

**Sara Petrovski<sup>1</sup>**

PhD student

Faculty of Philosophy, Department of Ethnology and Anthropology  
University of Belgrade

## IN WHAT WAY IS REPAIRING HISTORICAL INJUSTICE IN SERBIA AMBIGUOUS?

**Abstract:** This article covers how Serbia is dealing with redressing historical injustice in its specific post-communist and post-war context. It is deliberately limited to the most relevant and controversial cases of rehabilitation: the rehabilitation of the Chetnik movement and the rehabilitation of their leader, General Draža Mihailović, whose role in history is being argued about. My aim is to show in what way is repairing historical injustice in Serbia ambiguous and how it reflects its contemporary political context more than it redresses past wrongs, perpetuating old Second World War divisions and creating new struggles over interpretations of history. The scope of this article is deliberately focused on the analysis of the context in which the debates take place and is neither reproducing in details the polemics nor is confronting historical *facts*. This article illustrates the thesis that repairing historical injustice in Serbia is a highly politicized and ambiguous process which creates new paradoxes and controversies as well as new regional tensions.

**Key words:** repairing historical injustice, Chetniks, rehabilitation, revisionism, Draža Mihailović, interpretation of history.

As Ivison (2006, 1) points out, „Historical injustice is ubiquitous in human history“. This means that almost all societies have done some past injustice in their distant or resent history: slavery, war crimes, such as mass killings and banishment of civilians, expropriation of property, discrimination and political repression (Ivison 2006, 1). In order to determine what I mean by historical injustice, I am following Ivison's (Ivison 2006, 1) definition of the concept identifying historical injustice as „those harms or wrongs committed by individuals, groups or institutions against other individuals and groups who are now dead“ or still alive,

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<sup>1</sup> sara.petrovski@gmail.com

„but whose descendants live today. And by descendants I mean not only individuals, but various kinds of groups made up of individuals who identify with a collective identity (embodied in various institutions and practices) that has persisted through time“ (Iverson 2006)

Furthermore, I agree that historical injustice requires a response and this process usually relates to demands for different forms of reparation such as: compensation, restitutions and acknowledgment (Iverson 2006, 3) as well as rehabilitation, on which I will focus on in this essay.

„Dealing with historical injustice has also become a major task for countries struggling to found new institutions and forms of collective life after years of oppression or civil conflict – for example, in Central and Eastern Europe after the fall of Soviet Communism“ (Iverson 2006, 1).

On the other hand, many authors have pointed out numerous controversies, ambiguities and contestations accompanying the historical injustice issue (Thompson 2001; Torpey 2003). Some contest, though, the whole concept of repairing historical injustice because

„the relationship between history and justice traditionally has been dominated by the idea of the past as distant or absent (and with that, irreversible). This ambiguous ontological status makes it very difficult to situate the often-felt ‘duty to remember’ or obligation to ‘do justice to the past’ in that past itself, and this has led philosophers from Friedrich Nietzsche to Keith Jenkins to plead against an ‘obsession’ with history in favor of an ethics aimed at the present“ (Bevernage 2008, 149).

Spinner-Halev (2007, 377) stress also a legitimate sceptical argument about regarding the fact that there are too many groups who can claim reparations on the basis of historical injustice, and the difficulty there is to decide which groups to favour in that process.

Nevertheless, regarding the process of repairing historical injustice in Serbia, I strongly support the need to explore controversies and ambiguities surrounding the issue in order to better understand its political and future implications.

This essay will cover how Serbia is dealing with redressing historical injustice in its specific post-communist and post-war context. It will not cover growing and general debates over ontological, philosophical and moral questions concerning the redress of historical injustices such as the nature of justice, rights, responsibility, collective and individual guilt, concerns whether we should focus on past wrongs and inequalities or on the present ones and in what particular way. In order to answer the question, I had to limit the range of this paper solely on political controversies and ambiguities of repairing historical injustices in Serbia

related to the most relevant and flagrant cases of rehabilitation of some political prisoners whose role in history is being argued about. My aim is to show in what way is historical injustice ambiguous and how it reflects contemporary Serbian political context more than it redresses past wrongs perpetuating old Second World War divisions and creating new struggles over interpretations of history. The scope of this essay is deliberately focused on the analysis of the context in which the debates take place and will neither reproduce in details the polemics nor confront historical *facts*. Through a couple of most significant contemporary examples, I shall illustrate the thesis that repairing historical injustice in Serbia is a highly politicized and ambiguous process which creates new paradoxes and controversies as well as new regional tensions. Although the situation in Serbia in this prospect is not significantly different to from the majority of other ex-Yugoslav countries, I deliberately choose not to draw parallels and compare them. However, I would underline that showing the ambiguity of repairing historical injustice in Serbia does not imply that redressing historical injustice is unnecessary or impossible to achieve and that we should not engage in this process. My point is that, in order to do so in a responsible way, society and its government have to demonstrate a strong and honest political will to repair past wrongs instead of abusing them to achieve other goals as well as develop an independent and strong judiciary system to carry them out, both of which I doubt Serbia has.

