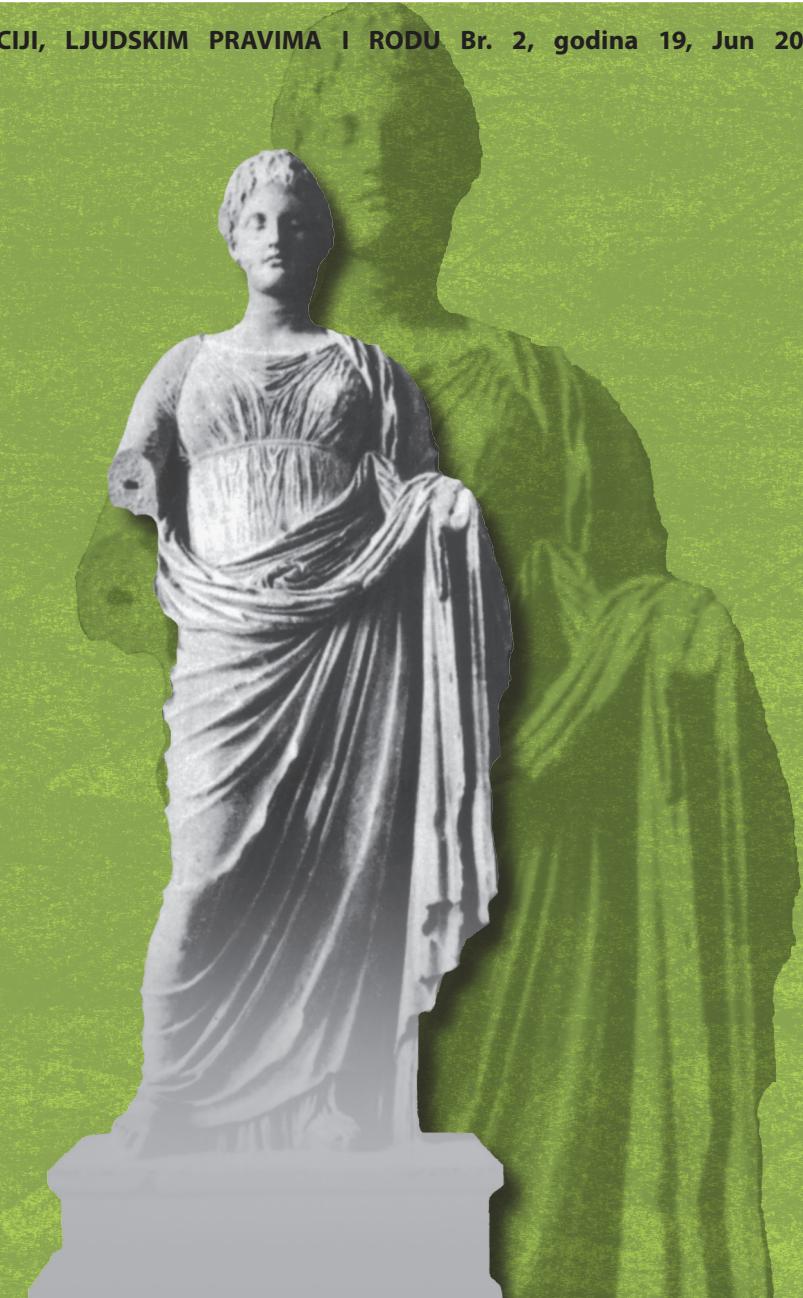


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Sećanje na Nils Christie-a: Izvanredni kriminolog, slobodni mislilac i velikodušni čovek

Profesor Nils Christie rođen je 24. februara 1928. godine u Oslu, Norveška. Nakon Drugog svetskog rata, neko vreme je radio kao novinar. Fakultet, i to studije kriminologije, upisao je 1946. godine. Prvo istraživanje, koje je sproveo kao student master studija kriminologije, bilo je posvećeno ispitivanju onoga šta se događalo u kon-

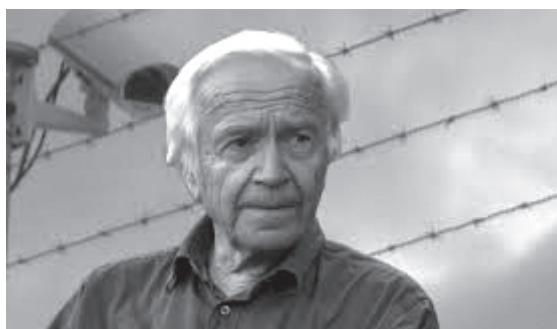


Predavanje Nils Christie-a nakon uručenja Evropske kriminološke nagrade, Lijež, 2010.
(Izvor: www.esc-eurocrim.org)

centracionim logorima tokom okupacije Norveške u kojima su nacisti zatvorili zarobljene jugoslovenske partizane u okviru Hitlerove kampanje *Nacht und Nebel* (Noć i magla).¹ Uvid koji je stekao kroz ovu studiju postao je ključni princip njegove kriminologije: u kojoj meri će ljudi biti punitivni zavisi od toga koliko dobro poznaju osobu za koju smatraju da treba da bude kažnjena; dakle, što bolje nekog znamo, manje ćemo biti punitivni i manje ćemo želeti da toj osobi nanesemo bol/patnju.

¹ Više o ovome se može naći u tekstu David Cayley „Nils Christie: In Memoriam“, koji je dostupan na <http://www.davidcayley.com/blog/2015/6/2/nils-christie-in-memoriam>, stranici priступljeno 14.6.2016. godine.

Nils je doktorirao 1960. godine sa disertacijom pod nazivom *Mladi norveški prestupnici*. Šest godina kasnije, postao je prvi norveški profesor kriminologije, i to na Pravnom fakultetu Univerziteta u Oslu, na Katedri za kriminologiju i krivično pravo. Dugi niz godina je bio šef Katedre za kriminologiju i krivično pravo, razvijajući kriminologiju kao poseban predmet na fakultetu, da bi i nakon penzionisanja ostao na fakultetu u zvanju profesora emeritusa. Nils Christie je bio utemeljivač norveške i skandinavske kriminologije i visoko cenjen stručnjak u međunarodnim krugovima. Imao je ključnu ulogu u osnivanju Skandinavskog istraživačkog odbora za kriminologiju 1962. godine, kojim je predsedavao u periodu između 1979. i 1982. godine. Bio je član Norveške akademije nauka i umetnosti i Švedske kraljevske akademije nauka. Profesor Christie je bio počasni doktor nauka Univerziteta u Šefildu, Univerziteta u Kopenhagenu i Univerziteta u Stokholmu. Bio je dobitnik nagrade *The Freedom of Expression Prize*, „za originalni i nezavisni doprinos norveškoj i međunarodnoj društvenoj debati“, koja mu je dodeljena 2001. godine.² Nils Christie je 2010. godine dobio Evropsku kriminološku nagradu, koju dodeljuje Evropsko udruženje za kriminologiju, kao nagradu za životni doprinos kriminologiji. Napisao je 15 knjiga koje su prevedene na više od 20 jezika, kao i veliki broj naučnih članaka.



(Izvor: www.nrk.no)

Nils Christie je imao istinsku kriminološku maštu. Bio je javni kriminolog u najboljem smislu te reči i koristio je svoj ogroman talent, takt i humanost da transformiše kaznenu politiku i institucije u Norveškoj, ali i šire. Posebno je bio kritičan prema sve retributivnijoj prirodi savremenih penalnih praksi, zalažeći se za smanjenje primene kazne zatvora. U svojim radovima nastojao je da pokaže da je kontrola kriminaliteta političko pitanje, a ne neophodan i unapred determinisan odgovor na kriminalitet. Njegov rad je imao ogroman uticaj na razvoj kriminologije širom sveta.

² Više o nagradi se može videti na sajtu Fritt Ord Foundation <http://www.fritt-ord.no/en/priser/fritt-ords-pris>, stranici pristupljeno 4.7.2016. godine.

Nils Christie je posetio Beograd 1973. godine i tada je predstavio teoriju etiketiranja³ kriminolozima u Srbiji/Jugoslaviji na istorijskom Sedmom međunarodnom kriminološkom kongresu, koji je organizovao Institut za kriminološka i sociološka istraživanja, čiji je direktor u to vreme bio, međunarodno poznati kriminolog iz Srbije, profesor Milan Milutinović.

U martu 1976. godine, Nils Christie je održao uvodno predavanje povodom otvaranja Centra za kriminološke studije na Univerzitetu Šefild u Velikoj Britaniji (tada ga je jedna od autorki ovog teksta, Ruth Jamieson, upoznala). Predavanje pod nazivom „Konflikti kao svojina“, koje je već naredne godine objavljeno u naučnom časopisu *British Journal of Criminology*, izdvojilo je jedinstvene kvalitete njegovog rada. On je svoje izlaganje započeo sledećim zapažanjem: „Možda uopšte ne bi trebalo da imamo bilo kakvu kriminologiju. Možda bi pre trebalo ukinuti institute, nego ih otvarati. Možda su društvene posledice kriminologije mnogo problematičnije nego što želimo da mislimo“. Nils je tvrdio da sukobi ili povređivanja postaju vlasništvo pravnika, i da ima previše profesionalaca uključenih u rešavanje sukoba između žrtve i učinioца. Prilikom donošenja ovih zaključaka pokazao je sposobnost da preispita osnovne prepostavke kriminologije bez zajedljivosti i da pri tome ne bude ograničen postojećim parametrima kriminoloških debata ili praksi krivično-pravnog sistema. Svojim radom, posebno čuvenim i možda najcitanijim člankom u kriminologiji „Konflikti kao svojina“, postavio je osnove za razvoj savremenog koncepta restorativne pravde. Bio je ikona pokreta za restorativnu pravdu, ali je upozoravao da i ova oblast nije imuna na potencijalne opasnosti profesionalizacije.

Vesna Nikolić-Ristanović i Sanja Čopić upoznale su profesora Christie-a 2002. godine na konferenciji Britanskog udruženja za kriminologiju pod nazivom *Crossing Borders*, koja je održana na Univerzitetu Keel u Velikoj Britaniji. Ukazao nam je čast dolaskom na sesiju o ratu i kriminalitetu, koju su organizovale Ruth Jamieson i Vesna Nikolić-Ristanović, na kojoj su učestvovala još dva izлагаča iz Srbije, dr Zoran Ilić i Nataša Hanak. Na ovoj sesiji, pored bavljenja teorijskim pitanjima, podelili smo svoja iskustva u pogledu istraživanja vezanih za rat i pomoći ljudima u Srbiji da se izbore sa posledicama rata. Tada smo saznale da je Nils bio veliki prijatelj srpskog naroda i da je pokrenuo i organizovao velike demonstracije u Oslu protiv NATO bombardovanja Srbije 1999. godine. Zbog toga se Nils osećao veoma ponosnim, i to je spominjao svaki

³ Kirchhoff, G. (2000) Viktimološki aspekti posleratne situacije. *Temida*, 2, str. 79-82.

put kada bi se srele sa njim. To nije ništa neobično s obzirom da je Nils Christie živeo i radio sa velikodušnošću i integritetom i da je bio nepokolebljiv u svojoj posvećenosti socijalnoj pravdi i jednakosti.

Nils Christie nije bio aktivan samo u javnim i stručnim debatama o brojnim kriminološkim pitanjima, već i o drugim društvenim temama, kao što su obrazovanje i školski sistem. Nakon terorističkih napada Anders Behring Breivika u Oslu i Utoji jula 2011. godine, Nils Christie je u izjavama za štampane i elektronske medije o tome kako bi trebalo postupiti prema Breiviku ukazao na činjenicu da nijedna kazna, koja može da se izrekne prema norveškom zakonu, nikada neće biti srazmerna nadoknada za ono što je Breivik učinio, i da, zapravo, Breivik treba da bude reintegrisan u norveško društvo. Bio je ponosan na to kako su Norveška i Norvežani odgovorili na napade, pokazujući ljubav jedni prema drugima, a ne mržnju za Breivika; to je bio odgovor koji je on smatrao istinski restorativnim.⁴

Jedna od najvećih snaga Nils Christie-a bila je neposrednost i jasnoća njegovog pisanja, veština za koju je možda zaslужna činjenica da je, pre nego što je krenuo akademskim putem, bio novinar. Svoju kritičnost je zadržao do kraja, ali bio je uvek otvoren za nove, pa čak i sasvim različite ideje i razmišljanja. Njegovo gledanje na restorativnu pravdu i kažnjavanje učinilaca poput Breivika nije uvek bilo dobro prihvaćeno, na primer, od strane onih koji su smatrali da nije pridavao dovoljno pažnje žrtvama.



Nils Christie, Vesna Nikolić-Ristanović i Biljana Simeunović-Patić, Oslo. 2005.

Vesna se seća jednog zanimljivog događaja koji je stavio na probu kako Nilsov nepresušni dobar humor, tako i njegovu teoriju o tome da krivična dela ne postoje. On i Vesna su se sastali u kafeu Apotheket u Oslu 2005. godine. Kao i obično, Nils je došao bicikлом, uprkos hladnom vremenu i veoma obilnoj kiši. Popili su zajedno piće i Nils je želeo da plati. Ali, nije mogao da pronađe svoj novčanik u dubokim džepovima svoje kabанице. Dok je tražio novčanik po džepo-

⁴ Više o ovome se može naći na: <http://dailycaller.com/2011/07/25/norwegian-professors-defend-lenient-judicial-system-in-wake-of-massacre/> i https://www.washingtonpost.com/world/anders-breivik-trial-displays-norways-formal-legal-system-as-confessed-killer-gets-to-explain-fanatical-views/2012/04/17/gIQA5t8kOT_story.html, stranici pristupljeno 5. jula 2016. godine.

vima i pre nego što ga je najzad pronašao, Nils je rekao: „Oh, ne mogu da verujem da mi ga je neko ukrao, da se to dogodilo meni koji tvrdim da krična dela ne postoje!“.

Viktimološko društvo Srbije je imalo čast da ugosti profesora Christie-a 2005. godine na međunarodnoj konferenciji *Alternativni oblici reagovanja na kriminalitet i prava žrtava*, koja je održana u Beogradu. Profesor Christie je tada govorio o posredovanju i kazni kao značajnim društvenim ritualima, upoređujući ove dve vrste odgovora na sukobe sa drugim ritualima za prolazeњe kroz važne faze u životu (kao što su, na primer, rođenje, smrt, odrastanje i slično). Usledilo je objavljanje njegovog članka „Odgovori na gubitke“ na srpskom jeziku u naučnom časopisu *Temida*.⁵ Tokom iste posete Beogradu i Viktimološkom društvu Srbije, održao je predavanje o restorativnoj i retributivnoj pravdi u kontekstu rata i ratnih zločina, koje je, takođe, objavljeno u naučnom časopisu *Temida*.⁶ Nakon radnog dela, proveli smo divno veče, zajedno sa ostalim učesnicima konferencije, u poznatom beogradskom restoranu Šešir moj u Skadarliji, boemskoj četvrti



(Izvor: www.dn.no)

⁵ Christie, N. (2006) Odgovori na gubitke. *Temida*, 1, str. 5-10.

⁶ Christie, N. (2005) Restorativna i retributivna pravda u kontekstu rata i ratnih zločina. *Temida*, 4, str. 27-32.

Beograda. Glumica, poznata kao Dama Skadarlige, zamolila je Nilsa za ples što je on radosno prihvatio.

U martu 2015. godine, dva meseca pre nego što je preminuo, Vesna i Sanja su provele prelep pre podne u kafiću LitteraturHuset u Oslu u inspirativnom razgovoru sa Nilsom. Veoma živo i kritički je govorio o socio-ekonomskoj situaciji i stanju u kriminologiji u Norveškoj. To je bio poslednji put da smo ga videle. Nakon toga, otišao je na svom električnom biciklu da se sastane sa nekim ljudima iz Zavoda za statistiku u svojoj kancelariji u Institutu za kriminologiju. S obzirom da je Nils pisao za novine i redovno govorio na radiju i televiziji, ljudi su ga zaustavljeni i čestitali mu na njegovim komentarima i analizama aktuelnih događaja.

Sa ogromnom tugom smo primili vest o tragičnoj smrti Nils Christie-a. Profesor Christie je preminuo 27. maja 2015. godine. Otišao je kao što je živeo, u pokretu: preminuo je od posledica udesa koji je imao vozeći bicikl ulicama Osla.

Nils Christie je bio izvanredan kriminolog i sociolog, slobodan mislilac, originalan i inovativan, otvoren i uvek kritičan. Bio je velikodušan, skroman i druželjubiv; čovek sa velikim srcem. Razgovarao je sa svima na isti način. Njegovim odlaskom izgubili smo velikog prijatelja i izvanrednog kriminologa, ali se nadamo se da će njegove originalne ideje nastaviti da žive, da se dalje razvijaju ili budu kritikovane od strane novih generacija kriminologa i viktimalologa.

VESNA NIKOLIĆ-RISTANOVIC
SANJA ĆOPIĆ
RUTH JAMIESON

Contribution of Nils Christie to Victimology

In memory of Nils Christie: An Outstanding Criminologist, Free Thinker and Generous Man

Professor Nils Christie was born on 24th February 1928 in Oslo, Norway. After the Second World War, he worked as a journalist for some time. He entered academia in 1946 as a student of criminology. His first research as a criminology masters student was an exploration of what had gone on in the camps during the occu-

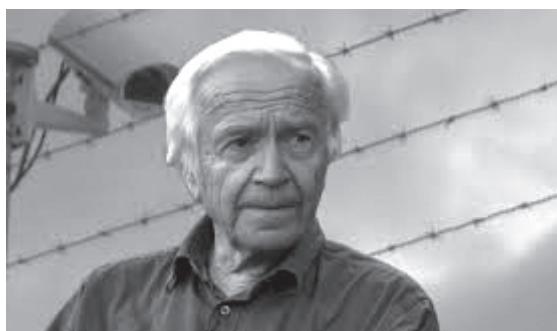


Nils Christie's lecture when awarded the European Criminology Prize, Liege, 2010
(Source: www.esc-eurocrim.org)

pation of Norway where the Nazis had imprisoned captured Yugoslav partisans as a part of Hitler's campaign of *Nacht und Nebel*, or night and fog.¹ The insight he gained through this study became a key principle of his criminological work: how punitive people are depends on how well they know the person they think needs to be punished; so, the better we know a person the less punitive we will be and the less we will wish to inflict pain on him/her.

¹ More on this can be found in David Cayley's article, "Nils Christie: In Memoriam", which is available at <http://www.davidcayley.com/blog/2015/6/2/nils-christie-in-memoriam>, page accessed on 14 June 2016

In 1960 Nils completed his doctoral thesis entitled *Young Norwegian Offenders*. Six years later, in 1966, he became Norway's first professor of criminology at the University of Oslo, Law Faculty, Department of Criminology and Penal Law. He was the Head of the Department of Criminology and Penal Law for many years, developing criminology as a university subject, and even after he retired, he stayed on as a Professor Emeritus. Nils Christie was the founding father of Norwegian and Scandinavian criminology and a highly respected international scholar. He played a key part in establishing the Scandinavian Research Council for Criminology in 1962, and chaired the Council from 1979 to 1982. He was President of the Scandinavian Society of Criminology and a member of the Norwegian Academy of Science and Letters and the Royal Swedish Academy of Sciences. He received honorary degrees from the University of Sheffield, the University of Copenhagen and the University of Stockholm. In 2001 he was awarded *The Freedom of Expression Prize* for "his original and independent contributions to the Norwegian and international social debate".² In 2010 he was awarded the European Criminology Prize of the European Society of Criminology, which recognises lifetime contributions to criminology. He wrote 15 books, which were translated into over 20 languages, and a large number of articles.



(Source: www.nrk.no)

Nils Christie had a truly criminological imagination. He was a public criminologist in the best sense and used his immense talent, tact and humanity to transform penal policy and institutions in Norway and beyond. He was particularly critical of the increasingly retributive character of modern penal practices,

advocating a reduction in the use of imprisonment. In his works he endeavoured to show that crime control is a political question and not a necessary and predetermined response to crime. His work had tremendous impact on development of criminology worldwide.

² More on the prize can be found on the Fritt Ord Foundation web site at <http://www.fritt-ord.no/en/priser/fritt-ords-pris>, page accessed on 4 July 2016.

In 1973 Nils Christie visited Belgrade and introduced Serbian/Yugoslavian criminologists to labelling theory³ while taking part at the historical Seventh International Congress of Criminology, organized by the Institute for Criminological and Sociological Research and its director at that time, internationally known Serbian criminologist Professor Milan Milutinović.

In March 1976 Nils gave the foundation lecture to mark the opening of the Centre for Criminological Studies at the University of Sheffield (this is when one of the authors of this text, Ruth Jamieson, first met him). His lecture, "Conflicts as Property", which was published the following year in the *British Journal of Criminology*, distilled the unique qualities of his work. He began his talk by observing, "Maybe we should not have any criminology. Maybe we should rather abolish institutes, not open them. Maybe the social consequences of criminology are more dubious than we like to think". Nils argued that conflicts or harms had become the property of lawyers, and that here were too many professionals involved in adjudicating conflicts between victims and offenders. In making this case he showed his ability to question the fundamental assumptions of criminology without acrimony and without being bound by the existing parameters criminological debates or criminal justice practice. With his work, in particular in "Conflicts as Property", an outstanding and probably one of the most quoted articles in criminology, he laid the foundation for the development of the contemporary concept of restorative justice. He was an icon of the restorative justice movement, and, cautioned that even this field was not immune from the potential dangers of professionalization.

Vesna Nikolić-Ristanović and Sanja Čopić met Nils Christie for the first time in 2002 at the British Society of Criminology Conference *Crossing Borders* held at Keele University, United Kingdom. He honoured us by coming to the session on war and crime, organised by Ruth Jamieson and Vesna Nikolić-Ristanović, where two other speakers from Serbia, Dr Zoran Ilić and Nataša Hanak, also took part. In this session, apart from dealing with theoretical issues, we also shared our experiences of doing research on war and helping people in Serbia to cope with its consequences. This is when we learned that Nils was great friend of Serbian people, and that he had initiated and organised large demonstrations in Oslo against the NATO bombardment of

³ Kirchhoff, G. (2000) Viktimološki aspekti posleratne situacije (Victimological aspects of post war situation). *Temida*, 2, str. 79-82.

