nature of gender and the materiality of gendered violence revealed themselves through complex positionalities that

left women feeling "split within themselves."[15] From the perspective of woman activists in Serbia, their unwilling but inevitable alignment with perpetrators funded and armed by the Serbian state, in the name of Serbian nationhood, forced difficult questions about the relationship between guilt and responsibility.

In this context, grounding oneself in alternative ontologies offered a particular kind of agency. Feminists grounded truth and history in the present by reconfiguring public space around their own bodies. Take, for example, the case of Women in Black, one of the oldest and most active feminist, antiwar groups in Serbia. Bojan Bilić has argued (following the analysis of Women in Black activists themselves) that collective identity has been central to Women in Black's incredible survival and persistence as an organization.[16] Part of this collective identity is constituted through the practices of occupying space through a recalcitrant ontological presence—a politics of being.

Here I take a (perhaps unexpected) page from Jane Bennett, who, among others, is interested in the vital lives and actions of things and their enmeshment with human subjects.[17] Bennett and other theorists of objects, assemblages, and ontologies seek to displace the primacy of human agency and action in favor of the action and effects of things in and on the world. What if, however, humans also fashion themselves in and through the ontological image of the thing itself? What if people also operate ontologically like objects? Can we also understand rights politics as the production of a kind of thingified state of being, a way to ground and hold form as if the human were a recalcitrant yet vital object? Indeed, Bennett, quoting John Frow, argues that the differences between human and object need to be "'flattened, read horizontally as a juxtaposition rather than vertically as a hierarchy of being. It's a feature of our world that we can and do distinguish . . . things from persons. But the sort of world we live in makes it constantly possible for these two sets of kinds to exchange properties.'"[18]

The power of Women in Black is the power of ongoing presence. Women in Black is best known for its powerful, silent vigils during which its members stand, utterly silent, unmoving and recalcitrant as objects that humans must contend with in public space. In positioning themselves in public space as immovable, bystanders must at least contend with *something* beyond their own control. Women in Black thus effects a transformative relationship to how people must position themselves as bodies in material space and in relationship to time.[19] It is a politics of reification and vital, unmovable "thingness" that throws into relief the stubborn interconnectedness of human and no longer human (if we can consider the dead the most vital objects of all). This connectedness underlies the project of social responsibility. Here, peace and feminist activists are themselves enmeshed in networks and cultures of materiality—material evidence, documentation, exhumed remains, black clothing. Bearing witness as an ethical project is inseparable from the moral and epistemological architecture made possible by webs and networks of these material objects. The past, like the bodies of women themselves, is recalcitrant. Time and history take on a material weightiness with which people must contend. The past is thus necessarily part of the present—a transtemporal logic that refuses the possibility of moving on from the past—just as protest prevents people from moving on and through public space into an unproblematic future.

When women stand, quietly but stubbornly, they stand as objects, facts, data, and not only as symbols. It is a bearing witness that relies on a fundamentally ontological logic. Such activisms are embedded in social and legal cultures that necessitate particular material architectures in and through which to materialize concepts as elusive as guilt and responsibility. As Orli Fridman has documented, the politics of knowing was (and remains) essential to antiwar, feminist, and human rights activism in Serbia. Recognizing and publicly speaking about the crimes of the 1990s and their continued denial and silencing in Serbia is central feature of the work of many human rights activists, particularly those of a generation that feels responsible for the wars.[20] Here knowledge is central, but it is also not enough. One cannot simply know or narrate evidence. One must *be* evidence. As Fridman argues, public, alternative voices are crucial to combatting the way that "socially constructed silence is part of the framing of public understanding of events."[21] In the face of the relativism that underpins the project of maintaining collective silence, one must also remain firm and immovable—bodies become facts in themselves. The praxis of publicly knowing entails political practices that link knowledge to place through the ontology of bodies in public space. Only through this simultaneity can one imagine an ethical future. A transtemporal ethics requires refusing to move on, be silenced, transition or forget.