As Cowan (2006, 11) notes, while political philosophy explains „what ought to be“, anthropology investigates what happens on the ground. Memory of the historical injustice ought to be important for the present justice (Streich 2002, 526) and repairing historical injustice ought to be a political, juridical and moral process of „memorising the past and honouring its victims“ (Wyman 2008, 196). I am investigating how this process becomes became a highly controversial and politicized one in Serbian society instead. While doing so, I am positioning myself methodologically closer to anthropology than to political philosophy. Rather than engaging in a pure ontological debate, I am hoping to illustrate how general philosophical, political, legal and moral questions and their answers depend on the political context on the local scale.

„In order to promote democratic consolidation, countries undergoing the transition from repressive regimes often attempt to address past injustices and launch deep institutional reforms“ (David 2004, 789). This process is often seen as a process of a democratic inclusion of previously discriminated or excluded political groups. Through rehabilitation, restitution and other forms of reparations and acknowledgments, values such as equality and democratic way of life are being promoted (Ivision 2006, 5). After the fall of communism, Central and East European countries had to re-examine their communist past in order to overcome it (Petrović 2007). Blanks left after communist taboos had been lifted had to be filled and new interpretations to the „false historical facts around which some of the communist interpretation of the past had been built

upon had to be given“ (Petrović 2007, 31). This is often paired with the process that Petrović describes as a pursuit of a „sustainable, useable tradition in order to legitimize their ‘new, liberal and capitalistic order’“. He states that „new regimes turned to their pre-communist times, thus legitimizing regimes that were undoubtedly anti-communist, but sometimes aggressively nationalistic and ultraconservative as well“ (Petrović 2007, 32). Those changes, according to him, „were profoundly political and much less interested in keeping the memory of the victims than in instrumentalizing them“ (Petrović 2007, 32).

In that sense, Serbia is far from being an exception. However, while communism collapsed in most countries of Central and Eastern Europe during the nineties, Serbia found itself in a quite different context. For Yugoslavia, this was a period of bloody inter-ethnic wars, followed by the creation of new states, all of them inheriting its part of the long common tradition of ambiguous relationship to the past. As Ignatieff puts it,

„For what seems apparent in former Yugoslavia [...] is that the past continues to torment because it is not past. These places are not living in a serial order of time, but in a simultaneous one, in which the past and present are a continuous, agglutinated mass of fantasies, distortions, myths and lies. . crimes can never be safely fixed in the historical past; they remain locked in the eternal present, crying out for vengeance“ (Ignatieff 1996, quoted in Bevernage 2008, 149).

Although Judah (2000, quoted in Godsworthy 2008) says in the introduction to his history of the Serbs that „it is unfashionable to link the past and present when writing about the wars in the former Yugoslavia“, no one can deny the influence of inflaming campaigns about ancient hatred, innocent victims, „piles of bones“ (*New York Times* 9 July 1990) searched for or discovered in hidden caves and graves (Godsworthy 2008; Portmann 2004; Tomasevich 2001). In fact, during this war decade, repairing historical injustice of the past and re-interpretation of history were the main arguments and tools used to legitimize conflicts. Consequently, this abuse of the past reflects strongly upon repairing historical injustice in contemporary Serbia, where the attempt to redress some historical injustice is immediately perceived as wrong, dangerous and manipulative (Atanacković ed. 2008).

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After the fall of Milosevic and democratic changes in 2000, six successive Serbian parliaments and governments enacted laws on lustration, rehabilitation and restitution aiming at redressing historical injustice committed during country’s communist past.

Unlike many post-communist countries, whose first legal response towards the consolidation of democracy was to enact lustration laws, (Williams, Fowler and Szczerbiak 2003; Tismaneanu 1998) Serbia did not choose this way to expurgate itself and dissociate the new state from the previous belligerent, defeated regime. This was mainly due to the lack of consensus inside the very wide coalition of parties (DOS) which came into power in both about ex-Yugoslav wars and less recent times. Moreover, having played very different roles during the nineties and being ideologically disparate, parties in the Parliament had no common platform regarding the future either: the relationship to EU, NATO, the non-aligned, the cooperation with the Hague Tribunal and the prosecution of war criminals, the reconciliation in the region, the decentralisation of the country, the Kosovo issue (Bieber 2003; Goati 2004; Komšić 2003). Therefore, royalists, social-democrats, liberals, minority parties, trade unions, Demo-Christians, conservatives, civic parties, Muslim traditionalists in the Parliament with radicals and Milošević' socialists in the opposition, could not agree on a lustration law. However, the Parliament was literally pushed into adopting one, the Accountability for Human rights Violation Act (2003), hastily and overnight, following the assassination of the Prime Minister Zoran Đinđić. It was designed as a response to speculations that some highest state officials and a part of the government stood behind the murder, in order to designate the potential organizer of the crime among members of the old regime's security service (Samardžić 2008). Since it has never been implemented nor has the nine member commission ever been formed, it seems clear it was adopted only for marketing purposes.