Serbia in 1999. This is something Nils felt very proud of, so that he used to mention whenever we met. This is not unusual since Nils Christie lived and worked with generosity and integrity, and was unfaltering in his commitment to social justice and equality.

Nils Christie was very active not only in public and professional debates about various criminological issues, but also on other social issues like education and the school system. In the aftermath of Anders Behring Breivik's terror attacks in Oslo and Utoya in July 2011, Nils in newspaper and radio discussions of how Breivik should be treated, pointed out the fact that no sentence allowable under Norwegian law could ever require what Breivik did, and that eventually Breivik would have to be reintegrated into Norwegian society. He was proud of how Norway and Norwegians had responded to the attacks, showing love for one another rather than hatred for Breivik, a response which he considered to be truly restorative.⁴

One of Nils Christie's greatest strengths was the directness and clarity of his writing, a skill that may have owed something to the fact that he had been a journalist before following an academic path. He remained a critical scholar till the end, and was always open to new and even quite different ideas and thoughts. His perspective on restorative justice and the punishment of offenders like Breivik was not always well received, for example, by those who thought he did not give enough importance to victims rights.



Nils Christie, Vesna Nikolić-Ristanović i Biljana Simeunović-Patić, Oslo. 2005

Vesna recalls an amusing incident that tested both Nils' perennial good humour and his theory of the non existence of crime. He and Vesna had met in cafe Apoteket in Oslo in 2005. As usual, Nils came by bike, in spite of awfully rainy weather. They had a drink together and Nils wanted to pay for it. But then he could not find his wallet in the deep pockets of his raincoat; he thought that he had become the victim of theft. While continuing to search his pockets and

⁴ More on this can be found at: <http://dailycaller.com/2011/07/25/norwegian-professors-defend-lenient-judicial-system-in-wake-of-massacre/> and https://www.washingtonpost.com/world/anders-breivik-trial-displays-norways-formal-legal-system-as-confessed-killer-gets-to-explain-fanatical-views/2012/04/17/gIQA5t8kOT_story.html, pages accessed on 5 July 2016.

before eventually finding it, Nils said: "Oh, I cannot believe that somebody stole it, that this happened to me who claims that crime does not exist!"

The Victimology Society of Serbia had the honour of hosting Nils in Belgrade at its 2005 international conference, *Alternative forms of reaction to crime and victims' rights*. He spoke about mediation and punishment as important social rituals, comparing these two types of justice responses to conflicts with other fundamental rituals for passing important stages in life (e.g. birth, death, passing into woman or manhood, etc.). This was followed by publishing his paper "Answers to Atrocities" in Serbian in the academic journal *Temida*.⁵ During the same visit to Belgrade and the Victimology Society of Serbia, he gave a lecture about restorative and retributive justice in the context of war and war crimes,



(Source: www.dn.no)

which was also published in *Temida*.⁶ After the working part of his visit, we had lovely evening, together with other conference participants, in the famous Belgrade restaurant *My hat*, in the bohemian neighbourhood of Skadarlija. An actress, known as the Lady of Skadarlija, invited Nils for a dance and he happily accepted.

⁵ Christie, N. (2006) Odgovori na gubitke. *Temida*, 1, str. 5-10.

⁶ Christie, N. (2005) Restorativna i retributivna pravda u kontekstu rata i ratnih zločina. *Temida*, 4, str. 27-32.

*Vesna Nikolić-Ristanović, Sanja Čopić, Ruth Jamieson (2016) In Memory of Nils Christie:
An Outstanding Criminologist, Free Thinker and Generous Man*

In March 2015, two months before he passed away, Vesna and Sanja spent a nice morning in the cafe LitteraturHuset in Oslo, in an inspiring conversation with Nils. He very vividly and critically spoke about the socio-economic and criminological situation in Norway. This was the last time we saw him. Afterwards, he went on his electric bike to meet with some people from the Statistics Bureau in his office in the Institute of Criminology. Since Nils used to write for newspapers and spoke on radio and TV regularly, people stopped him and congratulated for his comments and analyses of actual events.

It was with immense sadness that we learned of the tragic passing of Nils Christie. Professor Christie passed away on 27th May 2015. He left this world as he used to live, in motion: his death was a consequence of the accident he had while riding a bicycle on the streets of Oslo.

Nils Christie was an outstanding criminologist and sociologist, free thinker, original and innovative, open-minded and always critical. He was a generous, decent and friendly person with a big heart. He spoke to everyone in the same manner. With his death, we lost a great friend and criminologist, but we hope that his original ideas will continue to live, to be further developed or criticised by new generations of criminologists and victimologists.

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Victimology's Debt to Nils Christie: The Outlasting Legacy of a Free Thinker

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The tragic accidental death of Nils Christie was a huge loss to the scholarly worlds of criminology and victimology. An old dear friend and highly esteemed colleague, Christie has been hailed as one of the most innovative criminological thinkers of the 20th century. He left an outlasting legacy to both criminology and victimology. His contributions are characterized by their creativity, their originality and their clarity. To remedy what he saw as a terrible injustice done to crime victims he outlined a court procedure that restores the participants' right to their own conflict, a procedure that provided the theoretical underpinnings of the restorative justice movement. He drew attention to the fact that victimization is not an objectively defined phenomenon but is a personal, relative and highly subjective experience. He insisted that mental images of those subjected to the same victimizing act could be and usually are quite varied. Criminology and victimology owe much to Nils Christie. The present article briefly highlights just a few of his significant contributions.

Key words: criminology, victimology, restorative justice, ideal victim.

Introduction

Were a colleague or a student to ask me: who are the criminologists that influenced most your criminological thinking? I would answer without hesitation it is Scandinavian criminologists. This may seem strange since the Scan-

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dinavian countries are small countries and when I was studying and doing my earliest research in criminology in the 1960s the number of Scandinavian professors of criminology could be counted on the fingers of both hands. It is even more surprising since it all happened before meeting and marrying my Norwegian wife Jenny Solveig Juven and prior to our regular family visits to Scandinavia that followed. And yet it is absolutely true. It is equally true that I have also been influenced by other non-Scandinavian criminologists, for example, the German Hans von Hentig and the Dutch Louk Hulsman among others. But from the first exposure I had to Scandinavian criminological thinking and writings I felt a natural affinity to the ideas they offered and the views they espoused. Two Scandinavian criminologists in particular were a great inspiration to my long and continuing criminological career: Finnish professor Inkeri Anttila and Norwegian professor Nils Christie.

So what is it about Scandinavian criminology that made it so appealing and highly inspiring to me? In the 1960s the emerging social science of criminology was (and unfortunately still is) in a state of stagnation undergoing severe scrutiny and facing relentless attacks such as those directed at it three decades earlier by Michael and Adler (1933). The young discipline was obsessed with a futile and persistent search for the "so-called" causes of crime. The underlying belief was that to effectively prevent crime one has to know what causes it. The never-ending search oscillated between an European/South American neo-Lombrosian trend and a North American post-Durkheimian approach. What seems at first glance an irrefutable axiom was daringly challenged in 1971 by Finnish criminologist Patrik Törnudd who published a future-looking paper in which he decried "*The futility of searching for causes of crime*". In it he echoed the view advanced in 1969 by Morris and Hawkins in their book "*The Honest Politician's Guide to Crime Control*".

Scandinavian criminologists, though not prolific writers and despite a relatively limited output, offered aspiring criminologists like myself, original perspectives, proposed new ideas, and suggested novel approaches. In a 1964 article published in *Excerpta Criminologica*, Anttila drew attention to the criminological significance of unrecorded criminality and suggested a novel way of getting around the problem by asking representative samples of the population about the victimizations they had suffered. Once her suggestion was followed it gave birth to what has become one of the most reliable sources of crime data: "victim surveys".

Four years later, in 1968, Nils Christie published one of the most original papers in 20th century criminology in which he drew attention to how the punitive value of penal sanctions such as imprisonment and fines changes over time. The article, a precursor to several more to come, was an early manifestation of the originality and the innovative nature of Christie's criminological thinking. In the two decades that followed, precisely in 1977 and 1986 Nils published two papers seminal to victimology that are without doubt among his most cited and most influential articles.



Photo 1: Nils Christie and Ezzat A. Fattah in front of the "Chalet de Mount Royal", Montreal, 1968

The first time I met a young effervescent Nils Christie was in Montreal in the 1960s. I had moved to Canada after spending three wonderful years in Vienna, Austria, doing graduate work and research at the University's Institute for Criminal law and Criminology (Institut für Strafrecht und Kriminologie). Having decided to pursue a Ph.D. in criminology, I applied to and was accepted by the School of Criminology at the University of Montreal. The School was headed by prof. Denis Szabo, a dynamic, ambitious and interna-

tionalist criminologist of Hungarian origin. Szabo was a tireless organizer with grandiose plans. In his persistent and continuing attempts to promote criminology, particularly comparative criminology, he organized countless meetings, conferences, seminars, symposia, to which he invited both young and old criminologists from Europe, the USA and other parts of the world. This is how my path crossed that of Nils Christie (see Photo 1).

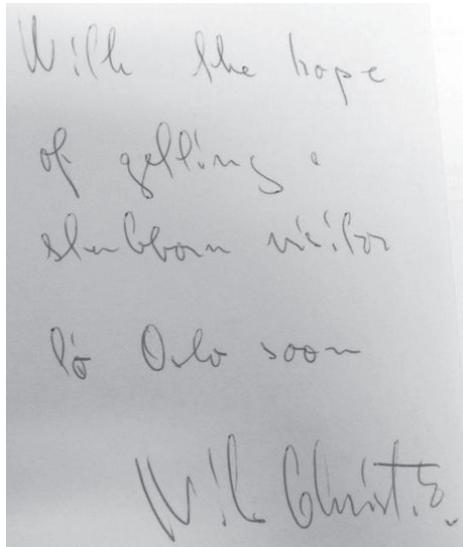


Photo 2: Autograph of Nils Christie

fairness, he took it all in stride and showed no irritation what so ever. At the end of the seminar when I asked him to autograph my copy, this is what he hand wrote: "*With the hope of getting a stubborn visitor to Oslo soon*" signed Nils Christie (see Photo 2). It was neither the first nor the last time I was called "Stubborn" by a visiting lecturer!

In the following four decades our paths crossed quite often both in Canada and in Europe. On one occasion he visited us with his first wife Vigdis and spent a couple of nights at our home in Vancouver. We made a point of seeing him whenever we visited Oslo and he happened to be there. When I organized the 33rd International Course in Criminology on Victims of Crime (Bay Shore Inn, Vancouver, 1983) it was rather natural that both Nils Christie and Inkeri Anttila be the first scholars I asked to deliver keynote addresses and they did not disappoint. Both their contributions were later published

I vividly recall a 1968 seminar Nils held at the School of criminology, University of Montreal, where I had just finished my Ph.D. thesis. With my limited budget I had bought the only copy the university's bookshop received of the "*Scandinavian Studies in Criminology*" (volume 2) edited by Christie and titled "*Aspects of Social Control in Welfare States*". It is the volume in which he published the article mentioned above on the changes in penal values. During the seminar I gave Nils a somewhat hard time making comments, asking some rather difficult questions and refusing to accept simple or around the bush answers. In

in the book I edited "*From Crime Policy to Victim Policy*" a title taken directly from prof. Anttila's address. Christie's seminal paper "*The Ideal victim*" became a very popular reference in the growing literature on victimology.

In 2000 Nils and his wife Hedda Giertsen invited me to a seminar they organized at the Institute of criminology, University of Oslo, on "*Albanian and Norwegian Experiences with mediation in conflict*" where I presented a paper under the title: "*How valid are the Arguments frequently made against Mediation and Restorative Justice?*" (Giertsen, 2000).

The last time I saw Nils before his tragic death was in Helsinki in June 2012 as we were both invited to give plenary addresses at the 7th International Conference of the European Forum for Restorative Justice. As usual, Nils was accompanied by a group of his loyal, devoted and adoring students and followers. His address to the conference discussing the case of Norway's mass killer Anders Breivik was as always greeted with thunderous applause. At the end of the conference we hugged and said "Goodbye". Little did I know that it will be the last time we see each other. As Nils was quite vigorous and eternally full of energy and since his health was always far better than what his chronological age would suggest, the news of his passing away came as a surprising and terrible shock. It was simply difficult to believe that this flaming light has been permanently extinguished, that we will never see his smile or hear his distinctive laugh ever again. We certainly knew that he will be terribly missed at the international meetings where he was always a shining star. Although his voice and his Norwegian accent will not be heard in lecture halls any more, there is little doubt that his legacy will last for decades, maybe for centuries to come. Prophets, visionaries and academic pioneers usually get the recognition they deserve once, or long after, they have passed away. This is not the case with Nils Christie who in his lifetime got the accolades he deserves and had more acolytes than one can possibly count.

Nils Christie's contributions to victimology

Nils Christie has been hailed as one of the most innovative criminological thinkers of the 20th century. His contributions to criminology are so well known and so frequently quoted that it would be superfluous to dwell upon them in any great detail. His contributions are characterized by their creativity, their

originality and their clarity. The bulk part of his work reflect his willingness to venture into areas never before explored by other criminologists and to deal with subjects very few dared to study, tackle or discuss. Both his books "*Limits to Pain*" and "*Crime Control as Industry*" are good examples of his unmatched ability to come up with novel and previously ignored or hardly thought about topics that usually go to the heart of the discipline of criminology.

His reflections on whether the criminologist is a technician or a poet published in 1971 is a profound analysis of the delicate role criminologists are called upon to play in the formulation of public policy. In it he warned against criminology being co-opted by the authorities and offered the sound advice that criminologists should not let politicians and administrators formulate their research topics and their study questions.

As surprising as it may seem, one of his least known works is one that has had a very strong impact on my criminological thinking. It was his unique study of Norwegian guards in Nazi concentration camps during the German occupation of Norway in the Second World War. The research was actually done for his master's dissertation, a degree he was awarded in 1953. Unfortunately his findings were much too shocking for a Norwegian public still suffering the deep trauma of war. Despite his attempts to give his research a wide circulation, the study was not published as a book until 1972 more than a quarter of a century after the end of the war.

In my teaching and my writings I have always advocated a shift from dispositional theories to situational theories, from the search for causes to the search for motives (Fattah, 1997). And contrary to many other criminologists I always believed that criminals are not fundamentally different from non-criminals and that any one placed in a particular situation, with sufficient motivation, or under certain pressures is capable of committing the most heinous acts, violent or otherwise (Fattah, 1997). Christie's study provides an irrefutable confirmation to this belief. It offers substantial empirical evidence, much more powerful and far more convincing than that provided by the famous experiments of Millgram (1969) or Zimbardo (1972).

Having said all that, nothing illustrates Christie's profound impact on my criminological thinking better than the fact that in my book "*Criminology: Past, Present and Future/ A Critical Overview*" (Fattah, 1997) Nils Christie is the most quoted scholar in the book, second only to the author himself.

When it comes to victimology Christie's significant contributions can be traced to both the theoretical and the applied sides. Two pieces of Nils Christie's published work are considered seminal to the young discipline. The first is the paper he published in the British Journal of Criminology in 1977 titled "*Conflicts as property*" and the second is his keynote address delivered at the 1983 International criminology course in Vancouver titled "*The Ideal Victim*".

The philosophical underpinnings of restorative justice

Restorative justice (RJ) emerged in the last 40 years as a counter weight to the victim movement. Its central concern is crime victims. Its main objective was to provide a positive, constructive and less destructive alternative to the excessive punitive demands of the victim lobby (see Fattah, 1995; 1998; 2002a; 2002b; 2004; 2007). In essence RJ offers crime victims a participatory, simplified, less formal and more personal model of justice that aims at repairing the harm caused by the offence, help the victim overcome its traumatic sequels and achieve closure. By so doing RJ strives to maintain and strengthen whatever bonds may have been severed by the offensive act. To both victim and offender it replaces the current policies of exclusion by a policy of inclusion and insists that victims should regain control of their conflicts. RJ denounces the primitive notions of vengeance and retaliation and proposes a constructive system of restorative justice anchored in restitution not retribution, in reconciliation not retaliation, in forgiveness not vindictiveness.

In his paper "*Conflicts as Property*" (1977) Christie deplored the fact that conflicts have been stolen from their rightful owners, the victims, and were expropriated by the state. As a result, victims who used to be entitled to wergeld/restitution were now left with nothing. Civil remedies were not only too costly and too complicated for most victims but the majority of offenders were destitute and once they were imprisoned the victim's chances of any compensation were nil. And to add insult to injury when offenders were sentenced to a penal fine it went not to the victim but to the state's coffers. Christie wrote:

.... Conflicts have been taken away from the parties directly involved and thereby have either disappeared or become other people's property. In both cases a deplorable outcome. Conflicts ought to be used not left in erosion. And they ought to be used, and become useful, for those originally involved in the conflict. (Christie, 1977: 1).

Drawing upon an experience he had in Tanzania, Christie lamented the fact that victims in Western societies have lost their right to participate and were removed from the justice process which was overtaken by state officials and became the theatre of professionals. To remedy what he saw as terrible injustice done to crime victims he outlined a court procedure that restores the participants' right to their own conflict, a procedure that provided the theoretical underpinnings of the restorative justice movement.

"Modern criminal control systems, he writes, represent one of the many cases of lost opportunities of involving citizens in tasks that are of immediate importance to them..... The victim is a particularly heavy loser in this situation. Not only has he suffered, lost materially or become hurt, physically or otherwise and not only does the state take the compensation. But above all he has lost participation in his own case. It is the Crown that comes in the spotlight, not the victim. It is the Crown that describes the losses, not the victim. It is the Crown that appears in the newspaper, very seldom the victim..... Something that has belonged to him has been taken away from that victim." (Christie, 1977: 7-8).

Christie's proposed remedy to the victim's plight, namely a Victim-Oriented court that goes through four stages, is a true blue print for a restorative justice model. Needless to say that having been extremely critical of the professionals who have stolen the conflicts from their legitimate owners, the victim-oriented court he envisioned is a court with an extremely lay orientation where professionals and so-called experts are not welcome. Here is what he says:

"....let us reduce specialization and particularly our dependence on the professionals within the crime control system to the utmost. The ideal is clear; it ought to be a court of equals representing themselves. When they are able to find a solution between themselves, no judges are needed. When they are not, the judges ought also to be their equals." (Christie, 1977: 11).

As visionary as Christie was, he was realistic enough to realize that the victim-oriented, lay-justice model he is advocating is not easy to implement in Western societies. He believed there are hundred blocks against having such a system operating within western cultures. He singled out three major ones: 1) there is a lack of neighbourhoods; 2) there are too few victims; and 3) there are too many professionals around (Christie, 1977: 12).

Yes, he was realistic in his prediction but not overly pessimistic. In fact, although he believed that there are no solid grounds for optimism, he still saw some promising rays of hope. One reason for hope he mentioned in his ground-breaking paper is that although the crime control system has some importance in our type of society, it is not a dominant one. Another reason for his optimism is that he felt the ideas he was putting forward were not quite so isolated or in dissonance with mainstream thinking in social institutions other than the crime control system. He also believed that the crime control system is not immune to paradigm shifts when such shifts are rapidly taking place in other sectors of society.

The ideal victim

"The Ideal Victim", a key note address delivered by Nils Christie at the 33rd International Course in Criminology on Victims of Crime that I organized in Vancouver in 1983, is a perfect example of a brief essay that can have a much more significant and far-reaching impact than its length would suggest. It is written in Christie's unique saga style and is simply 13 pages in print. One of the first ideas Christie offered in his address is that victimization is not an objective phenomenon but a personal and subjective experience. It is more of a perception than a reality. Reflecting on what he personally considered his most memorable victimization experience when he was outrun by a Swedish champion in a running competition on a clear night in Finland, he wrote:

"... being a victim is not a thing, an objective phenomenon. It will not be the same to all people in situations externally described as being the "same". It has to do with participants definition of the situation...the phenomenon can be investigated both at the personality level and at the social system level. Some might have personalities that make them experience themselves as victims in most life situations while others tend to define life according to other dimensions. The tendency to see oneself as a victim might in the perspective be called a personality trait. At the level of social systems, some systems might be the type where a lot of victimization is seen as taking place, while others are seen as being without victims." (Christie, 1986: 18).

It is rather easy to see the affinity between Christie's thinking and mine which I outlined in my paper "*La Relativité Culturelle de la Victimation*" (The Cultural Relativity of Victimization) (Fattah, 1993). In the paper I criticized western ethnocentric definitions of victimization that ignore or overlook cultural differences, cultural customs and traditions as well as cultural particularities. I offered several examples to show that both personal and social definitions of victimization are culturally relative, that they vary greatly from one culture to the other. I insisted that such definitions are not static but dynamic and undergo significant change even within the same culture over time, sometimes even in relatively short time. Quite in line with Christie's thinking I argued that the tendency to consider victimization as a global, universal, objective, phenomenon is in flagrant contradiction to the undeniable reality of how personal, how subjective and how relative victimization is.

It surely does not take an in depth research to realize that each culture creates its own popular stereotypes of offenders and victims. Furthermore, society's attitudes and reactions to actual offenders and actual victims are shaped by the extent to which they fit those images and stereotypes (see Fattah, 1997: 157). Nils Christie's "ideal victim" is one such stereotype. As used by Christie (1986) the term "ideal victim" does not refer to the person (or category) most perceiving him-or herself as a victim nor does it describe those who are in the greatest danger of being victimized or most often victimized. By ideal victim Christie means a person (or category of individuals) who, when hit by crime, are most readily given the complete and legitimate status of being a victim.