Conclusion

In the longer piece from which some of this analysis draws, I examine this past in the present in relationship to another temporal mode of activism among a younger generation: what I've called the pragmatic politics of the present.[22] But for now, I hoped to have drawn attention to the particular logic of time and culpability that structure historical evidence and to contrast it to other ways of reckoning time and ethics that are present in the region. For there to be a lasting legacy for the ICTY activists and others will need to reconcile this relationship between time and responsibility with practices that refuse "moving on" and instead seek to hold past, present and future simultaneously in space. It is important to ask what other work might need to go into building a lasting and meaningful legacy for the ICTY beyond the building of an archive. Archives are not inherently truthful or transparent—they require the work of translation across epistemic and ethical gaps and fissures. In the end, this may be the real labor of bringing truth to justice.

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Notes

[1]   Portions of this blog draw from material printed in "Being and Doing Politics: Moral Ontologies and Ethical Ways of Knowing at the End of the Cold War," in *Impulse to Act: A New Anthropology of Resistance and Social Justice*, ed. Othon Alexandrakis (Bloomington: Indiana University Press, 2016).

[2]   Jessica Greenberg, *After the Revolution: Youth, Democracy and the Politics of Disappointment in Serbia* (Stanford University Press, 2014).

[3]   Richard A. Wilson, *Writing History in International Criminal Trials* (Cambridge: Cambridge University Press, 2011).

[4]   See ibid.

[5]   Ibid., 79.

[6]   Ibid.

[7]   John Hagen, Ron Levi and Gabrielle Ferrales, "Swaying the Hand of Justice: The Internal and External Dynamics of Regime Change at the International Criminal Tribunal for the Former Yugoslavia," *Law & Social Inquiry* 31, no. 3 (2006): 585-616.

[8]   Berber Bevernage, "The Past Is Evil/Evil Is Past: On Retrospective Politics, Philosophy Of History, And Temporal Manichaeism," *History And Theory* 54 (2015): 333-352

[9]   Ibid., 344.

[10]   Eric Gordy, *Guilt, Responsibility, and Denial: The past at Stake in Post-Miloševic Serbia* (Philadelphia: Univeristy of Pennsylvania Press, 2013); also see https://eastethnia.wordpress.com/2015/07/10/nothing-but-the-whole-text-about-truth/ (accessed July 1, 2017).

[11]   Anna Tsing. *Friction: An Ethnography of Global Connection* (Princeton University Press, 2005).

[12]   Marko Živković,*Serbian Dreambook: National Imaginary in the Time of Milošević* (Bloomington: Indiana University Press, 2011).

[13]   Jessica Greenberg, "On the Road to Normal: Negotiating Agency and State Sovereignty in Postsocialist Serbia," *American Anthropologist* 113, no. 1 (2011): 88–100.

[14]   Lepa Mladjenović,, Vera Litricin and Tanya Renne, "1992: Separation, Guilt and Identity Crisis," *Feminist Review* 45 (1993): 117.

[15]   Ibid.

[16]   Bojan Bilić, "Not in Our Name: Collective Identity of the Serbian Women in Black, " *Nationalities Papers* 40, no. 4 (2012): 607-623.

[17]   Jane Bennett, *Vibrant Matter: A Political Ecology of Things* (Durham: Duke University Press, 2010).

[18]   Ibid., 10.

[19]   Orli Fridman,"'It Was Like Fighting a War with Our Own People': Anti-War Activism in Serbia During the 1990s," *Nationalities Papers* 39, no. 4 (2011): 507-22; Ana. Dević, "Anti-War Initiatives and the Un-Making of Civic Identities in the former Yugoslav Republics," *Journal of Historical Sociology* 10 (1997): 127-56.

[20]   Fridman, "'It Was Like Fighting a War with Our Own People.'"

[21]   Ibid, 509.

[22]   Jessica Greenberg, "Being and Doing Politics: Moral Ontologies and Ethical Ways of Knowing at the End of the Cold War," in *Impulse to Act: A New Anthropology of Resistance and Social Justice*, ed. Othon Alexandrakis (Bloomington: Indiana University Press, 2016).