The adoption of laws on rehabilitation and restitution took another eight years and were finally adopted as a mandatory step towards candidacy for EU membership.<sup>2</sup> The first Rehabilitation law (2006) was adopted after much discussion. It was partly amended (2011) under the pressure of Hungary in December 2011, just before the decision on the candidate status of Serbia related to its EU membership. This was done under the threat that Hungary would vote against Serbian candidate status unless the members of occupation armies obtain the right to be rehabilitated.<sup>3</sup> The amendment concerned Hungarian

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<sup>2</sup> The European Council on March 1 granted Serbia Candidate status. At their last summit on 9 December 2011, the heads of state or government of the EU Member States noted the considerable progress Serbia has made towards fulfilling the political criteria set by the Copenhagen European Council and the Stabilisation and Association Process requirements and that a fully satisfactory level in its co-operation with ICTY was reached. (EU Delegation in Serbia 2012)

<sup>3</sup> In legal theory, there are two types of rehabilitation of political prisoners. Legal rehabilitation in the broader sense means comprises measures of reparation of the conse-

minority, sometimes forcibly mobilized during WWII. Also in order to obtain the candidate status, the Parliament adopted the Law on Property Restitution and Compensation (2011) in September 2011.

According to the Ministry of Justice (*Novosti* 25 December 2012), 2,146 persons in Serbia have been rehabilitated since 2006 and 64 claims have been rejected. Those figures are surprisingly low, especially when we have in mind huge polemics that surrounded the issue both in the Parliament and in the public. The most controversial cases I am dealing with in this paper, the law about WWII participants and especially, the rehabilitation of some political prisoners and contested historical figures as Dragoljub Mihailović, initiated endless polemics, round tables, public gatherings, hundreds pro and con articles involving politicians, historians, survivors, descendants, self-proclaimed descendants, political parties, NGOs ... (Rakić-Vodinečić 2012). Why is it so? Could we qualify it as *much ado about nothing*? What makes this so controversial?

Although the majority of those claims were examined in courts without any public attention and despite the fact that rehabilitation in Serbia, at least legally and formally, is just a „legal rehabilitation“ in the narrow sense and does not imply any moral and political rehabilitation or financial repair with broader implication on the society, some legal cases are exacerbated by controversial political issues and identifiable political support, objectives and repercussions. Moreover, as I am going to show, the victims are legally neither acquitted nor have they got financial repairs, but seem to have been used by political elites to revise history and morally rehabilitate some ideologies or historical actors. If one follows Gordon view that „legal responses chosen by the regime express a relation of the new society with its history, how legal systems try to make the future by redressing the past and their connection with it“ (1996, 192) in the case of Serbia, one can see a considerable gap between the legal content and its interpretation by the media and the politicians. The controversy and debates some rehabilitation cases raised seem quite disproportionate as well. As the lawyer and human rights advocate Rakić-Vodinečić points out, rehabilitation is perceived in Serbian public opinion as „an ideological, not a legal measure, while court decisions to rehabilitate political prisoners are seen as a way of

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quences of imprisonment (restoring confiscated property, financial reparation...). Legal rehabilitation in the narrow sense is the annulment of previous legal sentences. (Trkulja 2008) The first rehabilitation law gave the right to rehabilitation only to actual citizens of Serbia who, for political or ideological reasons, were deprived from their lives, freedom or other rights by a legal or administrative decision from 6 April 1941 onwards, provided they were not members of occupying forces. The first law did not contain time-limitation for claiming those rights. On the other hand, the amended law is time-limited to five years and gives the possibility to members of occupying armies, if they can prove not to have committed crimes, to claim rehabilitation.

legitimizing their ideologies and/or national policies and a revision of the past instead of being used to repair, mitigate or eliminate past injustice“ (2012).