"The ideal victim is, in my use of the term, a sort of public status of the same type and level of abstraction as that for example of a "hero" or a "traitor". It is difficult to count these ideal victims. Just as it is difficult to count heroes. But they can be exemplified.... The little old lady on the way home in the middle of the day after having cared for her sick sister. If she is hit on the head by a big man who thereafter grabs her bag and uses the money for liquor or drugs-in that case, we come in my country, close to the ideal victim." (Christie, 1986: 18-19).

By coining the term, by enunciating the concept and by describing the stereotype, Christie managed to force the audience not only to think about and to revise their perceptions (or their misperceptions) of victims and victimization but he was able to vividly illustrate the point he was making and

the idea he was putting forward, namely that it is not the material act of victimization that counts but the personal qualities of the victim, the motives for the act and the dynamics of the situation.

Christie goes on to contrast the ideal victim to others who when victimized are not seen to be ideal victims because of qualities and factors external to the act of victimization. He also contrasts ideal victims to real victims and scared victims. He writes:

"Most ideal victims are not most frequently represented as real victims. The real victims are so to say the negation of those who are most frequently represented....Ideal victims are, however, very much afraid of being victimized. Study after study.... Show a very high connection between the qualities that qualify for becoming ideal victim, and having a particular fear of being the victim of crime, particularly the crime of violence." (Christie, 1986: 27).

One important and perceptive point Christie makes in his address delivered in 1983 when the victim movement was gaining ground and was claiming empowerment of victims as one of its main goals, is to remind us that the more power a victim or category of victims has the less likely that they will fit the ideal victim type or have the sympathy, compassion and commiseration that victims crave, bestowed upon them. They do not qualify for the legitimate status of suffering victims. Christie's description of the typical ideal victim implies that powerful victims do not elicit as much sympathy as weak, helpless, defenceless victims. He writes:

"A minimum of strength is a precondition to being listened to, but sufficient strength to threaten others would not be a good base for creating the type of general and public sympathy that is associated with the status of being a victim." (Christie, 1986: 21).

Christie's paper drew attention to society's differential attitudes to those who have been subjected to identical types of victimization, a theme that I dealt with in much greater detail in some of my victimological publications (see Fattah, 2002a; 2002b; 2003; 2009).

Christie's lucid analysis of family violence, in particular wife beating, in the context of his definition of the ideal victim and in light of the changing cultural definitions and material conditions in Norwegian society, is a perfect example of his ability to communicate his thinking and to illustrate his ideas

by focusing on concrete examples and specific situations. Here is an example of what he wrote:

"The more females attain an independent status, the more useful it is for them to claim victim-status and the more they are listened to. But at the same time: the more they gain independence, materially, the less credibility is given to any claim of victim status as a result of weakness or lack of possibilities for self protection." (Christie, 1986: 21).

To conclude, in his remarkable article Christie goes back to the restorative justice model he proposed in "conflicts as property". He sees the model he offered in that paper as a vehicle for letting victims and offenders get a realistic chance to know each other and for giving the victim a more important role to play in the justice process. He calls for the civilization of the legal process. And although he insists that the notions of blame and guilt are essential in social life, he is doubtful of the usefulness of the designations "victim" and "offender".

Conclusion

Hopefully the above summary and brief analysis of some of Nils Christie's work has shown the undeniable debt the social science of criminology and the discipline of victimology owe to him. It is a debt that undoubtedly will withstand the test of time. It is to his credit that at the height of criminologists' obsession with the search for the pathological traits of criminals and their theorizing about the abnormalities that differentiate criminals from law-abiding citizens, he had the courage to insist that he "...found the killers and torturers were quite ordinary Norwegians. They were like us, and we would have behaved as they did had we, with their age and educational background, been placed into their situation" (Christie, 1986: 26).

It is to his credit that he drew attention to the fact that victimization is not an objectively defined phenomenon but is a personal, relative and highly subjective experience. He should also be credited that in his paper on *the ideal victim* he insisted that mental images of those subjected to the same victimizing act could be and usually are quite varied. Also to have pointed a disapproving finger at society's differential attitude to the victim by demon-

strating that it is not the material or physical act that matters but more importantly the characteristics and qualities of those who are victimized.

It is to his credit that he challenged the usefulness of the victim and offender designations, to have deplored the historical injustices inflicted upon crime victims and to have decried how victims were historically removed from the justice process. It is to his credit to have shown how victims' rights were usurped by the State and how the compensation to which they were entitled was expropriated by the public treasury and renamed penal fine.

Probably more important than all of the above is that he provided the theoretical underpinnings for the restorative justice model, asked for the civilization of criminal conflicts and demanded a central role and a deciding voice for the victims in the conflict resolution process.

Yes, Nils Christie is not a scholar to be easily or quickly forgotten. He is not a criminologist whose ideas could be easily ignored, dismissed or superficially challenged. This is because they are original, penetrating, thoughtful and innovative and thus are useful, practical and long enduring ideas. Nils Christie may have physically passed away but his criminological and victimological legacy will last for many decades to come. It would neither be farfetched nor unfair to call him "the new prophet of restorative justice" in the same way that Inkeri Anttila has earned the well deserved title "the mother of victim surveys".

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EZZAT FATTAH

Dug viktimologije prema Nils Christie-u: Trajno zaveštanje slobodnog mislioca

Iznenadna tragična smrt Nils Christie-a predstavlja veliki gubitak za svetsku naučnu, kriminološku i viktimološku zajednicu. Christie, moj stari dragi priatelj i veoma cenjeni kolega, predstavljan je kao jedan od najinovativnijih kriminololoških mislilaca 20. veka. Ostavio je trajno zaveštanje kako u kriminologiji, tako i u viktimologiji. Njegove doprinose odlikuju kreativnost, originalnost i jasnoća. Kako bi ispravio ono što je video kao strašnu nepravdu učinjenju žrtvama kriminaliteta, predložio je sudski postupak koji vraća učesnicima pravo svojine nad sukobom, postupak koji je postavio teorijsku osnovu pokreta za restorativnu pravdu. On je skrenuo pažnju na činjenicu da viktimalizacija nije objektivno definisan fenomen, već lično, relativno i intenzivno subjektivno iskustvo. Christie je insistirao na tome da mentalni doživljaji onih koji su izloženi istom obliku viktimalizacije mogu biti, i često i jesu, veoma raznovrsni. Kriminologija i viktimologija mnogo duguju Nils Christie-u. Ovaj rad ukratko ukazuje na tek nekoliko njegovih značajnih doprinosa.

Ključne reči: kriminologija, viktimologija, restorativna pravda, idealna žrtva.

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Nils Christie: On the Periphery but in the Centre

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Nils Christie's contribution to criminology and victimology has been profound. This article traces the roots of contemporary concerns with critical and cultural victimology to his work. Alongside this his insightful comments on public criminology also have some resonance with current victimological pre-occupations. It is evident from this analysis that without his voice some of the contemporary concerns of critically informed and engaged victimology would be absent, for which we owe him a huge debt.

Key words: Nils Christie, critical victimology, engaged victimology, witnessing.

Introduction

The unexpected death of Nils Christie came as a shock not only to his family and his local colleagues but also to those across the globe who were influenced either directly or indirectly by his critical thinking. He wrote on many aspects of crime, victimhood, penal policy, criminal justice policy, and victim movements. In many ways his work and reflections defy analytical categorisation. A good deal of this work is in English, much more is in his native Norwegian and he made a number of contributions to *Temida* focusing on his concern with atrocities and the possibilities for reconciliation. In what follows I make no claims for a complete and detailed knowledge of his wide ranging influence. Here I offer a partial, and probably partisan, account of his influence on victimology from my personal perspective as just one way of add-

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ing to the tributes that have already been made about this remarkable man's extensive contribution to knowledge and practice. In doing so I am situating Christie's work within the wider setting of a critical victimology/criminology and will explore this along two dimensions: as setting the agenda for a critical-cultural victimology and as setting the agenda for an engaged victimology. Whilst these themes are inevitably inter-connected they will be discussed in turn before offering an overall assessment of his contribution to this wider volume of work. However, first of all, I offer a note on my use of the term 'critical'.

Nils Christie: A critical thinker

In many ways it is evident that Christie was a critical thinker par excellence. His seminal chapter on the 'ideal victim' published in 1986, arguably the platform from which much critical victimological work has been generated, captures the essence of his approach. However, the nature of his approach was not to be critical for its own sake but to always offer the opportunity for thinking, and thereby responding, otherwise to the problems that crime and criminal victimisation posed. He put to the front and centre the capacity for human imagination: an imagination that could result in thinking and behaving otherwise. This position is reflected in all of his work from that on drugs, to the question of penal reform to his concerns about victim movements. One place in which it is well captured is in his 1997 article published in *Theoretical Criminology* entitled "Four blocks against insight: Notes on the oversocialisation of criminologists". Here he takes issue with the criminological failure to embrace personal experience, to reflect on what it is that we and higher education 'do' to our students, the eagerness of the state for us to provide answers to their questions, and finally, the readily available but pre-processed records on which much criminological work is based. These 'blocks', he suggests, have the cumulative effect of much criminological work producing findings about 'trivialities' in which the capacity for alternative interpretations are lost. He states:

"...independent interpretation is of particular importance in studies of deviance and social control. In this area it is normal that there are conflicts around which meaning the phenomena are to be given. A core area in criminology is

therefore by necessity the close observation of the meaning-creating process." (Christie, 1997: 20-21).

The denial of the processes he outlines is to be found in the blocks to insight: the marginalisation of personal experience, treating students as empty vessels to be filled, and the challenges posed by the expectations associated with the public role of the discipline. Noting that the discipline was growing, not only as a result of the increasing demands of the state but also of those within higher education itself, Christie's position was not to abandon engagement with the expectations being made of the discipline but to "stick to our point of departure; acts - not crimes - are the basic material for our activities" (Christie, 1997: 22). Taking these observations as the starting point, the pursuit of this point of departure, its contribution to, and legacy for, the disciplines of criminology/victimology, is taken up in the themes that follow.

Setting the agenda for a critical-cultural victimology

His seminal work on the 'ideal victim' focused minds on "who – when hit by crime – most readily are given the complete and legitimate status of being a victim" (Christie, 1986a: 18). In other words, he was concerned with the victim as a public status. Not victimhood as a quality or characteristic of an individual but how victims are ascribed victim status. He goes on to give an example of such a victim which he recognises, as he says in his own words, as being 'from my culture' (Christie, 1986a: 18) (the importance of his awareness of his geographical and cultural location is returned to below). Importantly, the victims of which Christie speaks cannot be counted. Thus, offering an early insight into the problems associated with the growing pre-occupation with criminal victimisation survey becoming evident during the 1980s. Moreover, in this essay he goes on to explore some features of the process of victim status in which he is acutely aware that the relationship between being recognised as a victim (being heard) yet simultaneously being "weak enough not to become a threat to other important interests" (Christie, 1986a: 21) was neither simple nor straightforward. Interestingly, van Wijk (2013) has tested the utility of the notion of the 'ideal victim' for international crimes and sensitises us to a very similar issue. Van Wijk argues that a similar process of recog-

nition is evident before victims of international crimes are acknowledged and responded to (van Wijk, 2013). Thus, he posits that, in order for these victims to achieve victim status, certain conditions need to be met: the conflict must not be complex, must be unique, must be short, and must be well-timed with the role of the media being particularly pertinent to understanding its successful acquisition. Thus, Christie's concept of the powerful influence of notions of the 'ideal victim' cut across a range of different kinds of criminal victimisations. Herein lies the essence of a critical victimology.

Critical victimology has been differently interpreted by different people (Holstein, Miller, 1990; Miers, 1990; Fattah, 1992; Mawby, Walklate, 1994). Influenced by the questions raised by feminist informed work and the theorising of Giddens (1984) the critical victimology favoured by this author endeavours to understand the victim as a product of the interaction between the cultural and the ideological under particular socio-economic circumstances. This critical victimology takes the power of the state seriously as a self-interested arbiter of who might count as a victim, whether or not we see or do not see them as such, and is also sensitive to the view that these processes may vary across time and space. Consequently, it places some significance on the power of the victim label, in and of itself, as a unifying device, and frequently used as a uniform concept, for the ideological purposes of the state. So used it is a concept that has inclusive and exclusive properties which means that at an individual level who counts as a victim, and whose voice counts as a victim, can change in the light of ideological processes. Embedded in this position are the critical questions rooted in Christie's (1986a) delineation of the ideal victim. Thus this critical victimology asks questions about the term 'victim' itself and the circumstances in which it is applied. Within this framework who becomes a victim and who might embrace a victim identity (Rock, 2002) or indeed who might resist such an identity (Walklate, 2011) is neither simple nor straightforward and cannot be read from the patterns of criminal victimisation found in criminal victimisation survey data. Following Christie (1986a), the victims of this critical victimology cannot be counted. Whilst this version of victimology is not without its critics (see, for example Spalek 2006: 45), Christie's (1986a) 'ideal victim' lies at its heart.

Importantly Christie's (1986a) concept of the ideal victim opened up the role that notions of 'innocence', 'legitimacy', and 'deserving' play in the process of acknowledging and assigning the victim label. Following his critical

imagination and placing the notions of innocence, legitimacy and deserving front and centre, Carrabine et al. (2004) identified what they termed a 'hierarchy of victimisation'. At the bottom of this hierarchy would be the homeless, the street prostitute, and the drug addict. These victims are certainly not innocent or deserving (possibly because of their own role in their 'victimisation') neither are they considered to have a legitimate claims to that status (probably for the same reason). Conversely, at the top of this hierarchy would be the elderly person robbed in their own home, the child abused by their parent, and perhaps increasingly an elderly person abused by their children. In other words, those individuals/groups who have been subjected to processes in which they have not made choices. They are innocent, legitimate and deserving. This hierarchy also reflects other presumptions, particularly about vulnerability. For example, the elderly and/or children are presumed to be vulnerable (physically weak/fragile and relatively powerless) as a result of their age. This is not the place to debate the accuracy of such presumptions, though my guess is that Christie would certainly encourage a critical examination of them, even if only because our own experiences as human beings tells us that making such universal assumptions are problematic. More specifically such assumptions add weight to a critique of the constrained and curtailed visions of victimhood that result: who can and who cannot be a victim. Arguably, such assumptions frequently cast aside those suffering from a range of mental illnesses, not of their choosing, but nonetheless resulting in problematic behaviour that might challenge the assignation of victim status (a particular area of concern Christie had). Nonetheless this hierarchy of victimisation can be applied in different contexts (as illustrated by the work of van Wijk, 2013), and can be used to facilitate an understanding of the ways in which its shape and form changes over time. Some groups and/or individuals acquire victim status and others lose it. McGarry and Walklate, for example, make the case for soldiers being recognised as victims in the U. K. as a result of the illegal engagement in conflict in Iraq and Afghanistan from 2003-2014: a group for whom the victim label was previously considered anathema (McGarry, Walklate, 2011). In addition Aradau deploys the idea of a 'politics of pity' to make sense of the ways in which trafficked women came to be constructed as victims rather than women seeking work in order for their abuse to be recognised in terms of policy (Aradau, 2004). On the other hand, there is evidence to suggest that the political complexities lying behind the mass vic-

timisations in Darfur clearly inhibited international recognition of those experiences as genocide (Hagan, Rymond-Richmond, 2009). In all of these examples, being acknowledged as a victim is a complex process and all of these examples owe a debt to Christie's critical analysis of the 'ideal victim'. Moreover, they all also indicate a role for geography and culture in making sense of these processes. These concerns also find a presence in Christie's work and feature in the emergent strand of a cultural victimology that mirrors similar developments within criminology.

In his contribution to a Review Symposium of 'Public Criminology' (Loader, Sparks 2010), entitled "*Reflections from the Periphery*" Christie starts by saying: "Reading books and articles from Britain, I am sometimes feeling like one of those barbarians from the far North" (Christie, 2011: 707). This appreciation of the importance of the geographical and cultural location of his engagement with the issues that concerned him runs through his work. Another example is to be found in his thoughtful assessment on the problems and possibilities for mediation in the Basque country (Christie, 2013: 16). These observations signal the threads within Christie's work that are connected with an emergent cultural victimology. This cultural victimology parallels the already existing cultural criminology. That criminology is characterised by the ways in which media representations of crime convey meanings and values for those involved in crime and crime control (Ferrell, 2006) with Young adding:

"Cultural criminology is of importance because it captures the phenomenology of crime – its adrenaline, its pleasure and panic, its excitement, and its anger, rage, and humiliation, its desperation and its edgework." (Young, 2004: 1).

The connections here with Christie's persistent and determined demand that criminology focus attention on the meaning attached to acts, is transparent. We have already observed the importance he attached to personal experience as a source of knowledge enabling sense to be made of crime and criminal victimisation. However he was also concerned with the drama that crime entailed. In his article "*Crime Control as Drama*" (Christie, 1986b), he explores the dramatic analogy to its fullest extent asking the reader to consider the penal system as a screen play and to analyse how it does its work in relation to the criteria one might apply to a play. He concludes this analysis by suggesting that in the search for principles that might underpin a penal system: "Maybe there are no better allies than Shakespeare and his co-work-

ers" (Christie, 1986b: 8). In concert with cultural criminology then we can infer from this observation that criminology cannot be a science in the positivistic sense: there are no rigid lines to be drawn between the expert and the criminal or between crime and normality. Indeed, in a later contribution he describes criminologists as 'cultural workers' (Christie, 2011: 209) with "such a designation bring(ing) us to the company of novelists, poets, literary critiques – roles preoccupied with gaining access to the life of others and thereby ourselves" (Christie, 2011: 209).

For victimology this turn to the cultural has (at least) two aspects. First, a focus of attention on how individual and/or collective experiences of victimisation and its aftermath are shared with family, friends, or symbolised more publicly (like for example in the roadside shrine or in the 'on the scene' reportage and/or other public media). Second, the ways in which grief, loss, and trauma are mapped through the criminal justice process (Mythen, 2007; Ferrell et al., 2008). These concerns are rather newer to the field of victimology than criminology, though there have been some tentative developments of this kind of work (see for example, Walklate et al., 2011; Howie, 2012; Walklate et al., 2014). This agenda carries implications for how we do victimological work (discussed below) and what kind of concepts might inform that work. This kind of cultural work within victimology foreground suffering and pain, which as Carrabine has observed, carry with them their own problems not least of which that "human suffering should not be reduced to a set of aesthetic concerns, but is fundamentally bound up with the politics of testimony and memory" (Carrabine, 2012: 467). If we add 'trauma' to this list then arguably cultural victimology has the capacity to offer something both creative and critical to the study of victims. Importantly, at every juncture in this public nature of suffering some voices are heard and others are silenced (as intimated in van Wijk's, 2013, discussion of the ideal victim of international crimes) and silencing can frame events in particular ways excluding other ways of thinking about them (Mathieson, 2004). The presence and impact of these suffering voices is something that Christie was extremely sensitive to, especially in relation to the burgeoning presence of the victim movement.

In commenting on the dilemmas faced by such movements he was full of praise for the efforts being made to ensure victims were heard in the penal process but at the same time also wary of the unintended consequences of this. He goes on to say:

"Victim movements might, through their present strength and insistence on rights for the victims, damage the beautiful instruments available in traditional penal law and courts. Penal law might lose balance. If so, we lose penal law. Victim power amplified with state power would indeed become a strong driving force towards a more punitive society." (Christie 2010: 118).

In foreground the suffering of victims, the biographical stories of others, or indeed the possibilities of competing versions of these same stories, run the risk of being excluded or at a minimum downgraded. Indeed in a conference presentation in 2008, the questions implied by his critique of victim movements were posed in a much more pointed way: Are we all victims now? Does everyone need support? Are there circumstances in which support might be damaging? Who is included and excluded in the availability of support? Hard questions indeed for societies in which a culture of narcissism has prevailed and all experiences are deemed equally demanding of a response (Lasch, 1979).

However, not all societies have evolved in the same way in terms of this victim culture. The specificity of culture, and the need to appreciate the local context of the meanings attached to acts, is also strongly present in Christie's work. His desire to constantly remind the reader of his Norwegian heritage, and the nature and role of community belonging derived from that heritage, is prescient (hence there is a reference to the 'periphery' in the title of this paper). As an example, the discussion generated in the special issue of *Restorative Justice: An International Journal*, published in 2013, stands as testimony to this. His 'Words on words', written in the classical, critical style that he made his own, is a thought provoking offering on what words mean and under what conditions. It also asks the reader to consider the possibility that there may be very few words that can carry the same meaning in different contexts and, by implication, questions whether or not criminologist should even be searching for such universalities. Here again we are offered conflict as a concept that might do just as good work as any other for helping people resolve their problems (Christie, 1977). This short article is responded to by a number of commentators. However, the observations made by Braithwaite draw out the domain assumptions framing this debate (Braithwaite, 2013). These words are western words. This is one of Christie's implicit messages. The cultural context that has generated much criminological and victimological con-

ceptual thinking has been Westo-centric. As Braithwaite (2013: 21) observes: "That leads to seeing all the concepts in the Christie paper – offender, mediation, justice, restoration, reconciliation – as from the North and West. Most of us live in the South and East" (Braithwaite, 2013: 21). This is a profound comment indeed, presaging as it does, the emergence of a Southern criminology (Carrington et al., 2016) which undoubtedly Christie's centring of meaning and place (culture and geography) has played its part in contributing to (hence there is reference to the centre in this title of this paper). An appreciation of this contribution, in itself affords some insight into his vision of the public criminologist, what I have chosen here to refer to as an agenda for an engaged victimology.

Setting an agenda for an engaged victimology

In some ways Christie's vision of the public criminologist (and by implication a public victimologist) is fairly straightforward. In his own words, "I never thought of myself as a 'public criminologist'. I was one. But I don't like the term – it makes artificial what was experienced as natural" (Christie, 2011: 707). For him, he alongside others like himself was there: part of the fabric of the life they were destined to make sense of. Not separate from the world but part of it and this being part of it carried with it responsibilities. In many ways the same kind of responsibilities possessed by all other citizens: to be engaged, to debate, to praise, to criticise. In this same article he goes on to suggest that being "protected in our ivory towers" also protects "against gaining access to the variety of like experiences, reflections and insights gained through exposure to life conditions outside those towers" (Christie, 2011: 708). With the most important role for the critical academic being to translate those life conditions but not "as assistants to the system obliged to control" (Christie, 2011: 708).