Also, the fuss about rehabilitation seems rather strange when we see that wrongs that can be redressed are restricted to a limited period of the past (the World War II and several years that followed). This choice is, however, a deliberate and a political one, restricted to the communist past, although Serbia could be described as totalitarian, oppressive or authoritarian both before and after, notably between 1929 and 1941 (during the reign of King Alexander and later Regent Paul<sup>4</sup>) as well as during Slobodan Milošević, in the nineties.<sup>5</sup>

In Serbia and in the region, rehabilitation of individuals is often seen as a kind of simultaneous whitewashing of groups to which those individuals were, either truly or only symbolically, even wrongly or only on the basis of self-affiliation, being associated to. This is precisely at the heart of the debate whether we should or should not rehabilitate some individuals. Will their rehabilitation clear their ideologies, the ideas they defended, and, by extension, legitimize the ideologies of their descendants, real ones, self-proclaimed or perceived as descendants by others? Speaking about the rehabilitation of Mihailović, Trgovčević (2012) deplores the use of the word rehabilitation which is, according to her, deliberately chosen to imply other meanings. „Instead of speaking of a simple reconstruction of a court trial“ (Trgovčević 2012) aiming to determine whether someone was convicted following a correct legal procedure or not, everyone speaks about rehabilitation, a term implying moral acknowledgment, so „it goes without saying that he was acquitted, and so was his movement, of everything that he did or did not do“ (Trgovčević 2012).

The most discussed cases of rehabilitation concern the law on the rights of World War II participants equalizing members of the Serbian Chetnik movement to the antifascist resistance movement led by the communist party and the rehabilitations of two political figures who had played very controversial roles during World War II, Dragoljub Mihailović and Prince Paul Karađorđević. In this paper, I shall focus only on controversies surrounding the Chetnik movement and the rehabilitation of their leader Mihailović.

Before trying to unravel those controversies, I remind of several contextual specificities of Serbia that might help illuminate the debates. Firstly, Yugoslavia had an authentic communist-led revolutionary, anti-fascist multi-ethnic

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<sup>4</sup> Regent Paul himself has been recently rehabilitated; for that purpose, his authoritarian regime got a total makeover. However, according to Đokić, “Regent Paul was not a democrat as some claim today. Dictatorship was established in Yugoslavia not by communists in 1945 but by the ‘people’s dynasty’ of Karađorđević, King Alexander, Paul’s cousin, 6 January 1929” (Đokić 2008).

<sup>5</sup> Only war crimes committed towards or by Serbian citizens between 1991 and 1999 are treated by the Special Court for War Crimes, founded in 2003.

resistance movement during World War II which came out victorious from the war and, unlike Hungary, GDR, Bulgaria or Czechoslovakia could not, fifty years later, attribute communism to a Soviet military invasion (Milošević 2006; Tismaneanu 1998). Secondly, it also had a controversial guerrilla movement during the WWII loyal to the exiled king, led by Dragoljub Draža Mihailović, popularly called Chetniks, a nationalist, anti-communist movement fighting, at least in the beginning of the war, against German occupation. After an initial brief cooperation, the communist-led Yugoslav Liberation Army and Chetniks fought each other mercilessly during WWII. After WWII, communists came to power and many Chetniks were captured, executed or thrown to prisons and amnestied in the 60th. Thirdly, in the nineties, while communism collapsed in most countries of Central and Eastern Europe, Yugoslavia disintegrated in a succession of wars in which rump-Yugoslavia (Serbia and Montenegro) were led by an ex-communist party apparatchik, Slobodan Milošević. During that period the Yugoslav-Serbian relationship was (ab)used in many contradictory ways; according to Petrović (2007, 11) Milošević's propaganda launched several myths: that Serbia was „defending“ the integrity of Yugoslavia and its multi-ethnicity, that wars were imposed by the Republics led by nationalists claiming their right to secession, and that the Yugoslav Army, in fact controlled by Serbs, was only trying to prevent Yugoslav disintegration. On the other hand, the same propaganda machinery kept convincing the Serbs they were the main victims of Yugoslavia and Tito as well as of other ethnic groups (Judah 2000; Sell 2002). So, paradoxically, communism, later converted to socialism, co-existed with nationalism<sup>6</sup>; therefore, Milošević's nationalist objectives were shared by ex-communists and by anti-communists and, among them, by contemporary ultra-nationalist Chetnik movements (Vujacic 1995) self-proclaimed descendants of World War II Chetniks, and some nationalist leaders, their parties or paramilitary groups, who fought in the war along with the Yugoslav army.

On this confusing and contradictory ground base, Serbia had, although defeated, bombed in 1999 and frustrated, to rebuild itself as a democracy. As Gordon justly points out (1996),

„Legal systems try to make the future by redesigning the past and their connection with it... [In a narrative] that stitches together the past and future [...] the period of injustice usually figures as a deviation from [...] some course of evolutionary development that that the society had previously followed“.

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<sup>6</sup> If we are to follow Ken Jowitt's lead, charismatic leaders typically reconcile ideological elements and latent political dispositions which were previously perceived as mutually incompatible. From this point of view, Milosevic appears as the creator of previously forbidden fruits such as Serbo-Yugoslavism or, in its more extreme variants, "chetnik-partisanism" (Vujacic, 1995).

In the eyes of the new government, according to Stojanović (2012, 16), „communism was that deviation from the right path“. Therefore, rehabilitating victims of the communist regime aimed to reconcile the „two Serbia“<sup>7</sup> (Spasić and Petrović, 2012) and to find a link of the new Serbia with its own, better, „true“ self, which was corrupted and disrupted by communism.

However, official history and encyclopaedic entries record only communists as being on the good side as anti-fascist during World War II, as in the online edition of Encyclopaedia Britannica. Thus, in order to fill this blank and provide a continuity to the new state narrative, the Ravna Gora movement, and Draža Mihailović as its leader, who fled to the woods after the capitulation of Yugoslavia to organize troops to fight against German occupation, had to be rehabilitated.

With this objective, a law<sup>8</sup> aimed at repairing the historical injustice towards members of the Ravna Gora movement, or the Yugoslav Army in Homeland (JVuO), was adopted by the Parliament of Serbia in 2004. This movement is also referred to as Chetniks; they fought under Draža Mihailović's commandment. The process of rehabilitating Mihailović, its leader, however, began only in 2010, as explained by *Radio Free Europe Radio Liberty* 5 Oct 2012 for its regional auditorium. Both processes reflect the same controversies.

The law on Ravna Gora movement was considered controversial because it equalized members of this movement (accused by the communist regime for treason, collaboration with the Germans and war crimes) with the communist-led resistance movement during World War II, defining it as an anti-fascist resistance movement and giving its members rights to claim rehabilitation and access to some social benefits. This de facto and de jure official switch from pro-fascist to antifascist was achieved by the Minister of Foreign Affairs at the time, Vuk Drašković, and his party, SPO (*NIN* 23 December 2004), one of the self-proclaimed ideological descendants of this Ravna Gora movement. However, there are other self-proclaimed descendants, the Radicals (SRS), led by Vojislav Šešelj, who is put on trial for war crimes and crimes against humanity by the International Criminal Tribunal for former Yugoslavia (ICTY). Others are dispersed throughout the world (USA, Australia) or are organized

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<sup>7</sup> The distinction between the “two Serbia” was established in a proceedings publication called *Druga Srbija*, (The other/Second Serbia) edited by Čolović and Mimica (1992). This “other Serbia” describes itself as civic, cosmopolitan, urban and cultivated, against wars and crimes and marks its distance to the “First Serbia”, which is nationalist, authoritarian and primitive, identified and identifying itself with the regime of Milošević (Spasić and Petrović 2012).

<sup>8</sup> There is no official translation of the law; its original title is: *Zakon o izmenama i dopunama zakona o pravima boraca, vojnih invalida i članova njihovih porodica*, *Službeni glasnik Republike Srbije*, 137/2004, Beograd, 24.12.2004

into violent, fascist or extreme-nationalist organizations. During Yugoslav wars, some of their members fought on Serbian side under the name of Chetniks. More generally, during recent wars, Serbian troops were referred to as Chetniks by other populations, as in the online edition of Encyclopaedia Britannica.

As Gordon points out (1996) self-proclaimed descendants often pursuit justice for a broad class of persons perceived as a whole or as a unified group. The essentializing logic and the belief that today's group is the same as the historically victimised one, with the same political ideology and needs for reparation is in itself problematic.

When it comes to Serbia and the Chetniks<sup>9</sup> rehabilitation cases, this logic generates further controversies. To begin with, historically, Chetniks have never been a unified and highly organised group, but rather an agglomeration of anti-communist, sometimes opposing, groups.<sup>10</sup> After its creation of the Ravna Gora movement in 1941, the movement rapidly split. Some groups were fascist collaborators, some were fighting for „Greater Serbia“ and some groups did commit atrocities towards non-Serbian population (Tomasevic 2001). Dragoljub Mihailović was recognized as the leader of all Chetniks units throughout the war, both by those groups and official history<sup>11</sup> although he had control over only a very restrained group of followers. Although, as Đokić points out (2008), words like fascism and anti-fascism in Serbia are often put in use very easily and in spite of some credible testimonials (Antić 2012) saying that Draža Mihailović, personally, may have not shared the convictions, goals and ideology

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<sup>9</sup> Groups such as: Dveri, 1389, Naši, Zbor, Obraz, Serbian Chetnik Movement of Republika Srpska, Ravna Gora Chetnik Movement of Republika Srpska, based in Brčko, Serbian Movement of Ravna Gora in the United States, Canada, the United Kingdom, and Australia, groups of hooligans around several football clubs.

<sup>10</sup> “The term ‘Chetnik’ was revived, in two senses, during the disintegration of Yugoslavia in the early 1990s. Serb nationalists, associating the term with loyalty and an active defense of the nation, used it to describe various paramilitary formations that fought for the Bosnian Serb cause. In both Croatia and Bosnia, however, the term’s negative associations, fostered by the former communist regime, also were reactivated. All pro-Serb armed units were described by their opponents as Chetniks, but in this case the term held connotations of nationalistic intolerance, irregular military status, and commitment to an outdated historical ideal.” as defined in the online edition of Encyclopaedia Britannica.