These observations, taken together with his comments on the importance of accessing and understanding life experiences (using our own stories, and those of others to make sense of the world), are clearly suggestive of an engaged role, very different from and distant from the role assumed by more positivistic orientations found within both criminology and victimology. This position reflects some parallels with that of Quinney who advocated a role

for the criminologist as witness (Quinney, 1998). Taking this one step further Spencer has also made the case for a victimology that bears witness to the 'event' of victimisation of the self, the harms experienced by others, and the process of witnessing as a practice (Spencer, 2010). We have advocated elsewhere for a similar view of victimological work that distinguishes between 'witnessing' what we 'see', and 'bearing witness' to see beyond what we 'see':

"It is important to set apart the complexities of the 'witness' from the simple onlooker. That is to differentiate 'witnessing' from 'bearing witness'. The former is what we 'see' (such as the symbolic and figurative observations of victims and their experiences), and the latter involves 'seeing beyond what we see' (including the State's political reaction to victimising events such as terrorist attacks). In doing so 'witnessing' becomes an integral methodological tool for a visual victimology." (Walklate et al., 2014: 265).

Moreover, witnessing, in the form outlined above, is not just a methodological tool; it is who we are and what we do. Witnessing may not have been a term used by Christie (though I cannot be certain on that). It was, however, something that he clearly did. This is exemplified in his analysis of the after effects of the events in Oslo and Utoya in July 2011. In reflecting on the possibilities for restoration after atrocities he emphasises:

"I believe that the more we are enabled to see each other as fellow human beings, the more we are controlled by that knowledge, and by the whole set of norms ingrained in us throughout life on how to behave towards people of all sorts, from babies to old folks. To see the other is to be captured in the web of norms that makes us human. The closer we come to another person, the stronger stand the inhibitions against handling that person in ways seen as unacceptable within the culture where we belong. To accomplish this is to me the great challenge for most sorts of crime-preventive work." (Christie, 2014: 53-54).

In witnessing atrocity then, it is ever more important not to lose sight of "each other as members of the same society" (Christie, 2014: 54). To see the killer as one of us can be one of the biggest challenges, he suggests for crime prevention. A challenge that it may still be possible to face in a small society by Norway: a bigger challenge for some contemporary global pre-occupations with crime and victimisation. For Christie "we need proximity to poeple to find our way to other human beings" (Christie, 2011: 710).

Concluding thoughts

The critical vision of the man from the ‘far North’ has had a profound influence on a wide range of topics within criminology. This is without doubt. His influence has been equally profound within victimology a taste of which has been offered here. Without his input it would be unlikely that contemporary debates would now recognise that the concept of victim is not uniform, neither is it a unifying concept (despite ideological and political efforts otherwise). It is also important to note that without his work, victimhood as an experience, would now not be recognised as a highly different and differentiation experience. Victimhood too is neither uniform nor unifying. The key dangers in denying human agency, the capacity for people to do and think otherwise, is central to Christie’s work and influence. Moreover, by implication, he presaged the dangers of failing to recognise the influence and dominance of Westo-centric thinking and concepts on criminology and victimology. Here too, there are other ways of thinking and doing: of not presuming that there is only one way to knowledge, particularly that there is not only way of responding to the pain of crime. In his words, “we know from personal life experiences in addition to scientific research, that the closer we come to people who have broken the law, the less attractive the delivery of pain becomes as an appropriate response” (Christie, 2016: 200). We owe a debt to Christie for the ongoing capacity to ask questions such as these and to propose different answers on the delivery of justice. He may have possibly been geographical on the periphery but intellectually he was always in the centre. Thank you, Nils.

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SANDRA WALKATE

Nils Christie: Na periferiji, ali u centru

Nils Christie je ostvario veliki doprinos u kriminologiji i viktimologiji. Ovaj članak analizira doprinos Nilsa Christie-a uključivanju savremenih tema u predmet bavljenja kritičke viktimologije i viktimologije kulture. Njegovi pronicljivi komentari o javnoj kriminologiji imaju odjeka u savremenim viktimološkim preokupacijama. Iz analize date u ovom radu je evidentno da bez njegovog glasa, neka savremena pitanja ne bi bila predmet bavljenja kritički orijentisane i društveno angažovane viktimologije, zbog čega mu mnogo dugujemo.

Ključne reči: Nils Christie, kritička viktimologija, angažovana viktimologija, svedočenje.

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Dangerous Victimology: My lessons learned from Nils Christie

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This article first discusses the key concepts of Nils Christie's victimological-oriented work drawn from "Conflicts as property" (1977) and "The ideal victim" (1986). Using international criminal justice as an example, it demonstrates the enduring importance of Christie's insights to victimology. Subsequently the paper offers a three-fold critique of Christie's work. First, the stereotype of the ideal victim is confronted with the bodies of literature on the justice motive and the phenomenon of framing. Second, Christie's views on the role of the state in "Conflicts as Property" are discussed against the backdrop of libertarian and communitarian theories of political philosophy. Third, the notion that 'crime does not exist' is rebutted using a victimological perspective.

Keywords: victimology, restorative justice, just world theory, communitarianism, framing.

Introduction

It is a great honour to be asked to contribute an essay to a special issue of *Temida* devoted to the memory of sadly departed scholar and humanitarian Nils Christie. It is particularly fitting that this tribute occurs in the journal *Temida*, published by the Victimology Society of Serbian, as my first encounter with this great man occurred in Belgrade at one of their seminars.

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In all honesty on that occasion Christie and I did not find much common ground. I recall that our views were at odds to a degree that I commenced my own presentation – directly after his – with something like ‘Although he is great speaker, a world-renowned criminologist and an extremely hard act to follow, particularly given that I am neither of those two first things, I am still going to disagree with most of what he said.’ Christie retorted in kind, calling me a ‘dangerous victimologist’ in answer to question following our speeches, an epithet of which I am honestly proud until today.

To say I have learned a lot from Nils Christie’s work is an understatement, however, as that first encounter forewarned and will become clear in the next pages, I have probably learned more from our points of friction than from where our views align. It would therefore be intellectually dishonest of me to focus on the latter rather than the former, however much it may appear unbecoming to disagree with those who have passed on. Instead I will endeavour to show how Christie has in the past and the present informed my own thinking about victimological topics, and the extent to which his label of ‘dangerous victimologist’ is indeed suitable to where this has taken me, although *radical* might be more apt.

I will do so by a discussion of some of the main concepts in his victimology-oriented work: from “*Conflicts as property*” in 1977 and “*The ideal victim*” (1986). Christie’s work has proven its worth for understanding victimological phenomena to this day. International criminal justice offers some of the clearest examples of the issues he raised. I will emphasise these before briefly noting the more general application of Christie’s insights.

Following this I will critically discuss three key issues in Christie’s work. First, I will offer a different interpretation of the stereotype of the ideal victim, which incorporates sociological work on framing and the social-psychological theory of the justice motive. Second, I will take Christie to task for his interpretation of the role of the state in “*Conflicts as Property*”, which I find to be more in line with libertarian thinking than with the communitarianism with which he is regularly associated. Both his juxtaposition of the state and community as well as the use of the relationship of ownership as a metaphor are worthy of scrutiny. Finally, I find little merit in his view that crime does not exist, and doubly so if a victimological point of view is taken.

Throughout the paper I will take it as read that the reader is familiar with Christie’s work. For any reader for whom this is not the case, I suggest them to

stop reading this article, seek out Christie's source material and ascertain for themselves the enduring relevance of his legacy.

The wisdom of Christie

Some of the key points made in "*Conflicts as property*" concern Christie's argument that the state and its actors have, through their definition of certain acts as crime, attempted to steal conflicts from those most intimately involved in them. By labelling an act as crime, the issue is reframed from a possible source of learning, of developing and strengthening relationship bonds and revitalising shared norms and values, to a mostly unproductive search for whom to blame and subsequently to pain (see also Zehr, 1990).

This issue applies not only to the victim and the offender, but also to their immediate surroundings. In Christie's account this theft of conflicts impoverishes the communities in which these acts occur, and also fails to draw on the acquired wisdom and expertise that is available in particular contexts. The requirements of the legal order take precedence over what is the most appropriate path for those involved to move forward from what has happened.

Where the offender at least had some acknowledged role in the criminal justice process, albeit a largely undesirable and objectified one, Christie made a strong case that victims are even worse off, as they are completely excluded. This exclusion applies both to the process as well as to the outcome. In the appropriation of the conflict the state simultaneously introduces an emphasis on retribution over any serious attempt to seek to rectify the harm visited on the victim, which, on Christie's account, was central to pre-state institutions of justice. Much of the progress made in improving the position of victims of crime is due to the recognition of their particular interest in the process and the resolution of their cases (Groenhuijsen, 2014).

The adversarial nature of the criminal justice process, with its inability or unwillingness to grasp the complexity of moral situations beyond an overtly simplistic stark black and white, wrong and right, blameworthy and blameless is connected to Christie's (1986) description of the '*ideal victim*' (see also Best, 1999). Christie described the ideal victim along the following lines: the victim is weak in relation to the offender – the '*ideal victim*' is likely to be either female, sick, very old or very young (or a combination of these); the victim is, if

not acting virtuously, then at least going about their legitimate, ordinary everyday business; the victim is blameless for what happened; the victim is unrelated to and does not know the ‘stranger’ who has committed the offence; and the offender is unambiguously big and bad (see also Dignan, 2005). Christie made the point that recognition of victim status is contingent on fitting the mould of the ideal victim, even though many – and in his view most, if not all- situations of victimisation are at odds with this stereotype. It is instead the type of situation for which the criminal justice system can present itself as the common sense remedy (Best, 1999).

*A particular clear demonstration of Christie’s insights:
International criminal justice*

A recent phenomenon that brings the folly of the criminal justice process’ obsession with finding out whom to blame and punish is international criminal justice (see in more detail Pemberton et al., 2015; Pemberton, Letschert, 2016). I am a good deal more supportive than Christie of retribution for the atrocities that are the remit of, for instance, the International Criminal Court in The Hague. This does not mean that I see much merit in the current practice of spending hundreds of millions of euro’s on largely unsuccessfully trying a few defendants, when their victims still languish without much recourse to necessary support and assistance. Nor am I swayed by the kind of argument that invokes an obligation to this end from the maxim that *justice must be done*. Instead the practice of international criminal justice brings into sharp relief the wisdom of Shklar’s (1963/1986) twin views that systems of justice are inherently limited, while justice is just one virtue to be pursued amongst others. That coming to terms with mass atrocities preferably should involve bringing those responsible to justice does not mean that this aim can trump other important ends, particularly given the scarcity of resources in these situations.

International criminal justice also illuminates the importance of understanding context. This entails rooting any reaction to transgressions within what is deemed appropriate in specific communities and cultures, and in doing so relying on the practical wisdom of those most intimately involved. This is not because international criminal justice embraces these views (Drumbl, 2007). To the contrary, the development of international criminal justice, in keeping with its nature as a close cousin of the human rights

framework, is largely underpinned by abstract, universal and purportedly rational principles from which it considers to draw a good deal of rhetorical force (Moyn, 2011, 2014). The legal institutions erected upon this foundation labour under the mistaken impressions that they are merely following a voice of universal reason and that their legitimacy can be derived from the fact that they supersede and are untainted by the dirty business of politics (Shklar 1963/1986; Moyn, 2013).

Unfortunately neither is true. As Christie already knew, systems of justice emerge as a corollary or a handmaiden of political choices and lack the ability to overcome true political obstacles (Hirschl, 2004). Moreover, the legitimacy of representative institutions - be they of justice or of politics - is a function of their identity with (the group values of) a particular political entity (see famously Mouffe, 2005; but also the research in procedural justice, Tyler, 2003), not their fidelity with abstract principles. Finally lurking under the referral to the universal voice of reason lies an emotionally charged narrative supporting the status quo (Bandes, 1996; Pemberton, 2016). The cloak of abstract rationality wears thin quickly upon closer inspection and its true nature as a means to silence other voices becomes readily apparent (Polletta, 2006). Each of these issues is evident in any empirical query into the experiences of those afflicted by international crimes. The word springing to mind in viewing the reality of current practices of international criminal justice is less likely to be justice than it is hypocrisy.

The issue of international crimes also serves to highlight the extent to which attempting to paint the reality of moral transgressions into strictly black or white colours will lead us astray. In international crimes many shades of grey can be found, such as the bystanders, the people forced to be complicit, like child soldiers, and/ or the victims who under forced famine or in concentration camps had no other recourse than to prey on others (see for these difficulties and the mechanisms underlying them Waller, 2007).

Each of these issues also apply to systems of justice at the national level. The lesser nature of much of the crimes committed, combined with the stronger sense of identity between the institution and the population it represents, reduces some of the tension between the talk of justice and the reality of experience, but it most definitely does not eliminate it. If one thing emerges from victimological research into justice processes this is surely it (Pemberton, 2015).

Nor does it provide ammunition against Christie's emphasis on community, context and the role of practical expertise. These parts are in fact central to the so-called *Perestrojka* movement, which seeks to reboot social science overall by invoking the Aristotelian virtue of *phonesis*, of practical wisdom in social and political affairs (Flyvbjerg, 2001; Flyvbjerg et al., 2012; for application to victimology see Pemberton, 2015; Pemberton, Aarten, forthcoming). Rather than abstracting from social situations in a search for the will-o-the-wisp of laws and universals to rival those found in the natural science, Flyvbjerg and his followers – including the author of this article – recommend social scientists to co-create wisdom in particular contexts with those who have an intimate and thick understanding of them.

Finally, the reality of many lived experiences of victimisation is that it does not reflect the stereotype of the ideal victim. Christie's view that failing to follow the plot that society sets out for victims of crime will often result in secondary victimisation has been borne out by numerous studies (Laxminarayan, 2013).

Framing the ideal victim

Reality over stereotypes

However, here also one of my first bones of contention arises. Christie may have been right in identifying the difficulties in the stereotypical description of the ideal victim, but in his rush to identify the culprit in the criminal justice system and the state and to offer an – in his view – more parsimonious description of "true" victims, he commits a number of errors. These mistakes distort what can be truly gleaned from his discovery.

First, he fails to notice that he ends up countering one stereotype – the ideal victim – with another. Instead van Dijk pronounced his depiction of the reality of victimisation as 'the ideal victim of restorative justice' (Pemberton, Winkel, Groenhuijsen, 2007). Not only is this stereotype at odds with the reality of many victims, but like the ideal victim itself, it is also the result of institutional or theoretical requirements. That the requirements in Christie's case are the more wholesome and positive values derived from restorative justice is beside the point. What matters is that they take precedence over victims' reality rather than the other way round.

This is an insight of great importance. One of the crucial features of the victimisation experience is that it can speak to power in a unique voice, one that might highlight the difficulties, dilemmas and failures that many of those wielding power are quick to pave over (Pemberton, 2015). As Shklar argued:

"Those who believe themselves to be on the receiving end of social evils have a distinctive perspective on society and a detailed or 'thick' view of social evils that political theories ignore at their peril." (Shklar, 1990: 122).

The pursuit of justice occurs in institutions that at once reflect a particular status quo, while they are also composed as a framework of a priori rules and solutions. The latter already implies that the pursuit of justice entails measuring the concrete situations of victims against rules, which cannot reflect their particular, idiosyncratic, contextual needs and desires. Indeed, as I wrote elsewhere:

"The reality of even our best laid plans for conceiving justice is that those bearing the brunt of life's most brutal features will often have good cause to consider them part of the problem, rather than part of the solution." (Pemberton, 2015: 45).

Both the ideal victim and the ideal victim of restorative justice function as means through which this radical feature of victim experience is silenced. Rather than unsettling our expectations about the extent to which justice can be done or injustice undone in a given situation, they offer – undeserved – complacency that this is so.

Generalizing the ideal victim

The stereotype of the ideal victim and the difficulties it poses for victims are but examples of more general phenomena. This is so in two ways. First, the ideal victim is an example of the type of shorthand for which Goffman (1973) coined the term 'frame' and which has subsequently become a mainstay of the communication (Entman, 1993, 2007) and social movement (Gamson, 1992; Benford, Snow, 2000) literature. As Entman (1993, 2007) shows, a successful frame offers a problem definition, a causal analysis, a moral judgement and remedy, preferably in one go. The simple and neat example of the ideal victim does so, but it is not the only generic description of victimisation

that has this quality (Pemberton, 2014). The gendered violence movement for instance has a different stereotype, in which the offender is no stranger, and the victim not weak but a *survivor*. This alternative has not prevented the clear-cut framing quality of the battered woman to be a regular feature of our media landscape in the past decades.

The adoption of frames in social movements as a means to not only communicate messages, but also maintain coherence within the group, already speaks to the extent to which counterexamples will be met with resistance and even hostility (Benford, Snow, 2000). In turn the extent to which the frame is bandied in media outlets also can convey a persuasive and/or normative message to individuals experiencing the phenomenon the frame intends to describe. Frames offer material for people to socially construct their own individual experience, while at the same time communicating to others that their experience does not meet the requirements of the frame (Best, 2008).

This general quality of frames is further compounded by the inherent ambivalence in the reaction to victims of crime (Loewenstein, Small, 2007). This ambivalence quite rapidly morphs into blaming and other negative reactions (Hafer, Begue, 2005). These negative reactions depend on more than following the stereotype of the ideal victim. Christie mistakenly assumed that, left to our own devices, our normal reaction to victims would be a sympathetic one, while in reality any positive reaction to victim experience has to compete with an inclination to negative reactions: distress, but disgust and revulsion as well. Christie's own example of the little old lady is nowhere near as endearing when she is the victim of violent sexual offence, than when her bag is snatched.

The research on the justice motive (Lerner, 1980; Hafer, Begue, 2005) already reveals the extent to which third parties seek and often find reasons to find fault in the victim's own behaviour, character and even appearance, for no other reason than that this rationalisation relieves the third party's own distress at the victim's situation. This is further compounded by the negative reactions to situations that are counter-normative. The example of the elderly rape victim is one element of a wider variety of situations in which either the experience itself, the victim's reaction and/ or the interaction with their features and characteristics runs counter to prevalent norms and values (Lens et al., 2014; Mulder, Pemberton, Vossen, forthcoming). In each case the ambivalence in the reaction to victims may quickly morph into the type of blaming reactions that van Dijk (2006) christened the Mark of Abel.

Misunderstanding community

The myth of restorative justice

The issue of framing is also apparent, albeit in a different way, in the location where Christie thought to find the root cause of our predicaments, i.e. in the state and its appropriation of 'conflicts'. Elsewhere I have already noted that I have labelled his understanding of the ways that our ancient predecessors or cultures different to his and my own deal with these situations as the "myth of restorative justice" (Pemberton, 2012). Akin to the myth of Barter in economics, it attempts to criticise the state by arguing that life before its emergence was both preferable to and more natural than what it is today (Graeber, 2011).

No doubt there is much to be learned from revisiting our history and from understanding the variety in cultural reactions to transgressions. But this learning should not be done by playing fast and loose with the facts or the relevant features involved in any case-to-case generalisation. That within small tight knit Maori communities restorative-like rituals might have been used for the most heinous crimes should give us pause for thought. However, that pause should also offer the reflection that *between* communities decidedly less peaceful means of conflict resolution were the normal modus operandi (e.g. Keeley, 1996). Similarly, it is true that throughout Nordic cultures of the middle ages practices of compensation for transgressions were found (Miller, 2006). It is also true that a direct translation to the current day and age is tantamount to the commission of an anachronism. We would have to forget first that money and other forms compensation meant something different then (e.g. Graeber, 2011), but more to the point that any form of adjudication was an extremely rare occurrence indeed, due to the relative lack of any functioning state apparatus to this end. Any justice here was likely to be the wild type of revenge (Miller, 2006), which is also the reason why homicide rates were hundredfold what they are today (Pinker, 2011). Both adjudication of crime and crime control are instead a consequence in the emergence of the state that for all its shortcomings is still much to be preferred to the decidedly Hobbesian state of affairs that preceded it (Keeley, 1996; Gat, 2006).

Libertarianism and ownership

To this I would like to add that I do not agree with Christie that reducing the roll of the state will allow communities to flourish. The evidence for the errors of this view has accumulated in the four decades following the publication of "*Conflicts as property*". The roll-back of the state in much of the Anglo-Saxon world has impoverished rather than supported communities (e.g. Putnam, 2000). It was the market, not the community that filled the newly opened space: the neo-liberal market societies familiar to many of us today are the result (Harvey, 2005; Peck, 2010). It is noteworthy that Christie's position in this regard is in many ways identical to the one that libertarian Randy Barnett articulated in 1977 as well, while it is decidedly at odds with the philosophers often labelled 'communitarians' (e.g. Kymlicka, 2002), like Sandel (1982), Walzer (1983), MacIntyre (1983) and Taylor (1989). For all of their differences, they juxtaposed community against an all too individualistic conception of humanity: not against the state. The issue of importance is the sense of connection between people, one that too atomistic forms of liberal thinking as well as similar approaches to social science (Bakan, 1966; Prilleltensky, 1994; Flyvbjerg, 2001) overlook or even deny.

A key element in the development of the neo-liberal market society is the pervasiveness of ownership as a defining quality of social life. Already in 1969, Macpherson warned of the development of possessive individualism, in which "market relations shape or permeate all social relationships" (Macpherson, 1969: 26). Bearing witness to this fact, Nobel-prizes in economics have subsequently been awarded to theorists who seek to reframe our intimate relationships with our spouses and our children in terms of market relationships (Becker, 1974). Prilleltensky shows the extent to which this view subsequently warps our understanding of the psychology of individuals (Prilleltensky, 1994).

Seen in this light, the notion of conflicts *as property* is not without its difficulties, which I find to deserve more extensive study than I can provide in this essay. Elsewhere my colleagues and I have argued that it is stories – indeed a particular type of stories, i.e. life narratives (McAdams, 1997) – that are the kernel, rather than 'conflict' (Pemberton, Aarten, Mulder, 2016). But even without this point, the question is whether *ownership* does justice to the relationship between victims (and offenders) in the event in question. Although the 'con-

flict' is undoubtedly their own, it strikes me as being relevantly different from a property they own. Ownership of property in the truest sense of the word also implies being able to dispense of the property at will, which is also due to its nature as being a thing separate to the person owning it. The memories, feelings and thoughts about the 'conflict' are however beyond the volitional control of the person in question. He or she cannot dispense with them by merely wishing to do so. The experience of victimisation comes fully into its own when the event has identity implications for the victim (Pemberton 2015, 2016). The victim *cares* about what happens, of which a necessary element is that he cannot, at will, fully separate himself from what happens (Frankfurt, 2004). In a nutshell I think that, though the 'conflict' may be stolen, the theft involves identity rather than possession.

Again the difference between libertarian and communitarian thinking is relevant here. Libertarians are prone to see ownership, including self-ownership, as the fundament to thinking about justice (Nozick, 1974). Instead communitarians see identity (Taylor, 1989) or identity relevant constructs such as relationships (Walzer, 1982) and self-narratives (MacIntyre, 1982) as key. For communitarians, the question "What should I do?" always involves a prior question, such as "What story do I find myself to be part of?"; "What relationships are relevant here?" or more generally "Who am I?". In turn my colleagues and I have argued that victimological perspectives on justice involve understanding first the damage incurred to identity, relationships and self-narratives, and to subsequently elaborate victims' sense of injustice using these dimensions (Pemberton, 2015; Pemberton, 2016; Pemberton et al., 2016).

Crime does exist

Elsewhere I have already noted my final point of disagreement (Pemberton et al., 2007; Pemberton, 2012). Christie extends his critique of the concept of crime to the famous catch-phrase 'crime does not exit', in keeping with his insistence that the acts under discussion are 'conflicts' that are of great value to those directly involved with them.

I find this concept to be at loggerheads with victimological reality. Victims of rape, of crimes against humanity, survivors of homicide victims experience what they went through as crime, as something that cannot be fully under-

stood without grasping its nature as wrongdoing, as a transgression of the key values and norms which form the fabric of communities and cultures (Duff, 2001; Pemberton, 2014, 2015). They are indeed public wrongs, not because the public interest should take precedence over those directly involved in them, but because it is the basic responsibility of any public bodies to provide a response to them. They form a central part of what philosopher Williams (2005) has called the '*basic legitimisation demand*' of any political order: fidelity to this demand is a requirement for any political order to function as such.

The latter is particularly true of victim experience: the criminal justice reaction always says something to them about their social worth, even when or in fact particularly when, no reaction at all is given (Pemberton, 2016). Part of the manner in which it speaks is through its choice of words. Here a difficulty arises: the same words that might smack of stigmatisation when viewed through the eyes of the offender are necessary components of the victim's experience. Foregoing their use is tantamount to the type of euphemistic speech that is often used to mask the perpetration of atrocities (Bandura, 1999; Waller, 2007): from the final solution to collateral damage, the history of mass victimisation is littered with examples of the twisting of language to conceal the reality of carnage (Kiernan, 2007). Doing away with the moral and indeed criminal nature of these occurrences can be defended, but should in honesty acknowledge that the position from which this occurs runs counter to the views of victims themselves. It is an instance of choosing the offender perspective in the so-called moralization gap (Baumeister, 1997), which refers to the radical differences in the ways victims and offenders construct narratives and reports of even the same events.

The same is true about the lengths to which Christie would go to redeem the humanity of offenders from any taint of evil. Of course the practice of almost permanently stigmatising people for an act or acts that should rightly be viewed as a misguided decision, a fluke of chance and/ or the consequences of external forces should be opposed, and vehemently so. We should always take care not to unnecessarily identify the sinner with his sins, and never rush to judgement as to the character of those involved in even the most heinous of crimes. Nevertheless, I think that Christie errs on the other side. Much of his understanding is located in his early career work with former (Nazi concentration) camp guards in the Second World War. As he summarised himself more than a half century later even there:

"I have worked with crime and punishment most my life, but never met a monster. I could not find them among killers in concentration camps, nor have I met any since." (Christie, 2004: 97).

Finding humanity even in the perpetrators of the most heinous mass murder in the history of mankind, in his view not only serves as a knock-down argument against those who wish to separate these perpetrators from the rest of the humanity, but also formed the nucleus of his motivation to change criminal justice for the better.

Against this I would like to quote in full a passage from Langer's "*Preempting the Holocaust*":

"Let me begin with a concrete detail, because I am convinced that all efforts to enter the dismal universe of the Holocaust must also start with an unbuffered collision with its starker crimes. Recently I was watching the testimony of a survivor of the Kovno ghetto. He spoke of the so-called Kinderaktion, when the Germans rounded up all the children (and many elderly) and took them to the nearby Ninth fort for execution. The witness was present in the room when an SS man entered and demanded from a mother the one-year-old infant she was holding in her arms. She refused to surrender it, so he seized the baby by its ankles and tore the body in two before the mother's eyes." (Langer, 1998: 2).

The issue is not whether the SS officer in question would seem like a monster when interviewed by a researcher a decade later or even that he has any enduring monster-like qualities, but rather that what occurred in that scene was monstrous and surely so from the mother's point of view. It should end any reasonable discussion about the existence of crime: anyone construing what happened here as 'conflict' has stretched the latter concept beyond any coherent meaning, even more so if it is something from which valuable lessons may be gleaned by any of those present. As Langer quotes another survivor:

"During large 'actions' things moved too fast. There was no question of burying the bodies; they were simply covered with sand, so you could no longer tell whether you were walking on bones that were old or recent. Everything happened so fast that you didn't even have time to see your mother or sister vanish. We were no longer capable of suffering, or of being scared or being surprised. Death is only frightening for the living. We hadn't been that for a long time." (Langer, 1998: 54).

The lesson of the Holocaust for victims was more often than not that they themselves perished as humans in the gray zone of the concentration camp (Levi, 1993). However, the Holocaust even calls into question what can actually be learned, even by those at a good deal of distance from the events. If the issue is what can be done to rectify the atrocities, to provide justice against these nadirs of injustice, then unfortunately it teaches the lesson of the inevitable failure of this endeavour (Pemberton, 2015; Pemberton, Letschert, 2016). The only alternative seems to lead us to wielding a bag of tricks from science, institutions or language to maintain the false pretence of a chance of success, such as the somehow comforting misreading of social-psychological experiments (anyone in the position of the SS man could have done the same), a willingness to forego any fidelity in reality to believe in a miracle through restorative and transitional justice processes (healing and closure is possible in mediation and conferencing) and the use of terminology that hides the depravity from view (it was conflict, not crime, the SS man was only an element of a 'killing machine'). Christie, albeit without knowing, chose the second path. For me instead "*The reality of dealing with large injustices is besotted with tragic questions and moral failures; incommensurable dilemma's which offer no hope of a neat, correct and replicable answer. Instead, here the best we can do involves the avoidance of as much manifest injustice as that can be mustered in a given and concrete situation*" (Pemberton, 2015: 43). The sad truth of victimology entails the realization that the greater the injustice visited on victims, the more a solution that might repair the damage is needed, but the less likely that this is feasible. Trying to find out what nevertheless can and should be done in these situations is, I find, the most important task for victimologists.

Final remarks

To my mind Christie's first great contribution to victimology lies in his steadfast and critical analysis of criminal justice institutions and practices, which otherwise might have been taken for granted. His second great contribution is that this criticism needs to start with a clear understanding of the reality, not the stereotype, of victimisation.

Doing the latter has led me and my colleagues to understand the importance of the identity implications of victimisation and in its wake the impor-

tance of narrative to victim experience. It has also emphasised the importance of the morality of victim experience: that what happened is wrong and - where relevant - is crime. It is also fundamentally idiosyncratic: nested in the victims' own context and fuelled by his or her own feelings and emotions. As I wrote elsewhere: "*Nobody is raped, beaten, oppressed, or murdered in abstract: the essence of experiencing this first-hand lies in the impossibility of escaping into abstraction*" (Pemberton, 2015: 11).

But this also has implications for the extent to which the virtue of justice can be aligned with meeting victims' needs. Justice by nature seeks to counter arbitrariness and ensure predictability, and does so by claiming to be universal, impartial, impersonal and rational. However, this excludes much of what makes up the reality of the experience of victimization, as Shklar (1963/1986; 1990) already knew. In line with this, I maintained elsewhere that undoing injustice and doing justice are two separate aims (Pemberton, 2015).

In turn this means that where Christie's criticism of criminal justice was one of the birthplaces of restorative justice, his criticism contains the material to position restoration *against* justice. Is it more important to treat similar cases in a similar fashion, or to deal with the idiosyncrasies of each case accordingly? It is a sad thought that I will never be able to put this question to him, and never learn whether he would still call me a 'dangerous victimologist' then.

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ANTONY PEMBERTON

Opasna viktimalogija: Lekcije koje sam naučio od Nils Christie-a

U ovom radu se najpre analiziraju ključni koncepti proistekli iz viktimaloški orijetisanog rada Nils Christie-a, izvučeni iz njegovih radova *Konflikti kao svojina* (1977) i *Idealna žrtva* (1986). Na primeru međunarodnog krivičnopravnog sistema, prikazan je trajni značaj Christie-vih saznanja za viktimalogiju. Nakon toga, u radu je predstavljena trostruka kritika rada Nils Christie-a. Najpre je stereotip o idealnoj žrtvi analiziran iz perspektive literature o motivu pravičnosti i fenomenu uokviravanja. Potom se stavlja Nils Christie-a o ulozi države, predstavljeni u radu *Konflikti kao svojina*, analiziraju naspram okvira slobodarske i komunitarističke teorije političke filozofije. Treće, primenom viktimaloške perspektive pobija se njegovo shvatanje da „zločin ne postoji“.

Ključne reči: viktimalogija, restorativna pravda, teorija pravednog sveta, komunitarizam, postavljanje okvira.

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Kako efikasno obeštetiti žrtvu terorizma: Poređenje srpskog i izraelskog rešenja

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Uradu se ispituju dva modela obeštećenja žrtava: građanskopravnog i upravno-pravnog (odšteta iz javnih fondova), sa ciljem upoređivanja njihove delotvornosti. Poređena su zakonodavstva Srbije i Izraela. U Srbiji je propisan poseban pravni osnov za naknadu štete od države. Naknadu celokupne štete može tražiti fizičko lice za slučaj smrti, telesne povrede ili uništenja imovine. Retko se dosuđuju takvi zahtevi. U Izraelu se iz posebnih fondova efikasno isplaćuje limitirana odšteta žrtvama neprijateljskih aktivnosti za slučaj smrti, telesne povrede ili štete na imovini. Izrael posebno nadoknađuje imovinske štete koje trpe privredni subjekti na području na kome postoji rizik od terorizma. Ovakvo rešenje smatra se efikasnijim jer delotvornije štiti interes žrtava.

Ključne reči: terorizam, zločin, žrtve, naknada štete, Srbija, Izrael.

Uvod

Delotvorno zbrinjavanje žrtava i obezbeđenje prava na naknadu štete naročito je važno u slučajevima terorizma zbog specifičnih okolnosti pod kojima dolazi do viktimizacije. Reč je, po pravilu, o kolektivnoj viktimizaciji onih koje drugi građani doživljavaju kao „idealne“ nedužne žrtve političkog

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nasilja, u smislu definicije koju daje Nils Christie (navedeno prema Lindgren, Nikolić-Ristanović, 2011: 21-22). Upravo zbog toga teroristički akt snažno utiče na građane koji zbuljeni, anksiozni, neobavešteni, uz osećaj bespomoćnosti trpe dugotrajne štetne posledice na psihološkom planu, strahujući od nepoznatog neprijatelja koji može da se krije iza prijateljskog lica ljubaznog prolaznika ili komšije (Zimbardo, 2006). Ta okolnost i masovnost žrtava terorizma, uz činjenicu da se aktom terorizma pričinjavaju iznenadne i velike štete, zahteva da se u svakoj državi naročita pažnja usmeri na izgradnju delotvornog modela pomoći i podrške žrtvama, uključujući tu i ostvarivanje prava na naknadu štete. Upravo je predmet ovog rada ispitivanje prednosti i nedostataka primene dva tipična modela za naknadu štete žrtvama terorizma: građanskopravnog i upravnopravnog, sa ciljem da se ustanove prednosti i nedostaci svakog od njih.

Kao i druge žrtve krivičnih dela, tako se i žrtve terorizma štite posteriorno, pošto su već viktimizirane. Zaštita se ispoljava u ostvarenju njihovih prava na pomoć, podršku i naknadu štete. Dosadašnje aktivnosti Organizacije ujedinjenih nacija (OUN), Saveta Evrope (SE) i Evropske unije (EU), usmerene na poboljšanje pravnog statusa žrtava krivičnih dela u okviru krivičnopravnog sistema i obezbeđenje njihovog jednakog položaja, rezultirale su od sedamdesetih godina prošlog veka donošenjem niza dokumenata u kojima su proglašena prava žrtava i date smernice za razvoj nacionalnih zakonodavstava i rad državnih organa. Međutim, aktivnosti međunarodnih organizacija usmeravaju se posebno na položaj žrtava terorizma posle terorističkog napada 11. septembra 2001. na Sjedinjene Američke Države (SAD) kada je postalo očigledno da međunarodni terorizam predstavlja pojavu kojoj se organizovano mora suprotstaviti celo čovečanstvo. Potreba da se razviju nacionalni sistemi pomoći i podrške žrtvama terorizma i članovima njihovih porodica istaknuta je u Globalnoj strategiji OUN protiv terorizma iz 2006. godine (A/RES/60/288). Efikasna prevencija terorizma i potreba zaštite žrtava nametnula se kao prioritet i među evropskim državama, koje od 2000. godine sve češće postaju meta terorističkih napada radikalnih islamskih pokreta. U tom domenu od posebnog značaja je primena Evropske konvencije o naknadi štete žrtvama nasilja (CETS no. 116, 1983), Strazburške Konvencije SE o suzbijanju terorizma (CETS no. 090) i Varšavske Konvencije o sprečavanju terorizma (CETS no. 196). Na naknadu štete žrtvama prekograničnog terorizma se posebno odnose smernice Evropske komisije o naknadi štete žrtvama krivičnih dela (Green Paper,

2001) i na tom osnovu kasnije doneta Direktiva Evropskog saveta 2004/80/EC od 29. aprila 2004. godine. Direktiva je naročito značajna, jer je imala za cilj da se uspostavi delotvorna saradnja između država članica EU radi prevencije kriminaliteta i zaštite žrtava, a naročito da se podstakne ostvarivanje njihovog jednakog položaja bilo gde na prostoru Unije u pogledu priznavanja i ostvarenja prava na naknadu štete pričinjene umišljajno učinjenim krivičnim delima. Sistem međusobne saradnje država uspostavljen je od 1. januara 2006. godine. Pored toga, nacionalna udruženja žrtava terorizma u državama članicama Evropske unije povezana su u Evropsku mrežu sa ciljem da se pravovremeno obezbedi pomoć i podrška žrtvama terorizma i članovima njihovih porodica i da se utiče na aktivnosti tela Unije u tom pravcu.

Uporednopravna istraživanja pokazuju da članice SE na različite načine regulišu pravo žrtava terorizma na naknadu štete: kroz tradicionalne mehanizme odštetnog prava ili iz naročitih javnih fondova namenjenih odšteti žrtvama nasilja. Koncept obeštećenja žrtava krivičnih dela iz javnih fondova dobro je razvijen u anglo-američkim pravnim sistemima još od sedamdesetih godina prošlog veka, sa jasnim kriminalno-političkim razlogom da se građani motivišu da sarađuju sa državnim organima na prijavljivanju i sprečavanju krivičnih dela sa elementom nasilja (Mrvić Petrović, 2000; Mrvić Petrović, Ćirić, 2013: 215-216). Taj cilj se, u programima razvijenim u zemljama koje pripadaju evropskom kulturnom prostoru, dopunjuje zahtevom za zaštitom ljudskih prava i moralnim razlogom, jer se obeštećenjem postiže brzo i pravčno obeštećenje i simbolično izražava solidarnost sa žrtvama (Mrvić Petrović, Ćirić, 2013: 216-218). U skladu sa potrebama obezbeđenja bezbednosti i slobode kretanja na prostoru EU i povećanim rizicima od terorističkih napada, postaje očigledno da je i u zemljama kontinentalnog evropskog pravnog sistema, u kojima je, tradicionalno, dobro razvijen mehanizam građansko-pravne naknade štete i socijalnih usluga koje se pružaju nemoćnim članovima društva, neophodno dopunski uspostaviti javne fondove radi naknade štete žrtvama krivičnih dela. Kako se povećava broj terorističkih napada u Evropi, tako se i članice SE sve češće odlučuju na donošenje posebnih zakona kojima regulišu položaj žrtava terorizma, kako je to već učinjeno u Francuskoj, Italiji, Španiji, Grčkoj, Rusiji, Turskoj, Ukrajini i Severnoj Irskoj (Albrecht, Kilchling, 2005). Sudeći po tome, postoji potreba da se, pored klasične deliktne tužbe za naknadu štete u korist žrtve, omogući brzo obeštećenje iz javnih fondova. Zbog toga se u ovom radu poredi delotvornost dva modela (građanskoprav-

nog i upravnopravnog), pri čemu građanskopravni model reprezentuje zakonodavstvo Srbije, a upravnopravni – zakonodavstvo Izraela. Srbija je izabrana zato što žrtve terorizma mogu pod posebnim uslovima ostvarivati pravo na naknadu štete od države. Sa druge strane, Izrael je zemlja koja se od svog nastanka suočava sa izazovima ratnih sukoba i terorizma, pa se može očekivati da su u njoj delotvorno primenjena pragmatična rešenja radi brze pomoći i obeštećenja žrtava.

Naučna i stručna javnost već je dobro upoznata sa osnovnim karakteristikama programa naknade štete žrtvama krivičnih dela koji se primenjuju u anglo-saksonском правном систему (Mrvić Petrović, 2000, 2003), ali bi trebalo da sazna i za dobar primer Izraela jer bi se po ugledu na taj model mogao unaprediti sistem zaštite žrtava krivičnih dela (uključujući tu i žrtve terorizma).

Primer Srbije – poseban osnov za tužbu protiv države radi naknade štete

Prema zakonodavstvu Republike Srbije, žrtve terorizma imaju ista prava u okviru krivičnopravnog sistema i u parničnom postupku kao i ostali oštećeni krivičnim delom. Dostignuti nivo građanskopravne zaštite žrtava krivičnih dela može oceniti adekvatnim, s obzirom na to da se priznaje naknada imovinske i neimovinske štete (Mrvić Petrović, 2012: 54-55). Pored opštih pravila po kojima se u svakom slučaju procenjuje odgovornost štetnika ili odgovornog lica za štetu prema Zakonu o obligacionim odnosima Republike Srbije iz 1978. godine¹ (dalje ZOO) u članu 180 je propisan poseban (*sui generis*) pravni osnov za naknadu štete od države ako je šteta prouzrokovana aktima nasilja i terora ili tokom javnih manifestacija i demonstracija. Po posebnom pravnom osnovu pravo na naknadu štete ima, isključivo, oštećeno fizičko lice. Odgovornost države čiji su organi po važećim propisima bili dužni da takvu štetu spreče bila je ograničena, najpre, na štete usled smrti ili telesne povrede, a tek posle nasilnih protesta Albanaca na SAO Kosovu 1981. godine, izmenama ZOO iz 1985. godine primena člana 180 proširena je i na štete koje se ispoljavaju u vidu oštećenja, odnosno uništenja imovine

¹ Službeni list SFRJ, br. 29/78, 39/85, 45/89 – odluka USJ I 57/89, Službeni list SRJ, br. 31/9, Službeni list SCG br. 1/2003 – Ustavna povelja.

fizičkog lica, s tim što je bila omogućena retroaktivna primena te odredbe. Očigledni politički razlog bio je da se na taj način potpunije zaštite interesi žrtava takvih protivdržavnih protesta, što su najčešće bili Srbi.

S obzirom na to da u članu 180, st. 1 nije bliže definisano šta se ima smatrati pod „aktima nasilja i terora”, u teoriji kao i u sudskoj praksi, prihvaćeno je da štetna radnja (bilo da predstavlja akt nasilja, terora ili je preduzeta na javnoj demonstraciji ili manifestaciji), mora biti učinjena iz političkih pobuda (Tomić, 1982: 120; Mrvić Petrović, 2002). Prema tome, država mora biti prioritetna meta takvih nasilnih političkih aktivnosti, dok građani stradaju kao „kolateralna šteta”.

Ratio legis posebne odgovornosti države za štete usled akata nasilja i terorizma proizilazi iz obaveze države da štiti svoju suverenost i teritorijalni integritet i, s tim u vezi, bezbednost građana i njihova ustavom i prihvaćenim međunarodnim aktima garantovana prava (Stanišić, 2012: 348). Odgovornost države se zasniva nezavisno od činjenice da li je bilo propusta u radu državnih organa na sprečavanju terorizma ili ne. To što država odgovara bez obzira na krivicu svojih organa tužioca stavlja u povoljniji položaj u parničnom postupku, jer je dovoljno da on dokaže da štetu trpi usled nasilja ili terorističkog akta, koji su određeni državni organi bili dužni da spreče. Šteta usled terorističkog akta podrazumeva svaku štetu, kako neposredno uzrokovano terorističkim aktom tako i onu koja je nastala u sklopu odbrambenih aktivnosti nadležnih državnih organa (na primer, ranjavanje ili pogibija slučajnog prolaznika prilikom razmene vatre između državnih organa i terorista, ili talaca koje teroristi koriste kao „živi štit” i slično). Pravo na naknadu ima kako onaj ko neposredno trpi štetne posledice, kao i posredne žrtve (članovi porodice i lica koja je izdržavao ranjeni ili pokojni). Država se svoje odgovornosti ne može oslobođiti, osim ako dokaže da je šteta pričinjena radnjama koje se ne smatraju aktima nasilja i terora, da nisu usmerene protiv ustavnog poretka ili da državni organi po posebnim propisima nisu bili dužni da sprečavaju takve štete.