<sup>11</sup> Thus, Encyclopaedia Britannica make the same amalgam of all WWII Chetniks and their, at least formal, and beyond doubt - symbolic, leader: “Mihailović directed his units to avoid large-scale fighting with the Germans... [but later entered] into open conflict with the Partisans[...]many Chetniks occasionally joined German, Italian, and Croatian units in operations against their communist rivals. The Allies, who at first considered Mihailović the pillar of the Yugoslav resistance, eventually shifted their support to the Partisans.”

of his followers, the image of Chetniks and Mihailović as their symbolic leader being war criminals and fascist collaborators who murdered thousands of Muslim, Croats and Serbian civilians remains firmly anchored throughout the region. Therefore, the reactions of neighbouring countries to this rehabilitation process were harsh. No one in the region seems ready to see the past the way the new Serbian state does. At the time of the most passionate polemics, the Croat President Ivo Josipović considered, in an interview for B92 on 23 March 2012 that the rehabilitation of Draža Mihailović would be both „harmful and in contradiction to historical facts“. Jelko Kacin, a Slovenian politician and European Parliament Rapporteur for Serbia also expressed his deepest concern in a statement given to *Tanjug* news agency on 26 March 2012:

„with [this] evident attempt to change a system of values. Post-war Europe was built on values of anti-fascism, while rehabilitation of Draža Mihailović is a step in the opposite direction. [...]The rehabilitation law is being abused. The essence of the law is lifting collective responsibility from certain national groups, as well as from victims of the communist government. Draža Mihailović, as the symbol of chauvinism and war crimes committed in the name of creating a Greater Serbia, has no business in such efforts“.

In Bosnia, this rehabilitation has always been perceived as dangerous, not only because of the WWII or the recent wars, but because of groups of self-proclaimed descendants whose activities the Bosnian Parliament tried unsuccessfully to prohibit. According to Bosnian historian Kamberović, Chetniks' iconography, symbols, songs and war are displayed in today's Bosnia by these self-proclaimed group descendants, as he stated for the Radio Slobodna Evropa special radio programme on Mihailović's rehabilitation on 27 March 2012:

„They were marching through Banja Luka the day the leader of Bosnian Serbs army and one of the major war crimes suspect, Ratko Mladić, was arrested, or on the Srebrenica commemoration day“ (Kamberović 2012)

Despite these reactions, the rehabilitation process of Mihailović progressed. It was engaged by his grandson with the support of several other organizations<sup>12</sup> on the basis that Mihailović did not have a fair trial. The death penalty was executed two days after the verdict, and a specially formed state commission to examine the circumstances of his death found no trace of his grave. Although the

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<sup>12</sup> Organisations officially claiming the rehabilitation are the Serbian Liberal Party, led by Kosta Čavoški, the Association JVuO, the Association of former prisoners and victims of the communist regime, some personalities whose name is linked to the time of wars, like professor Smilja Avramov.

trial itself, according to the law, did not comprise a new evaluation of his guilt or innocence neither a moral redress, the rehabilitation process was perceived like that by many, as being the last phase of the revision and negation of the World War II history (Milošević 2006; Radanović 2012)<sup>13</sup>. Earlier phases of the process, like revising the official celebrations calendar and history textbooks (Nikolić 2006; Nikolić and Dimitrijević 2009)<sup>14</sup>, renaming streets and memorials and removing monuments had already been accomplished during the previous decade.

This perception is based on several facts. Firstly, symptomatically, only historians and high state officials known as fervent supporters of the rehabilitation became members of truth commissions, and they were convinced about the results of their investigation before it was even launched. Secondly, albeit the practice of asking historians to testify on trials is not unknown (Petrović 2009), the testimonies of historians in this trial have been given the utmost importance and large publicity. In that sense, I agree with Waters (2011, 348) who said that „[e]very act of historiography in a trial is undertaken for a specific, partisan purpose: proving the guilt or innocence of an accused.“ Thirdly, almost exclusive space in the court and media has been given to school of conservative historians known as fervent anti-communists, Bojan Dimitrijević, Kosta Nikolić, Veselin Đuretić, who had published several books on the topic. Fourthly, history books have already been re-written in accordance with these new interpretations (Stojanović 2012). Fifthly, simultaneously with the process, Radio Television of Serbia public broadcasting service, which has huge influence and has always been in phase with the government, made and broadcasted a TV-series about Ravna Gora movement. Its director, Radoš Bajić, described it as an attempt to „repair the national injustice done to the patriotic movement of the Serbian people led by General Mihailović“, a hero, a patriot and a tragic figure (*Novosti* 30 June 2012). Therefore, it seems clear that the decision to rehabilitate Mihailović was taken long before the process itself and that the public opinion has been formed continuously in order to accept it.