Iz prava na naknadu štete isključeni su, po članu 180, stav 2 ZOO, organizatori, učesnici, podstrekači i pomagači u aktima nasilja ili terora, a država, koja plaća naknadu oštećenim, ima pravo da se regresira od izvršilaca terorističkih akata koji su štetu prouzrokovali (ZOO, čl. 180, st. 3).

Žrtva ostvaruje pravo na naknadu pretrpljene štete – kako materijalne, tako i nematerijalne, čiji se vidovi priznaju pod opštim uslovima ZOO. Naknada se određuje prema okolnostima konkretnog slučaja, shodno tzv. kompenzatornom načelu, tako da odgovara visini celokupne pretrpljene šte-

te. Sudeći po tome, normativni okvir je dobar i potpun, s obzirom na obim priznatih prava i *sui generis* uspostavljen osnov odgovornosti države koji pogoduje žrtvama političkog nasilja.

Primedbe koje se mogu staviti postojećem zakonskom rešenju tiču se okolnosti da se član 180 ZOO odnosi isključivo na fizička lica oštećena aktima političkog nasilja. Zbog toga se u teoriji (Stanišić, 2012: 352) predlaže izmena po kojoj bi pravna lica mogla da nadoknađuju štete po istom osnovu, što je prihvaćeno u članu 336 Prednacrta Građanskog zakonika Republike Srbije (2015)². Predlog je motivisan razlozima pravičnosti i iskustvom iz ranijih godina da pravna lica nisu mogla lako da podnesu teret ogromnih imovinskih šteta koje su im bile pričinjene ne samo aktima političkog nasilja i terora, nego i pri javnim manifestacijama i političkim demonstracijama. Međutim, takav predlog se sukobljava sa društvenom stvarnošću. Naime, država teško može da podnese teret jačeg materijalnog obavezivanja, pa se može očekivati da će zbog toga postojati tendencija odugovlačenja sa sudskim ili izvršnim postupcima, čak i kada pravna lica dokažu da su štetu pretrpela političkim nasiljem. Štaviše, čak i da se ostane na postojećem rešenju, primeri Hrvatske i kantona Republike Srpske u Bosni i Hercegovini pokazuju da su slične odredbe ukinute u njihovim zakonodavstvima upravo zato što su nedostajala materijalna sredstva za isplatu naknada po osnovu člana 180 masovno podnetih zahteva građana koji su pretrpeli štete u građanskom ratu vođenom na teritorijama republike nekadašnje Socijalističke Federativne Republike Jugoslavije.

Osim iznetog argumenta, u prilog rešenju po kome šteta na imovini ne bi trebalo da bude priznata po osnovu člana 180 govori činjenica da se u takvim slučajevima naknada efikasnije može obezbediti kroz ustanovu osiguranja. Rizici od terorizma nisu uvek prihvatljivi za osiguranje pošto se teže pokrivaju, jer u slučaju ostvarenja pogađaju sve objekte i lica na užem području, kao i u drugim slučajevima katastrofalnih događaja, na primer atomskih nesreća ili rizika zemljotresa (Mrkšić, Petrović, Ivančević, 2014: 142). Ipak, teroristički napadi na SAD 11. septembra 2001. godine uticali su na to da se vrlo brzo pripremi izveštaj Kongresu u kome se ispituju mogućnosti obeštećenja kroz osiguranje (King, 2002). Taj primer su sledile i ostale zemlje. Da bi lakše podneli teret velikih finansijskih obaveza, nemački osiguravači su se udružili u društvo *Extremus*, specijalizovano za rizike imovinskih šteta od terorizma, pri čemu se

² Dostupno na: <http://www.propisi.com/prednacrt-gradjanskog-zakonika-republike-srbije.html>, stranici pristupljeno 19.2.2016.

država javlja kao reosiguravač. Takođe, Organizacija za ekonomsku saradnju i razvoj (OECD) je od 2012. godine razvila Međunarodnu E-platformu za ekonomsku zaštitu od terorizma, u okviru koje su istaknuti primeri dobri prakse u oblasti osiguranja (uključujući tu i primer Izraela).³

Da li se odredba člana 180 ZOO bar u odnosu na fizička lica delotvorno primenjuje u praksi? Sudeći prema primerima iz sudske prakse, većinom se podneti zahtevi oštećenih odbacuju ili odbijaju. Razlog je taj što žrtva mora dokazati protivustavni karakter nasilnog čina zbog kog trpi štetu, a taj dokaz se mora temeljiti na rezultatima zvaničnog predistražnog ili krivičnog postupka koji preduzimaju nadležni državni organi. Ne može se očekivati da takve podatke, koji obično predstavljaju državnu tajnu, državni organi učine dostupnim oštećenom građaninu kako bi on mogao da pokrene parnicu protiv države. Naročito se to odnosi na podatke iz predistražnog postupka. Prema tome, ako nije vođen krivični postupak prema teroristi (zato što nije uhvaćen ili je poginuo) oštećeni nema načina da obezbedi dokaz da je štetu pretrpeo usled terorističkog akta. Zato nema izgleda na uspeh u parnici, jer se član 180 ZOO ne primenjuje na „obična“ krivična dela sa elementom nasilja koja nisu izvršena iz političkog motiva ili taj motiv nije pouzdano utvrđen, iako je delo izvršeno na način sličan terorističkom aktu (npr. korišćenjem opšteopasnog sredstva) pri čemu oštećeni strada kao nedužni posmatrač.

Čak i u idealnom slučaju kada oštećeni raspolaže svim potrebnim dokazima, ostvarenju prava na naknadu štete prethodi skup i dugačak sudske i izvršni postupak. Imovinsko stanje oštećenom neće uvek dozvoliti da može angažovati advokata i snositi troškove sudskog postupka, a dostupnost prava iz socijalnog i zdravstvenog osiguranja ublažava potrebe za građanskopravnom naknadom štete (van Boom, 2006: 290-291). Zato, dajući prednost upravnom režimu obeštećenja iz javnih fondova, van Boom opravdano tvrdi da tužba radi naknade štete ima sličnosti sa lutrijom: nije izvesno hoće li žrtva podneti zahtev, a ako ga podnese, hoće li ga ostvariti (van Boom, 2006: 291).

Tačnost iznetih argumenata potvrđuje stanje u praksi u Republici Srbiji. Naime, oštećeni koji većinom ispunjavaju uslove da ostvaruju usluge iz oblasti zdravstvene, invalidske i socijalne zaštite (bez obzira na njihov relativno nizak nivo) nisu motivisani da pokreću parnice protiv države, a većinom ne bi ni imali izgleda na uspeh u sporu. Štete onih koji stradaju kao žrtve nasi-

³ International E-Platform on Terrorism Risk Insurance. Dostupno na: <http://www.oecd.org/finance/insurance/terrorism-risk-insurance.htm>, stranici pristupljeno 28.5.2016.

Ija, ako učinilac nije pronađen ili je insolventan, ostaju nenadoknađene, osim ako oštećeni nije bio dobrovoljno osiguran od odgovarajućih rizika (što je retkost, s obzirom na ekonomsku situaciju i nizak nivo kulture osiguranja). Ako se mehanizmi odštetnog prava ne koriste u praksi, onda se može pretpostaviti da se žrtve krivičnih dela sa elementom nasilja zadovoljavaju uslugama državnog zdravstvenog i socijalnog osiguranja, koje koristi većina građana u Srbiji.

U Srbiji nije organizovan poseban sistem zbrinjavanja, pomoći i zaštite žrtava krivičnih dela. Pažnja društva usmerava se uglavnom na žrtve porodičnog nasilja i trgovine ljudima. Akcionala kriminološka istraživanja porodičnog nasilja u Srbiji (na primer, Nikolić-Ristanović, 2002) i aktivnosti nevladinih sektora na zaštiti žena i dece žrtava nasilja doprineli su da društvo prepozna potrebu sprečavanja te vrste kriminaliteta i zaštite žrtava. Od 2012. godine postoji poseban Centar za zaštitu žrtava trgovine ljudima⁴ koji deluje u okviru sistema socijalne zaštite. Nevladine organizacije sve češće pružaju različite socijalne usluge žrtvama pojedinih vrsta krivičnih dela, ali podršku svim žrtvama kriminaliteta za sada pruža jedino Viktimološko društvo Srbije kroz službu *VDS info i podrška žrtvama*. Ta služba bi bila kadra da pruži podršku i žrtvama terorizma u slučaju potrebe, ali bi svakako bilo delotvornije da postoji centar koji bi koordinisao aktivnosti različitih subjekata (nevladinih organizacija, sektora za vanredne situacije MUP-a Srbije, zdravstvenih ustanova, centara za socijalni rad i drugih) na zbrinjavanju, pomoći i podršci žrtvama terorizma. Za sada takve koordinacije nema i opravdano je posumnjati da li bi u vanrednoj situaciji izazvanoj terorističkim napadom bilo moguće delotvorno žrtvama terorizma pružiti različite vidove zaštite, usluga i pomoći.

Prema tome, neophodno je jačati saradnju države i nevladinog sektora na uspostavljanju organizovanog sistema pomoći, podrške i zaštite žrtava (posebno žrtava nasilja i terorizma), u skladu sa smernicama iz Preporuke Komiteta ministara Evrope o pomoći žrtvama kriminaliteta – Rec (2006)⁸ i Direktivom EU o uspostavljanju minimalnih standarda o pravima, podršci i zaštiti žrtava krivičnih dela iz 2012. godine. Neophodno je u narednom periodu stvoriti uslove za primenu minimalnih standarda za sve žrtve krivičnih dela propisanih Direktivom EU iz 2012. godine, koji uključuju i njihova prava na zaštitu, podršku i pomoć. Međutim, to nije dovoljno: još 2008. je formulisan Predlog preporuka EU za pomoć žrtvama terorističkih akata,

⁴ Centar za zaštitu žrtava trgovine ljudima. Dostupno na: <http://www.centarztlj.rs/>, stranici pristupljeno 6.7.2016.

koji je jednim delom uvršćen u noviji Predlog Direktive o sprečavanju terorizma iz 2015. godine. U toj Direktivi je u poglavljiju V regulisana zaštita i pomoć žrtvama terorizma, te će države članice EU koje već primenjuju minimalne standarde zaštite prava žrtava morati po usvajanju Direktive da razviju kapacitete i organizacione strukture kako bi obezbedile specifičnu podršku, pravnu, finansijsku i drugu pomoć žrtvama terorizma. Za prihvatanje takvih obaveza mora se postepeno pripremati i Srbija. Jedan početni, ali važan korak koji vodi u tom pravcu jeste uspostavljanje programa naknade iz javnih fondova za žrtve nasilja (uključujući tu i žrtve terorizma).

Kako se vidi, primenom člana 180 ZOO žrtve terorizma ne mogu brzo dobiti naknadu štete, jer svoje pravo moraju da ostvaruju u sudskom postupku. Zbog toga se čini da bi bilo korisnije omogućiti žrtvama terorizma, kao i svim drugim žrtvama krivičnih dela sa elementom nasilja, da iz naročitog Garantnog fonda ostvare pravo na novčanu naknadu u limitiranim iznosima prema vrstama pretrpljene štete i to supsidijarno, ukoliko nema načina da se šteta naknadi od štetnika koji je ostao nepoznat, poginuo je ili je insolventan. U prilog takvom rešenju zalažu se teoretičari već niz godina (Mrvić Petrović, 2002; Mrvić Petrović, 2003; Mrvić Petrović, Ćirić, 2013) a takođe i sudije i tužoci (Pravo žrtve na kompenzaciju, 2011: 7). Iz Garantnog fonda bi bila isplaćivana naknada jedino za slučaj smrti ili teške telesne povrede, s tim da se, prema smernicama Evropske komisije iz 2001. može razmotriti davanje potpore izdržavanim članovima porodice poginulog lica, ukoliko ne mogu da ostvare pravo na porodičnu penziju po opštim pravilima. Takvo rešenje moglo bi biti delotvornije, jer bi se obeštećenje određivalo u upravnom postupku. Ono je i pravičnije, jer treba da se odnosi kako na žrtve terorizma, tako i na nedužne žrtve svakog nasilja (u statusu tzv. „posmatrača“), kao i na one koji, pomažući aktivnosti državnih organa, stradaju suprotstavljajući se nasilju (u ulozi „dobrih Samarićana“). Na žalost, baš u pogledu odredbi o državnom obeštećenju, Srbija je stavila rezerve prilikom ratifikacije Konvencije Saveta Evrope o sprečavanju i borbi protiv nasilja nad ženama i nasilja u porodici iz 2013. godine (tzv. Istanbulska konvencija).

Primer Izraela – naknada iz javnih fondova

U Izraelu je posebni pravni režim za naknadu šteta usled terorizma uspostavljen u sklopu sistema koji se još od 1941. razvija radi naknade šteta žrtvama rata i vojnih sukoba. Zbog toga se ne pravi razlika između žrtava rata i terorizma. Pravni okvir čine dva propisa: jedan je Zakon o pravima (penzionim) žrtava neprijateljskih akcija (VHAP)⁵ iz 1970. godine, a drugi Zakon o porezima i fondu za naknadu štete (PTCF)⁶ iz 1961. godine. VHAP garantiše prava na naknadu štete za slučaj telesne povrede ili smrti nastale kao posledica ratnih dejstava ili terorističkih napada. Korisnici prava su telesno povređena lica ili članovi porodice poginulih, pod uslovom da su stradali od neprijateljskih aktivnosti, bilo da su štetu pretrpeli kao pripadnici oružanih snaga ili je reč o civilnim žrtvama terorizma. Politički razlog za izjednačenje civila i pripadnika oružanih snaga u pravima na odštetu je jasan. Država Izrael prihvata obavezu zaštite građana koji žive u takvim uslovima da je svaki od njih potencijalna meta neprijatelja, pa samim tim, iako ne svojom voljom, predstavljaju izraelskog „vojnika“ (Sommer, 2003: 339). Zakon ne precizira šta je „neprijateljsko“ delovanje koje mora biti uzrok štete. U teoriji i praksi prihvaćeno je da su to neposredna ratna dejstva stranih vojnih, regularnih, polu-regularnih ili neregularnih snaga i terorističke akcije protiv države Izrael, a posredno se sa neprijateljskim delovanjem dovode u vezu i štete koje su nemamerno pričinjene žrtvama tokom odbrambenih aktivnosti koje preduzima država Izrael (Albrecht, Kilchling, 2005: 17). Slično kao i u pravu Republike Srbije, organizatori, teroristi i drugi izvršioci „neprijateljskih“ aktivnosti su isključeni iz prava na naknadu. Zaštita što šireg kruga žrtava postignuta je zakonom ustanovljenom pretpostavkom uzročnosti, jer se smatra da je šteta uvek nastala neprijateljskom akcijom, ako se to može zaključiti po okolnostima slučaja, osim ako se suprotno ne dokaže (Sommer, 2003: 339; Monti, 2005: 281). U slučaju šteta izazvanih terorizmom, karakter „neprijateljske“ aktivnosti uobičajeno se dokazuje pripadnošću učinioca određenoj terorističkoj organizaciji. Međutim, sudski slučaj *Coca v. the Approving Authority* pokazuje da se čak i u odsustvu tog kriterijuma, može neprijateljskim smatrati ubistvo pojedinca koje je motivisano nacionalnom mržnjom, jer se na

⁵ Victims of Hostile Action (Pensions) Law (VHAP), 5730-1970, 24 Laws of the State of Israel (LSI) 131 (5730-1969/70).

⁶ Property Tax and Compensation Fund Law, 5721-1961, 15 LSI 101 (1960/61).

taj način, u suštini propagiraju ciljevi neprijateljskih terorističkih organizacija (Sommer, 2003: 341).⁷ Takvim širim tumačenjem, standard „neprijateljske“ aktivnosti u sudskej praksi „odškrinuo je vrata“ da se sve češće Palestinci javljaju kao podnosioci zahteva zbog toga što su bili žrtve nacionalistički motivisanog nasilja Jevreja (Sommer, 2003: 341).

Pravo na naknadu od države za slučaj telesne povrede ili smrти po osnovu VHAP imaju kako domaći državljeni, tako i stranci zaposleni u izraelskim preduzećima ili turisti (Sommer, 2003: 341). Pravo na obeštećenje ostvaruje se u sklopu organizovanog sistema brze podrške i pomoći žrtvama. Već u roku od 24 sata posle nastanka štetnog događaja socijalne službe kontaktiraju porodicu žrtve i upućuju je na usluge Nacionalnog instituta za osiguranje. U okviru Instituta deluje Odeljenje za pomoć žrtvama neprijateljskih akcija koje čine zaposleni socijalni radnici ili lica sličnih profesija. Odeljenje pomaže povređenom ili porodici poginulih u kriznoj situaciji, obezbeđuje psihološku podršku, preliminarnu finansijsku pomoć i troškove sahrane. Zahvaljujući razvijenoj praksi, odmah se uspostavlja saradnja sa medicinskim ustanovama, tako da se brzo pruža psihološki tretman žrtvama i neophodna medicinska pomoć. Odšteta, pre svega, podrazumeva naknadu troškova lečenja (boravka u bolnici, medicinskih intervencija, lekova, medicinske rehabilitacije, po potrebi i lečenja u inostranstvu). Pored toga, žrtve imaju pravo na naknadu za tuđu negu i pomoć, za neophodne kasnije terapije, medicinska pomagala i vozila za invalide, specijalno opremanje kuće za slepe ili nepokretne, naknadu troškova telefonskih razgovora, odeće, stipendije za redovno školovanje dece i poreske olakšice (Israel – Government Support, 2014). Kada je kao posledica povrede nastala radna nesposobnost, oni koji su bili zaposleni pre nesreće mogu neograničeno dugo uživati pravo na naknadu izgubljene zarade (limitirano do iznosa od najviše pet prosečnih plata), dok oni koji nisu radili ostvaruju pravo na relativno niske naknade koje odgovaraju prosečnim zaradama u Izraelu (Letschert, Ammerlaan, 2009: 236-237). Članovi porodice poginulog (bračni drug, deca, roditelji) mogu ostvariti pravo na materijalnu potporu usled gubitka izdržavanja, pod uslovom da po drugom osnovu nisu korisnici porodične penzije. Ta potpora se određuje procentualno od iznosa najniže zarade. Članovi porodice takođe imaju pravo na naknadu troškova za

⁷ U konkretnom slučaju Palestinac (muška prostitutka) ubio je mušteriju Jevrejina i oduzeo mu stvari. Iako su okolnosti ukazivale na ubistvo iz koristoljublja, Sud je stao na stanovište da je ubistvo bilo politički motivisano i taj akt je podveo pod kategoriju „neprijateljskog“, priznajući rodbini ubijenog pravo na naknadu iz državnog fonda.

psihološku pomoć, pomoć u kući, finansijsku pomoć (radi plaćanja lekarskih usluga, pokretanja poslovne delatnosti, nabavku motornog vozila, školovanja) i slično (Letschert, Ammerlan, 2009: 237).

Imovinske štete koje pretrpe domaćinstva, privrednici ili preduzeća usled rata ili terorističkih napada nadoknađuju se kroz ustanovu osiguranja na osnovu PTCF. Učestali oružani sukobi u kojima je učestvovala država Izrael i teroristički napadi na njenu teritoriju (uključujući i raketne) uslovljavali su stalnu potrebu da se unapređuje ustanova osiguranja, kojom se nadoknađuju stvarne štete i izgubljena dobit usled neprijateljskih aktivnosti u domaćinstvima, privredi ili turizmu na određenim rizičnim područjima. Obim tog područja određuje *ad hoc* propisom ministarstvo nadležno za finansije. Nadoknađuju se ekonomski gubici neposredno izazvani ratnim ili terorističkim dejstvima i to oštećenjem ili uništenjem imovine, ili sprečavanjem njenog uvećanja. Posrednu štetu (izgubljenu dobit) mogu da trpe preduzeća koja se nalaze u pograničnim delovima u oblastima izloženim riziku rata ili terorizma ili zaposleni koji žive u tom području. Takođe, i preduzeća koja imaju sedište van tog područja mogu imati pravo na naknadu, ako trpe štetu zato što ne mogu da koriste svoja sredstva koja se nalaze u sukobima zahvaćenoj oblasti. Osim šteta koje su nastale na teritoriji Izraela, nadoknađuju se i štete koje su usled neprijateljskih aktivnosti nastale na brodovima ili vazduhoplovima, pod uslovom povezanosti sa Izraelom (po mestu registracije, odnosno zastave broda, sedišta pravnog lica ili državljanstva vlasnika takvih objekata). Iznos naknade opredeljuje se na četiri načina i u različitom obimu u zavisnosti od vrste pretrpljenih štetnih imovinskih posledica (Israel – Terrorism Risk Insurance Programm, 2014: 2-3).

Izraelski stručnjaci ističu da je najvažnija prednost obeštećenja imovinskih šteta usled rata i terorizma iz posebnog osiguranja to što omogućava brzu naknadu – tradicionalni mehanizmi deliktnog prava koji prepuštaju žrtvi inicijativu da sudski izdejstvuje zaštitu nisu prihvatljivi u slučajevima šteta izazvanih terorizmom, a čak nisu ni primenjivi u slučajevima kada žrtve stradaju u vazduhoplovima ili brodovima, van teritorije matične države (Sommer 2003: 338). Međutim, ističe se da nije dovoljan obim pravno priznate naknade za štete usled smrti ili telesne povrede, jer se ne nadoknađuje nematerijalna šteta, nego samo pojedini vidovi materijalne štete. Još je važnije to što je naknada štete žrtvama terorizma za slučaj smrti ili telesne povrede iz posebnog javnog fonda jedno *ad hoc*, usamljeno rešenje, budući da u Izraelu nije

uspostavljen režim obeštećenja iz javnih fondova u korist svih žrtava krivičnih dela sa elementom nasilja (Monti, 2005: 280). Tek u martu 2001. godine Knesset je usvojio prvi Zakon o pravima žrtava⁸ kojim se regulišu neka procesna prava žrtava u krivičnim postupcima, na primer: da izrazi svoj stav povodom optužbe, sporazuma o priznanju krivičnog dela, izricanja uslovne osude, da bude informisana o toku postupka i da u pisanom podnesku opredeli štetu koja joj je pričinjena.

Zakoni koji se odnose na odštetu žrtvama terorizma trebalo bi da se primenjuju jednak i na Jevreje i na Arape koji žive u Izraelu. Ali, oni se primenjuju u društvu u kome postoji podvojenost na nacionalnoj osnovi između Jevreja i Palestinaca koja se, pod uticajima politike, produbljava. Zbog toga su obični građani „taoci“ politike države koja je proglašila „rat“ protiv arapskog terorizma, dok toleriše postupke jevrejskih ekstremista. Sa druge strane, Palestinci se pozivaju na svoje pravo da se brane od „državnog terorizma“. U takvim uslovima nije jednostavno zauzeti stav da li će se neki čin ili politika smatrati terorističkim ili ne, jer takva ocena zavisi jedino od identiteta onoga ko je daje (Primoratz, 2012: 8-9). Težinu tog nerešivog društvenog problema ilustruje usvajanje dva zakona 27. jula 2005. kojim je izraelski Kneset okupirane teritorije Zapadne obale i Gaze proglašio „rizičnim područjem“, dok su Palestinci koji žive pod izraelskom okupacijom izuzeti iz prava da od države Izraela ostvaruju naknadu štete (za slučaj smrti, telesne povrede ili uništenja imovine) koju pretrpe usled dejstva izraelskih vojnih snaga.⁹ Pod kasnijim pritiskom OUN propisi su donekle promenjeni, ali se situacija u praksi bitno nije promenila.¹⁰

⁸ Rights of Victims of Crime Law, 5761-2001, SeferHaHukim (Book of Laws, the Official Gazette) No. 1782 p. 183.

⁹ Izveštaj Amnesty International, 28.jul 2008. Dostupno na: <https://www.amnesty.ie/our-work/public-statement-discriminatory-laws>, stranici pristupljeno 19.5.2016.

¹⁰ Palestinian Arson Victims not Recognized under Israeli Compensation Law, 8.November 2015. Dostupno na: <http://www.i24news.tv/en/news/israel/81713-150811-palestinian-arson-victims-not-recognized-under-israeli-compensation-law>, stranici pristupljeno 28.5.2016.

Zaključak

Okolnosti pod kojima dolazi do viktimizacije žrtava terorizma, praćene masovnim ljudskim i teškim imovinskim gubicima i značajnim psihološkim posledicama zločina terorizma, nameću potrebu da se pronađe efikasan način zaštite žrtava i ostvarivanja njihovih prava. Upoređivanje primera iz Srbije i Izraela pokazuje da se rešenja mogu naći u „klasičnoj“ tužbi za naknadu štete ili u obeštećenju iz javnih fondova.

Prednosti uobičajenog mehanizma građanskopravne tužbe su u izgledima na naknadu celokupne pretrpljene štete. Ti izgledi su više teorijski, nego što se ispoljavaju u praksi. U Srbiji se odgovornost države za štete od terorizma ograničava u odnosu na kategoriju lica i po vrstama pretrpljenih šteta. Pošto je teško dokazati politički motiv izvršenog nasilja, fizička lica retko ostvaruju zahtev za naknadu štete. Primera radi, taj problem je u Izraelu prevaziđen zakonskom pretpostavkom uzročnosti štete. Zbog toga što odredba člana 180 ZOO Republike Srbije ne obezbeđuje delotvornu zaštitu žrtvama terorizma, trebalo bi ustanoviti i obeštećenje iz javnih fondova. Organizaciona rešenja iz Izraela pokazuju kako se obeštećenje može efikasno obezbediti istovremeno sa zdravstvenim zbrinjavanjem i socijalnom zaštitom. Izraelski primer ukazuje i na delotvornu primenu ustanove osiguranja koja može biti iskorisćena radi naknade velikih imovinskih šteta, čak i za štete na objektima van teritorije Izraela.

I u Srbiji i u Izraelu nedostaje regulativa koja bi bila primenjiva na sve žrtve nasilja. Iako je procesni položaj žrtve krivičnog dela potpunije regulisan u Srbiji nego u Izraelu, ipak je potrebno zaštitu njihovih imovinskih interesa pojačati osnivanjem fonda iz kog će se obezbediti odšteta žrtvama svih krivičnih dela sa elementima nasilja u situaciji kada učinilac krivičnog dela nije pronađen, nije krivično odgovoran ili je insolventan. Na taj način bi se, bez protivrečnosti, uskladili interesi žrtava za delotvornim obeštećenjem i države, koja bi se rasteretila preteranih finansijskih obaveza, ali ne na uštrb ostvarivanja ljudskih prava žrtava krivičnih dela. Međutim, naknada iz javnog fonda treba da se isplaćuje samo za štete uzrokovane povredom fizičkog integriteta. Država ne može i ne treba da preuzme teret isplate naknade za oštećenu ili uništenu imovinu (sem u izuzetnom slučaju i to po posebnom propisu), tim pre što se prevencija takvih štetnih rizika može postići kroz ustanovu dobrovoljnog osiguranja. Zbog toga je potrebno podsticati promenu svesti građana o neophodnosti i korisnosti dobrovoljnog osiguranja.

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NATAŠA MRVIĆ PETROVIĆ
ZDRAVKO PETROVIĆ

How to Effectively Compensate a Victim of Terrorism: Comparison of Serbian and Israel Solutions

Two models of victim compensation: through civil litigation and through administrative public funds are explored in this article in order to compare their effectiveness. Two legislations are compared: Serbian and Israel. A special legal basis for compensation from the State is foreseen in Serbian legislation. A natural person may claim compensation for the complete damage caused, in case of death, bodily injury or destruction of property. However, such claims are rarely charged. In Israel, limited amounts are paid from the public funds to victims of hostile actions in case of death, bodily injury or property damage. Israel also compensates companies for material damages on the property that is located in areas with a high risk from terrorism. This solution is considered to be more efficient, because it protects victims' interests more effectively.

Key words: terrorism, crime, victim's compensation, Serbia, Israel.

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Restorative Justice Training in Intercultural Settings in Serbia, and the Contribution of the Arts

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This paper describes restorative justice training courses the author delivered in Serbia and Montenegro in the period 2003-2006, set in the context of the post-conflict situation, and reflects on the intercultural elements added to this course. The author also makes reference to recent work on hate crime and restorative justice in the UK as an extreme example of intercultural conflict. The final two sections discuss the potential of the arts in providing an extra (non-verbal) tool in this work, using as examples two courses the author ran in Serbia.

Key words: restorative justice, diversity, art, conflict, hate crime, mediation.

Introduction

This paper is a reflection on restorative justice trainings held in Serbia, and the way they took account of the intercultural settings in Serbia. The basic restorative justice training is described, and then the way in which training in diversity issues came to be seen as necessary and were included through a supplementary course. Role plays in this course were based on intercultural scenarios brought by course participants. Between the practitioner courses and the Training for Trainers, participants were asked to mediate five cases before attending the Training for Trainers course. Several of these cases involved intercultural issues, and show how participants adapted their training to work successfully with these.

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This paper aims to show how restorative justice training can be adapted to work successfully with intercultural issues in Serbia. It also demonstrates the use of the arts in providing a non-verbal channel to enhance understanding and provide another dimension of communication.

Restorative justice training in Serbia and Montenegro 2003-2006

This was a project of UNICEF in Belgrade. An independent consultant was working with youth justice professionals in Niš (in south-east Serbia) after the conflict in former Yugoslavia, and they identified restorative justice as the practice they wanted to bring into the youth justice system. So, the first pilot training course (one week long) was for that group – lawyers, social workers, teachers, social pedagogues, psychologists and some school students and residents in care homes. This first course was very successful and enabled UNICEF to obtain funding from the Swedish government for a three-year project. In all, I trained 180 victim-offender mediators, and trained 50 of these to be trainers. New groups were identified as the project progressed, and in the end there were six pilot projects.

A sensitive venture was the training at the Juvenile Correctional Institution, Kruševac, as this included a group of guards as well as teachers and social workers, not a usual combination. All went well, and there was substantial follow-up support from a UNICEF consultant. The head psychologist at the institution set up a mediation service, with its own rooms, and it has continued to function up to the present, handling about 20 cases a year.

Two training courses were carried out in Montenegro, the first in the capital Podgorica, the second in Bijelo Polje, a small town in the north of Montenegro – this was because of a change in the decision of site for the pilot project.

Another strand was to provide training for 15 mobile teams of social workers, with four workers attending from each district, mainly social workers and psychologists. These mobile teams consisted of state social workers helped by NGOs to provide help for families affected by the conflict, e.g. providing clothes and shoes for children in remote districts so that they could attend school. Restorative justice skills were seen as helpful for the many cases of young people in trouble with the law. Finally, I trained social workers

in Belgrade and also postgraduate students undertaking a mediation course at Belgrade University (Liebmann, 2005a).

The complete training included: a) 5 days victim-offender mediation training, including role plays; b) 2 days refresher course addressing gaps and specific points, with more role plays; c) 3 days diversity training, focusing on working with minorities, especially Roma; d) 5 days training of trainers, including preparation of course sections with feedback from others.

Mediation and cultural diversity course

The need for cultural diversity training arose from the first pilot course with the Niš group. It was seen as necessary because Serbia has quite a diverse population from all the countries surrounding it (Bulgaria, Hungary, Albania as well as the ex-Yugoslavian countries), and many towns and cities have a large Roma population, most of whom are very poor and are discriminated against almost as a matter of course. Many of the young offenders who were to be involved in restorative justice were from the Roma community, so it was important to treat them with respect. I was quite apprehensive about this training, given the events of the previous ten years in the Balkans, but it seemed possible to discuss prejudice and ways of working with it. Most participants thought the course had helped them to recognise their prejudices, the first step on the road in this field. They also recognised the need to involve adults from the Roma population in the organisation of the service and maybe to train as mediators. The few minority participants in this course were initially very quiet, but when asked to contribute, had very relevant contributions to make. The course was based on materials from National Family Mediation in UK (with permission), and additional material developed by me. The course included the following topics: 1) Pre-course task: cultural autobiography; 2) Sharing cultural objects; 3) Definitions of culture; 4) Cultural messages from family of origin; 5) Groups in society experiencing prejudice; 6) Feelings (a) experiencing prejudice (b) being prejudiced; 7) Challenging prejudice; 8) Feelings of being in a minority; 9) Minorities' needs in mediation; 10) How inequalities can affect mediation; 11) Working with cultural diversity; 12) Communication barriers, conscious and unconscious; 13) Perceptions based on partial knowledge; 14) Working with interpreters; 15) Next steps.

Role plays

Role plays were based on real cases brought by participants, e.g. a) assaults arising from racist insults, mostly from Serb boys to Roma boys; b) mediations between Roma and Serb boys which included insulting comments; and c) theft from an Albanian bakery resulting in conflict between communities

Mediation cases resolved

Between the Practitioner Courses and the Training for Trainers, participants were asked to mediate five cases, and write up one of them. This defined eligibility for attending the Training for Trainers course. Some of these cases included cultural issues: 1) theft of music keyboard by Roma youth; 2) burglary of tools from poor family of German descent; 3) fight between Serb and Roma boy, escalated by Roma boy's cousins; 4) large-scale fight based on prejudice, involving IDPs, Roma, Albanian, Croatian and Kosovo participants; and 5) discussion of peace councils in traditional areas, mediating after a death to prevent vengeance killing.

Case study: Large-scale fight based on prejudice

In a region of Serbia where there was ongoing conflict between Serbs, Bosnian Muslims and Kosovan IDPs, a Roma family of Albanian ethnicity from Kosovo had been settled as IDPs in a centre. They complained of persistent discrimination against them. One day in a café a local resident who was drunk provoked them; a local man stood up for them but a brawl ensued, which escalated to about 100 people. The drunk man was injured and lost his mobile phone. The police arrested many people. Another Roma man (of Croatian origin) tried to make things better. The police asked the Mobile Teams to help and mediators visited all parties. They mediated between the drunk man and the local man who stood up for the Roma family; and between these and the Croatian Roma. The family from Kosovo took the offer of a move to another area they hoped would be more tolerant of minorities. In this way the mediators managed to resolve conflict between parties of different cultures and ethnicities – otherwise intercultural conflicts would have escalated into violence.

Case study: Burglaries in a rural neighbourhood

A family of German descent lived in a rural area, and because they were from a different culture, kept themselves to themselves. They had four children and were very poor - they received some basic help from the social services. The mother had suffered from mental illness for 20 years and did not leave the house. The father and two older sons had committed minor thefts in the past. The third son contacted the Mobile Team for help when he was charged with several burglaries from neighbouring summer cottages of food, tools and cleaning materials. The police recovered all the goods, neatly stacked in a room in the boy's house. Court proceedings had already started, but the judge agreed to mediation taking place alongside. Although there was no expectation of any impact on the court, the offender said he wanted to meet the victims. His father accompanied him. There were three victims, all elderly people who were not well off and had worked hard on their cottages, hoping to move there eventually. They wanted to see who had committed the burglaries. Because of the difference in cultures, neither side had had much contact with each other.

The boy started his story tearfully, and said his father had been involved. The father confessed that he was indeed the real thief; he had just taken his son along for company. He was horrified to find that he knew the victims and said he would never have stolen the things if he had known they were the owners. An agreement was made, and when this was presented to the court, the judge dismissed the case against the son, and started a case against the father.

The agreement included: apologies from father and son, the father to take a more responsible position as a role model, a promise that in future difficulties the family would seek help instead of harming others, and a promise not to re-offend. Not in the agreement but equally important was the fact that they had met and begun to build a relationship. Mediators had helped an intercultural dialogue into being (Liebmann, 2005b).

Case study: Fight between Serb boy and Roma boy

A Serb boy and a Roma boy, both 16, had a fight in which the Roma boy, as the smaller one, got beaten up. Two older cousins of the Roma boy then beat up the Serb boy. Meanwhile the Serb boy was expelled from school for

his behaviour. Groups were asked to make suggestions as to who should be involved in the mediation process and why. The groups came up with several possibilities:

- Include everyone - the four young people, all their parents, three representatives of the school (including the principal if possible), including two mediators - making a group of about 17.
- Include just the two original boys, as 16-year-olds could handle mediation independently of their parents (although parents' permission might be needed). If mediation is successful, then work out a mechanism for communicating with everyone else, or hold a larger meeting as above.
- Include the four boys (three Roma and one Serb) and two more to support the Serb boy.

All these would be viable and good ways of approaching this case. In each case mediators would use their skills to elicit the intercultural issues between the Serb and Roma boys, and help them to address these without violence. In this way they could help develop better intercultural understanding (Liebmann, 2003).

Restorative justice and hate crime

Hate crime is the expression of prejudice or bias against the group that the victim is seen to be part of, e.g. violence against black people, Jews, Muslims, gay people, disabled people, etc. – just because they are members of these groups. As such, it is a manifestation of failure of intercultural dialogue. Hate crime perpetrators often commit crimes out of prejudice, which may be based on ignorance. For instance, a paediatrician in the UK received a fire-bomb through her house letter-box because the offender thought she was a paedophile – he did not know the difference. Research in the UK has shown that restorative justice can help with hate crime by: a) lowering anxiety, anger and fear; b) increasing understanding; c) resolving conflicts; and d) stopping hate behaviour. Independent community-based services do better than statutory services, because they are able to spend more time with participants and also do not label them (Walters, 2014).

The following case studies from my home city, Bristol, UK, show the work of two organisations in this field.

Case study: Racist comments about a black student

A black student discovered racist comments on two white flatmates' computers. She was very upset and reported it to the police, but they were unable to take action as it was considered a 'private conversation'. The police and SARI (an NGO working against racism and inequality) worked together and contacted the university, exploring the possibility of a restorative approach. The victim's family was involved. All parties were visited by the police and SARI to explain the approach. A restorative conference was held for all concerned, and the victim was able to ask why her flatmates had used racist abuse against her, an opportunity she would not have had if the case had gone to court. The flatmates offered a heartfelt apology and the three students resumed their friendship and continued sharing their flat. This case shows how RJ facilitators were able to help participants rebuild an intercultural relationship which had broken down because of the prejudiced behaviour of one party.

Case study: Alleged racism, threats and intimidation

This case was passed on from SARI to Bristol Mediation, a community mediation service, because it did not have a clear victim and offender – it involved two men who both alleged racism, threats and intimidation, based on their different cultures. Many agencies had been involved without success. However, both parties said they wanted to resolve the issues between them. English was a second language for one of the parties, so an interpreter was arranged who was also a mediator. Mediators visited both parties, who spoke about the effect of the situation on them. The mediators explored their anxieties and helped them plan what they wanted to say to each other. At the joint meeting, they were able to talk about these things. They became angry at times, but an extra room had been arranged, so that mediators could continue to work with them separately until they were ready to come back together. They made a written agreement, which the mediators followed up to see if it was working. Both parties were extremely grateful. Thus mediators

were able to help two people of different cultures to understand each other better and to stop their threatening behaviour towards each other (Liebmann, 2015).

The potential of the arts

Most dialogue in intercultural work takes place through verbal means. However, sometimes words are an inadequate medium for the issues and feelings that need to be expressed. The examples below show two different ways in which I used arts methods in conflict resolution work.

Picturing truth and reconciliation

I contributed to a conference in Belgrade in October 2004 run by the Victimology Society of Serbia on '*Truth and reconciliation in the former Yugoslavia: Where are we now and where to go?*' I ran an art workshop for participants to express thoughts and feelings about the past and hopes for the future. The participants were from several different backgrounds and cultures in Serbia. The structure of workshop was as follows:

- Introductions
- Warm-up activity
- Looking at the past
- Hopes for the future
- Final comments

The results of these were: 1) introductions – important for participants to choose own level; 2) warm-up activity – ‘completing scribbles’ – playful and relaxing; 3) looking at the past – emotional portrayals of loss; 4) hopes for the future – good coming out of bad, stability, bright colours, houses for all; and 5) final comments – enjoyment, surprise, relief, ability to express themselves. Even in such a short workshop, it seemed that it was possible to share difficult areas of the past, and move on to looking at hopes for the future. The use of art materials seemed to facilitate the expression of aspects difficult to put into words, and provide another way of bringing people together, as they shared their pictures (Liebmann, 2004).

Art and conflict courses

These workshops use simple art materials to explore conflict issues (Liebmamn, 1996), and include different art exercises according to the group and time available, from the following menu:

- Conflict – first reactions and quick pictures;
- Symbols/ metaphors of conflict – that sum up the essence of an aspect of conflict;
- Painting conflicts – sometimes leading to a realisation of the first step towards resolving it;
- Visual mediation – starting with a picture of conflict, a partner acts as ‘mediator’ and draws another picture using the same elements but rearranging them slightly to show a different way of looking at the conflict;
- Squiggles – pair exercise in completing drawings, often leading to surprises and realisation of assumptions made;
- Sharing space with a partner using art materials in silence – a metaphor for the many kinds of sharing, often involving conflict – personal, group, international;
- Passing round drawings – interpreting what is already on the paper and adding a contribution;
- Visual whispers – a visual version of the whispering game where a message gets progressively distorted as it travels around the group;
- Group picture – showing group dynamics, which may involve conflict;
- Drama tableaux – based on conflict pictures, using ‘body sculptures’ to work from conflict to resolution and find steps in between;
- Reflections on work done over the whole workshop, and any discoveries.

The course I ran in Serbia in 2006 was for a mixed group of therapists and mediators – these two groups turned out to have fairly different professional cultures, which caused some conflict in the group. The exercise on symbols of conflict resulted in pictures of an explosion, a brick wall, a broken world (but showing how it could fit together again), and a cracked egg (but showing the birth of a chicken, something new to come out of a breakage). These are shown in figures 1-4 below.