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<sup>13</sup> As an illustration of how the question of the past is hard to deal with in Serbia, I must point out that the Second World War was hardly mentioned during my history classes between 1999 and 2003, when I was a pupil of a reputed Belgrade grammar school. As there were no basic consensus among coalition partners inside the first post-communist government about how this period should be interpreted and taught, without new textbooks as a guidance the tutor simply and deliberately - skipped it out.

<sup>14</sup> For example, the new textbook for the terminal year of primary schools, written by Rajić, Nikolić and Jovanović (2005, 94) describes the end of the Second World War and the victory of Tito's partisans as a national defeat, with "Serbian civil society destroyed, national movement crushed, the intelligentsia ruined" (quoted in Stojanović 2012, 20).

According to the other, opposing group of historians, members of the liberal intellectual elite: Branka Prpa, Ljubinka Trgovčević, Dubravka Stojanović, Srđan Milošević and several NGOs as Women in Black, Helsinki Committee for Human Rights etc. who claim to defend Serbian antifascist tradition and true historical facts, what is happening in Serbia in the field of historiography is a clear revision of the past in order to rebuild a new, common, whitewashed „national identity“ and a better, more suitable history, as they stated for *Radio Slobodna Evropa* special programme on the subject on 25 November 2012. It seems like there is no room for a moderate, common approach to on this issue.

Both sides have their supporters. Both groups have their extremes. On one side, some extreme nationalist fascistic groups<sup>15</sup> ask for rehabilitations of Milan Nedić, the Prime Minister of the puppet government under Nazi occupation and Minister of war, and Dimitrije Ljotić, a fervently devout and anti-Semitic politician and collaborationist during World War II (Petranović 1992). On the other, on the side on the Leftist historians there are militant anti-nationalists, some of them Yugo-nostalgic, some communist converted to liberalism, as Latinka Perović (Antonić 2009) who will discredit, condemn and reject everything related to national identity or the revaluation of the common past. They view these rehabilitations as a Trojan horse of the state aiming to infiltrate pro-fascist ideologies. Often portrayed and perceived as *enemies* of Serbian national identity because of their harsh critique of Serbs' nationalism, the Serbian Orthodox Church and the passivity and complacency of the masses, these historians are given a lot of space in the media, but not always to their advantage. Therefore, we may even say they are inadvertently serving their enemy's cause.

Consequently, these controversial cases of rehabilitation are the least about justice, or repairing historical injustice itself. How they are perceived depend on the way cases are presented by the media and the authorities, but also about how we perceive the descendants and even more, the self-proclaimed descendants, their advocates and their critics. They highly depend upon the State which determines their importance and their use. As the symbolic value of some cases largely overpass the individual fate of the victims, their rehabilitation is used by the State to redress its own past. In these battles, however, often all the lights are on ambiguities and controversies and political objectives while individual victims, about whom redressing injustice should be about, are forgotten.

On 14 May 2015, after nine years of trial, the Higher Court in Belgrade reached its final decision in the process of rehabilitation of Dragoljub Mihailović: the court annulled the judgment and restored all civil rights to Mihailović. However, as the judge Trešnjev pointed out,

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<sup>15</sup> Groups such as: Dveri, Obraz, 1389, Zbor

„This court did not seek to determine whether or not Mihailovic was a war criminal, but only if he had been given a fair and just trial in 1946. This is not a rehabilitation of the Ravna Gora Movement and the Yugoslav Army in the Homeland, because that has been done via numerous laws related to veteran issues – this was exclusively about whether Dragoljub Mihailovic had a fair and just trial“ (B92 14 May 2015).

Judge Trešnjev did not remind the public of those „numerous laws related to veteran issues“ which made three thousands former Ravna Gora movement members, according to the Ministry of Labour and Social Policy, claim their pensions and engage into rehabilitation procedures (*Novosti* 25 December 2012). Seven hundred claims have been rejected; more than a thousand persons have been rehabilitated; nevertheless, as the system and the institutions did not follow, none of them have ever restored any confiscated property, received any reparation or realized any right given to them by the law. (*Novosti* 25 December 2012). Moreover, in September 2012, the Constitutional Court, following an appeal of SUBNOR (the Association of the Yugoslav Liberation Army veterans), abolished the law from June 2005 which proclaimed equal rights for members of both movements, Ravna Gora and the partisans' (*Balkan Insight* 2 October 2012). Consequently, rehabilitated members of the Ravna Gora movement lost their previously obtained right to apply for social welfare.

## Conclusion

To conclude, in order to understand why the process of repairing historical wrongs in Serbia is ambiguous, it was important to examine the political context, reactions and consequences surrounding the issue. I agree with Trkulja (2008) that there is no repairing historical injustice without an independent and strong judicial system. The European Commission evaluated in its 2014 Progress report for Serbia (European Commission, 2014, 1) that some progress was made in the areas of judiciary and fundamental rights „However, continued efforts are needed to ensure an effective, independent judiciary“. While the EU encourages Serbia to reform its judicial system, ten thousands Serbian citizens have appealed to the European Court of Human Rights. According to an article published 30 December 2012 in *Politika*, Serbia has the record number of cases comparing to population size. It seems that only with a strong judicial system, upheld by an honest and strong political will to redress past wrongs and build good regional and international relations, that the process of repairing historical injustices may become less ambiguous and controversial. As for the time being, it remains ambiguous on many levels:

The first ambiguity lies in the contradiction between the **legal** and the **symbolic**. On the legal ground, rehabilitation in the narrow sense means nothing more than that the trial was unfair and the procedure not respected, enabling the actual courts to annul previous verdicts and consider that the victims have never been convicted, therefore – „rehabilitated“. There is no retrial to establish whether the person was guilty or not of crimes he or she was accused of (for collaborating with the enemy, for instance). On the symbolic level, however, these rehabilitations are perceived as clearings, whitewashings, or even as acknowledgments of acts and ideologies of the rehabilitated persons. This „competing narratives“ (Johnstone and Quirk 2012, 165), which are created and contested out of courts tend to flow through the public discourse while invoking further conflicts and divisions in the Serbian society.

The second ambiguity is on the level of **individual vs. collective**. Rehabilitations are individual, though they are perceived as collective. Rehabilitations of one movement (the Ravna Gora movement) or one man, for example Mihailović, are considered as the acknowledgment, by extension, of all Chetniks and all Chetnik groups. Furthermore, this blur between the individual redress and the collective acknowledgment transgresses time and becomes applicable not just to Chetniks from World War II but to all their self-proclaimed descendants.

As demonstrated, this ambiguity inherent to the perception of the processes of redressing wrongs from the past in Serbia leads us to another level of ambiguity, between the **local**, **regional** and **international** perceptions of history and the role some of the rehabilitated persons played in the past. All these ambiguities are intertwined. Rehabilitation in Serbia is ambiguous because redressing historical injustices is the battlefield of mutually opposed poles like fascism/anti-fascism, established history/new history, communism/anti-communism and past and future. Repairing historical injustice, as Johnstone and Quirk (2012, 164) pointed out „may sound good in theory, there are once again many complications in practice, especially when it comes to the challenge of reconciling very different and– highly politicized – understandings of ‘history’“.

The final ambiguity comes from the state itself. While putting into motion a huge propaganda machinery to explain, justify or impose its vision of the past and the need to repair past wrongs, in the end, real effects of this repairs towards the victims are minor; they seem more oriented to establishing a new version of the past.

Having said this, I must position myself on the side of scholars „who worry that politicizing the past may impair social cohesion“ (James 2004, 886). As illustrated in this essay, in a society with an ambiguous relationship with its past, without a strong and straight forward „visionary politics“ (Sparrow 2006, 358), without an independent juridical system, the process of repairing historical injustices remains an ambiguous, highly politicized and contradictory process, creating further divisions and negative regional and international reactions.

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**Sara Petrovski**

### **ZBOG ČEGA JE ISPRAVLJANJE ISTORIJSKIH NEPRAVDI U SRBIJI KONTROVERZNO?**

U ovom tekstu analiziram na koji način se u Srbiji danas, nakon komunizma i rata odvija proces ispravljanja istorijskih nepravdi, kroz dva najupečatljivija i najkontroverznija primera rehabilitacije: to su rehabilitacija Ravnogorskog, četničkog pokreta i nedavno okončana rehabilitacija njegovog lidera, Dragoljuba Draže Mihailovića. Navedene primere sam odabrala zbog njihove istorijske uloge oko koje se još uvek vode žustre polemike u stručnoj i široj javnosti, u Srbiji i van nje. U radu se ne bavim detaljima samih polemika kao ni utvrđivanjem istorijskih činjenica, već se fokusiram prvenstveno na javni, politički i regionalni društveni kontekst u kome se odigravaju ovi procesi jer oni svedoče o posledicama ovako sprovedenog ispravljanja istorijskih nepravdi. U ovom članku ilustrujem tezu da ovi procesi rehabilitacije u mnogo većoj meri odražavaju savremenu političku klimu revizije doskora važeće interpretacije istorije nego što su usmereni na uspostavljanje „pravde“ i nadoknade za žrtve komunističkog režima. Ovi duboko politizovani i kontroverzni sudski procesi imaju za posledicu, umesto pomirenja sukobljenih strana, naknade štete ili poravnjanja nanesene štete žrtvama, izazivanje novih unutrašnjih sukoba i novih tenzija u regionu.

**Ključne reči:** ispravljanje istorijskih nepravdi, četnici, Ravnogorski pokret, rehabilitacija, revizija istorije, interpretacija istorije, Dragoljub Draža Mihailović.