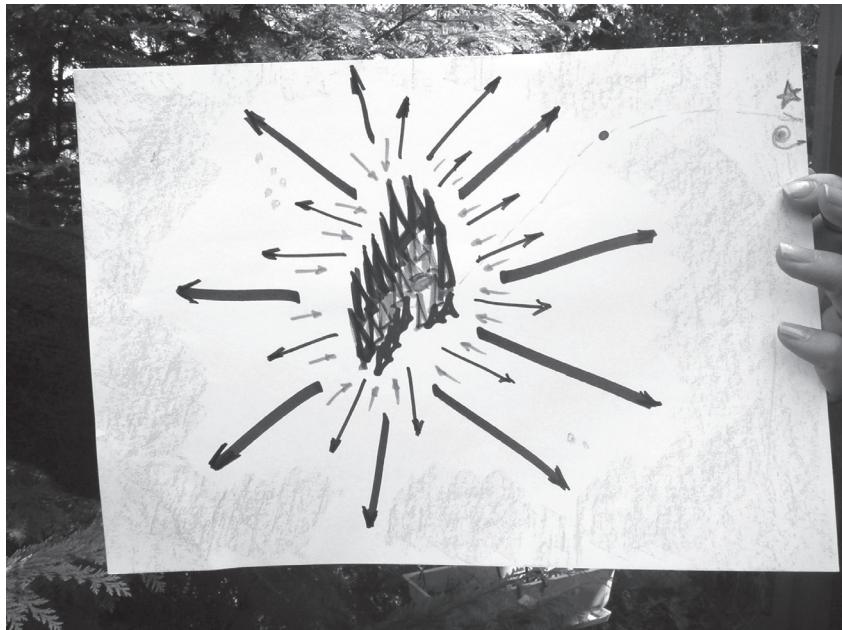


Figure 1: Explosion

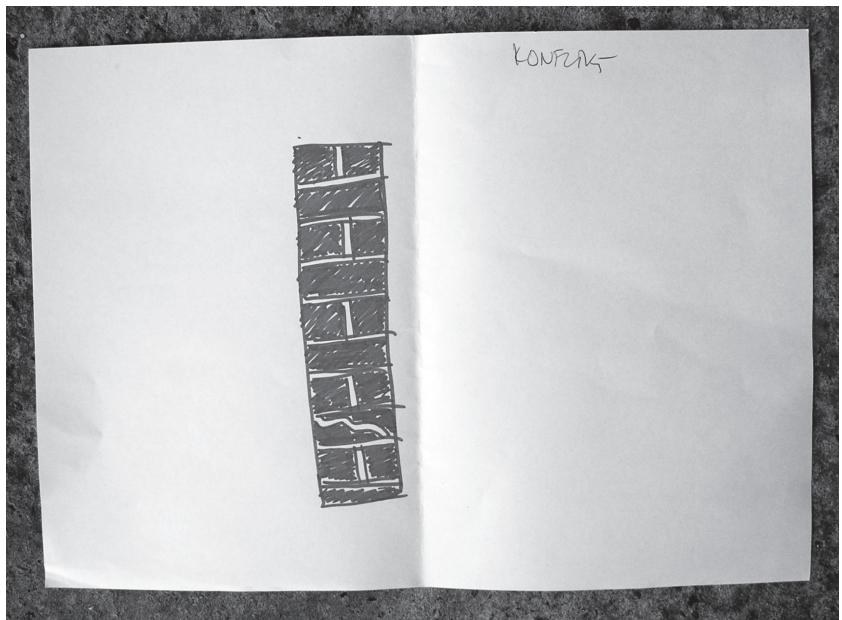


Figure 2: Brick wall

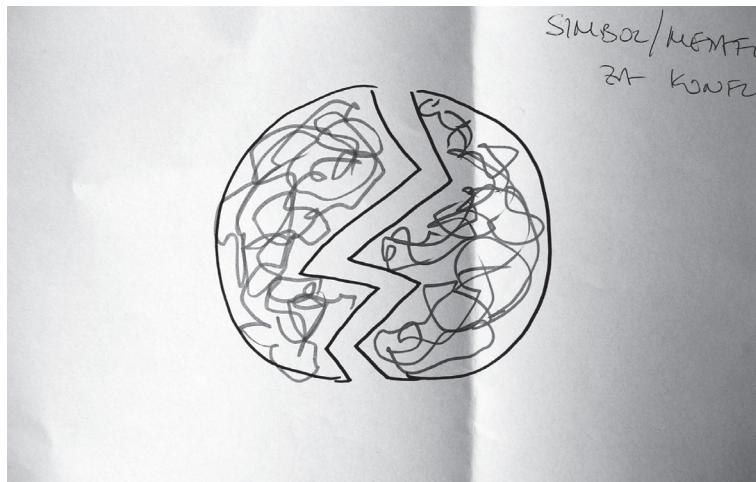


Figure 3: *Broken world*

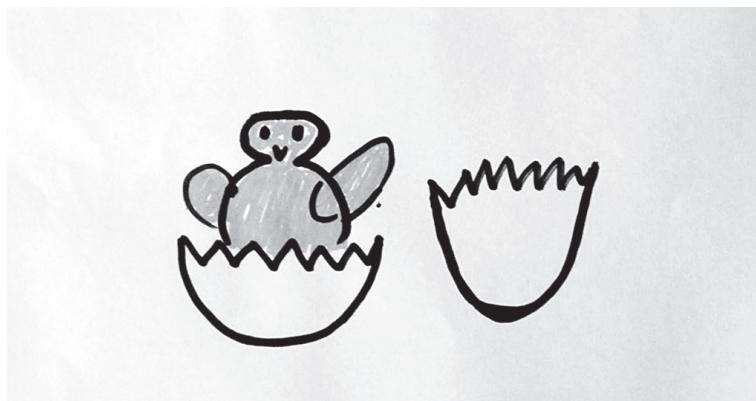


Figure 4: *Cracked egg*

In the visual mediation exercise (see above for details), one set of pictures showed a rearrangement of bottles giving less prominence to the broken one (see figure 5). This change was then translated back to the 'real life' situation of the participant.



Figure 5: Visual mediation

We also used simple drama techniques, such as drama tableaux, a way of freezing body postures, to show conflict situations and the resulting emotions (Fine, Macbeth, 1996; Thompson, 1996). A drama tableau of one conflict situation moved from a scenario of everyone displaying aggressive gestures – to relaxing these – to holding hands – to a big hug. This led to discussion of the steps needed to resolve that conflict in real life.

These arts exercises can result in participants ‘seeing’ new ways of dealing with conflicts in their lives. Many conflicts have a cultural component to them, sometimes unconscious, and arts can make them visible in a non-threatening way, leading to new perspectives on the conflicts and issues.

Conclusion

In this paper I have tried to demonstrate the way in which restorative justice can help with intercultural conflicts. This requires the skills of restorative justice and awareness of intercultural aspects of conflict. My work in 2003-2006 used mediation as the method, with the addition of cultural awareness. The contribution of the arts can add a further dimension to the verbal work and extend the possibilities of creating empathy and understanding.

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MARIAN LIEBMANN

Trening o restorativnoj pravdi u interkulturalnim sredinama u Srbiji i doprinos umetnosti

U radu su opisani treninzi o primeni restorativne pravde, koje je autorka sproveila u Srbiji i Crnoj Gori, u periodu između 2003. i 2006. godine. Treninzi su smešteni u kontekst post-konfliktnog društva, pri čemu je poseban akcenat stavljen na interkulturalne elemente. Takođe, u radu se ukazuje na skorije bavljenje zločinima iz mržnje, kao ekstremni primer interkulturalnog konflikta i primene restorativne pravde u ovim situacijama u Ujedinjenom Kraljevstvu. U poslednje dve celine rada, na primeru dve obuke sprovedene u Srbiji, analizira se potencijal koji ima umetnost kao dodatna (neverbalna) alatka u primeni restorativne pravde u interkulturalnim sredinama.

Ključne reči: restorativna pravda, različitost, umetnost, konflikt, zločini iz mržnje, medijacija.

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„Socijalni horor“: Kritička analiza ideološke i poetičke funkcije motiva žrtve u savremenom srpskom filmu

Ivana Kronja*

Ovaj rad razmatra grupu ostvarenja srpske kinematografije nakon 2000-te čije se narativne strategije i vizuelna estetika fokusiraju na pitanje nasilja i žrtve u kontekstu socijalnog beznađa, postkomunističke tranzicije i aktuelne globalne krize vrednosti. Filmovi reditelja Mladena Đorđevića „Život i smrt porno-bande“ (2009), Srđana Spasojevića „Srpski film“ (2010) i celovečernji TV film „Zverinjak“ (2012) Marka Novakovića, ugrađuju ove složene karakteristike raspada srpske društvene zajednice i nefunkcionalne države u sopstvene izražajne poetike. Navedeni filmovi jesu primer radikalne filmske estetike koja, strategijama oneobičavanja, žanrovskog upliva andergrunda, pornografije i horora u realističnu dramu, progovara o trajno traumatizovanom stanju srpskog društva. Oni dovode u direktnu vezu kolektivno političko stanje i domen ličnog, porodičnog, intime i seksualnosti, kontroverzno se oslanjajući na slike i narative rodne mizoginije i njome izazvanog nasilja i žrtava nasilja, čemu rad pristupa kritički, iz rodno-feminističke perspektive.

Ključne reči: motiv žrtve, filmsko nasilje, postmodernizam, savremeni srpski film, ideološka i estetička analiza filma.

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Uvodna razmatranja

Ovaj rad razmatra veoma učestalu problematiku estetizacije nasilja, viktimizacije dramskih likova, posebno žena i ženskog tela, u aktuelnoj srpskoj umetničkoj produkciji. Analiza obuhvata grupu ostvarenja srpske kinematografije nakon 2000-te godine, čije se narativne strategije i vizuelna estetika fokusiraju na pitanje nasilja i žrtve u kontekstu socijalnog beznađa, postkomunističke tranzicije i aktuelne globalne krize vrednosti. Raspad komunizma i socijalizma, dolazak neoliberalnog tržišta i političkog modela, i postmoderna globalna kultura, poratne traume i politički konformizam, prouzrokovali su mnogo nestabilnosti, socijalnu i moralnu krizu. Politički i kulturni identitet građana i nacije ostaje nedefinisan i konstantno izložen redefinisanju prošlosti i opstrukciji konstruktivnih i održivih strategija u sadašnjosti. Ovo stanje se, takođe, reflektuje u domenu rodnih uloga, položaja žena i porodičnom životu, u kojima raste procenat dezintegracije, nasilja, femicida¹, i drugo.

Filmovi autora Mladena Đordjevića *Život i smrt porno-bande* (2009), reditelja i ko-scenariste Srđana Spasojevića i scenariste Aleksandra Radivojevića *Srpski film* (2010) i celovečernji TV film *Zverinjak* (2012) reditelja Marka Novakovića, prema scenariju Dušana Spasojevića, ugrađuju ove složene karakteristike raspada srpske društvene zajednice i nefunkcionalne države u sopstvene izražajne poetike. Oni pružaju izvanredan primer radikalne filmske estetike koja strategijama oneobičavanja, žanrovskog upliva andergraunda, pornografije i horora u realističnu dramu progovara o trajno traumatizovanom stanju srpskog društva. U slučaju *Porno-bande* i *Srpskog filma*, ova dela prelaze granicu političke korektnosti i namerno šokiraju javnost, ukazujući, takođe, na duboke društvene patologije i nepravde. U tom nastojanju, ona uvode i svesnu radikalnu estetizaciju seksualnog i telesnog nasilja, koju, u drugačijem kontekstu ali u značajnoj meri, koristi i film *Zverinjak*. Po ovim karakteristikama, *Porno-banda* i *Srpski film*, a posredno, donekle, i *Zverinjak*, predstavljaju i značajni „gubitak nevinosti“ za domaću kinematografiju, koja u novim, kontroverzno (neo)liberalnim tržišnim uslovima zalazi u oblast eksploracije, stilizovanog žanrovskog nasilja i kršenja svih, do tada poštovanih, tabua javne pristojnosti

¹ Pojam femicida obuhvata jednu vrstu kontinuiranog, rodno zasnovanog terora, od fizičkog i psihičkog zlostavljanja do više vrsta namernog ubijanja. „Važno je shvatiti da su nasilnici, pa i ubice žena, deo društvenog ambijenta koji neguje obrazac hegemonističkog maskuliniteta kao normalnog tipa muškosti, koji je, kao takav, ne samo društveno tolerisan, već i pozitivno vrednovan“ (Mršević 2015: 21).

i ideološkog konsenzusa. Konsenzus oko iskazanog nacionalizma kao dominantne ideologije od raspada SFRJ do danas pokazuje se kao većinski. Na izvestan način dele ga i ovi filmovi.

Navedena ostvarenja estetički obrađuju današnje srpsko društvo kroz kritičan, ciničan, brutalan, ali i mizogini, kod prva dva filma postmoderno etički relativističan, stav prema junacima i temi, ostajući jedna od najprovokativnijih i najkontraverznih ostvarenja aktuelnog domaćeg filma,² koja su izazvala i snažne reakcije javnosti, pored ostalog i feminističku kritiku.³ Jezik ovih filmova počiva na patrijarhalnoj rodnoj hegemoniji, koja se ilustruje, i eventualno podupire, prizorima brutalnog nasilja. U slučaju filma *Zverinjača*, koji jedini zadržava dosta čvrstu etičku paradigmu, kolektivna propast viđena je kroz prizmu ruralnog, a nasilje shvaćeno kao nepromenljiva socijalna struktura.

Cilj ovog rada jeste kritička analiza umetničkog postupka i rodnih reprezentacija unutar datih ostvarenja, koja uključuju u sebe snažne, tzv. „ideološke slike“, odnosno, vizuelno-simboličke slike nasilja/seksualnosti koje sadrže u datom kontekstu funkcionalna ideološka i politička značenja spram politike, društva i rodnih politika.

Film kao parapolitički tekst

Dati filmovi, u slučaju *Porno-bande* i *Srpskog filma* otvoreno, a u slučaju *Zverinjača* implicitno, funkcionišu i kao parapolitički tekst. Od sedamdesetih godina 20. veka javljaju se nove preokupacije koje utiču na metodologiju proučavanja filmskog dela: naratologija, semiotika, psihoanaliza, lingvistika, antropologija, teorija ideologije, kao i sve veće zanimanje za kulturne teorije i politiku prikazivanja (Vojković, 2008: 57). Semilogija filma omogućila je čitanje filmskog dela kao „diskursa“ i „teksta“, pa samim tim i kao direktno političkog ili parapolitičkog teksta. Politički aspekti filmskog dela odnose se i na

² Srpski film na prvom mestu, ali i *Porno-banda*, otvorili su i etička i eventualno pravna pitanja eksploatacije maloletnih glumaca u seksualno nasilnim sadržajima, ubacivanja otvoreno pornografskih sadržaja (od kojih su neki krajnje nasilni) u narativ bioskopskog filma bez plaćanja poreza, podsticanja homofobije, slobodnog prikazivanja mučenja žena i silovanja žena i muškaraca, eksploatacije ženskog tela. Oni, u krajnjem ishodu, nisu bili pravno sankcionisani.

³ Videti raspravu o *Srpskom filmu* na tribini održanoj u Novom Sadu neposredno nakon ponosne projekcije ovog filma na festivalu Cinema City: <http://cultofghoul.blogspot.rs/2010/06/srpski-film-u-novom-sadu.html>, stranici pristupljeno 20.9.2015.

feminističku kritiku rodnih režima prikazivanja, kulturnih konteksta i odnosa moći unutar filmske priče. U svojoj studiji o post-Jugoslovenskom filmu, *Stil i ideologija*, Pavičić svrstava *Porno-bandu* i *Srpski film* u podvrstu „političkog pulp“-a, koji „tematizuje temeljnu traumu postmiloševičevske ere: traumu društva koje je dopustilo da ga režim izmanipuliše u agresivnim ratovima“ (Pavičić, 2011: 224). Kao dominantni motiv ovih filmova on navodi spoznaju o vlastitoj izmanipulisanosti i prekasnom shvatanju ideološke zablude. Pavičić ističe frapantnu sličnost zapleta ovih filmova – glavni junak biva namamljen u proizvodnju „snaf“ filmova za ilegalno strano tržište, koji, osim toga, nastaju u praktično isto vreme i dele istog snimatelja, Nemanju Jovanova (Pavičić, 2011: 225), ali i ukazuje na njihovu stilsku različitost. O *Srpskom filmu* kaže: „film je sniman naglašeno estetizovano i klasično, poput raskošno budžetirane TV-serije. ... Publika je gledajući *Srpski film* suočena sa jukstapozicijom vizuelnih motiva koji uključuju kako leševe, izmrcvarena tela i nevine žrtve, tako i mili-tarističke fetiše, uniforme, pancirke, čizme i duge cevi“ (Pavičić, 2011: 227), dok su snimatelji i ekipa obućeni u uniforme srpske specijalne policije. Kao glavne premise narativa i ideološke pozicije ovih filmova on vidi lik demonskog „velikog manipulatora“ koji u porodicu/zajednicu dolazi spolja, kao i motiv da glavni junak ulazi u manipulativnu klopku prevaren, nesvestan njenih krajnjih ciljeva i posledica (Pavičić, 2011: 228).

Društveni odnosi moći kao posledica neoliberalne tranzicije vidljivi su i u domenu rodnih politika, prava žena i dece, ugroženog statusa porodice i povećane stope porodičnog i partnerskog nasilja prema ženama. „Tranzicija se na poluperiferiji odvija ne samo u institucijama već ponajviše na nivou svakidašnjeg života, a transformacija rodnih režima je neodvojivi deo tranzicije. Društveni položaj žena u zemljama tranzicije pokazuje da su žene bile gubitnice, pre svega, usled porasta nezaposlenosti, retradicionalizacije, repatrijarnalizacije, kao i zbog urušavanja institucija, koje su bile važan oslonac za porodicu. S druge strane, muškarci su ostali slepo polje i veoma malo ili nimalo se zna o njihovim gubicima i problemima prilagođavanja. Tek su drastični podaci o porastu mortaliteta među muškarcima u nekim zemljama tranzicije ukazali na problem muškaraca“ (Blagojević Hjuson, 2013: 41). Rodni režimi na poluperiferiji formiraju se u ključu pojačanih napora za dostizanje centra, pri čemu se za taj cilj dodatno mobilišu ženski resursi, što dovodi do intenzivnog trošenja ženskih resursa u javnoj i privatnoj sferi. Žena postaje i „subjekt“ i „objekt“ vlastitog žrtvovanja, bez moći u javnosti, što je podržano snažnom

patrijarhalnom ideologijom, prepunom mizoginičnih sadržaja. Ovakva konstelacija odnosa predstavlja, prema Blagojević Hjuson, glavnu odliku rodnih režima na poluperiferiji (Blagojević Hjuson, 2013: 41-42). Javlja se ogromna zavisnost muškaraca, pa tako i čitave porodice, od žena, u ekonomskom i emotivnom smislu, koja proizilazi iz ovakve situacije, a na koju su žene pri nuđene da odgovore. Nju ideološki nadopunjuje agresivna javna mizoginija: politički nekorektan javni govor, kultura tabloida i pornografije, modni tren dovi koje karakteriše ejdžizam i mržnja prema realnom ženskom telu, romantični ideali pasivne ženskosti u popularnoj literaturi i na filmu, i drugo. Ove okolnosti kreiraju suženje izbora za žensku populaciju kao i ogroman pritisak na muškarce kao objekte patrijarhalne ideologije u postmodernom lokalnom nacionalizmu, što izaziva opštu društvenu mizoginiju, uništavanje socijalne zaštite i socijalne pravde i, konačno, pandemiju porodičnog nasilja i nasilja nad ženama, koje se u specifičnoj žanrovsкоj obradi pojavljuju i kao teme pomenutih filmova.

Postmoderna „kultura slike“ i radikalna estetizacija filmskog nasilja

Tema političkog, društvenog, porodičnog i ličnog nasilja svakako je jedna od najvitalnijih tema dramskih umetnosti 20. veka, koje su pružile njenu temeljnu analizu i kritiku. Ona je u savremenom društvu i jedan od izvora komercijalne medijske zabave, koja bespoštedno eksplatiše motiv žrtve i ideju nasilja, podilazeći seksualnoj radoznalosti i potisnutoj agresivnosti publike. Počev od devedesetih godina 20. veka, međutim, u svetskoj drami, teatru i na filmu nastaje veći broj doslednih umetničkih poetika koje postavljaju psihologiju i fenomenologiju žrtve društvenog nasilja, na mikro i makro nivou, u centar svog umetničkog kreda i interesovanja. Umetnici i umetnice koji to čine nude kreativnu dekonstrukciju i problematizaciju nasilničkih ideologija i praksi. Među najizrazitijim poetikama ovog tipa nalaze se *Nova britanska drama* 1990-ih i posebno opus dramske književnice Sarah Kane (1971-1999), kao i filmovi evropskih reditelja Lukasa Moodysona (Švedska), Andree Arnold (UK) i Michaela Hanekea (Austrija/Francuska), ili pak američkih reditelja Gus Van Santa i Larry Clarka. Aktuelna domaća drama i srpska kinematografija, posebno nakon 2000-te godine, aktivno se uključuju u ove trendove, reagujući na društveno nasilje kroz niz veoma kontraverznih, angažovanih i/ili provokativnih ostvarenja.

Grupa filmova u fokusu našeg istraživanja koristi heterogene izražajne strategije, koje snažno referiraju na postmodernu „kulturu slike“. U vezi sa tim Butler ističe „Mnogi postmodernisti misle da živimo u društvu slike, društvu koje se prvenstveno bavi proizvodnjom i trošenjem običnih simulakruma“ (Butler, 2007: 113). Dok su *Porno-banda* i *Srpski film* prepoznatljivi po izrazito postmodernom i hibridnom stilu, budući da svesno mešaju žanrovske i kodove filmskih vrsta, *Zverinjak* ukršta realistične i stilizovane kodove reprezentacije. Svi oni to čine sa ciljem da izazovu šok i ponude svojevrsnu „dekonstrukciju“ predstava o sebi koje, po njima, odlikuju srpsko društvo.

Život i smrt porno-bande i *Srpski film*, u veoma različitom registru od „sironašnog“ art filma do glamurozne produkcije, jesu postmodernistička ostvarenja, kako po strukturi, tako i po senzibilitetu. Njihov otvoreni odnos prema nasilju spada u postmoderna vid kulturne komunikacije: „Zabрана prikazivanja nasilja i seksa, jedna je od najtemeljnijih normi evropocentrične kulturne tradicije“ (Turković, 1985: 164). Međutim, prema Turkoviću, danas je na delu krupna promena u tipu kulture: „Integrativnu, unifikacijsku, hijerarhijski sredenu kulturu zamenjuje tip diferencijalne, koordinativne kulture. Nad prikazivanjem i, uopšte, komunikacijom sad više ne vladaju opštevažeće norme, standardi, nego niz posebnih pravila za koja se individualno opredeljuje ili ih se individualno stvara“ (Turković, 1985: 165). Povećana stilizacija nasilja u savremenom filmu, koja nadvladava uobičajene standarde prikazivanja, jeste znak mode koja simbolizuje jednu novu metodologiju, borbu za prevlast diferencijalnih, heterogenih, manjinskih, spoznajno orijentisanih kulturnih procesa nad, još uvek, dominantnim integrativnim i tradicionalnim modelima kulture. Ono u šta dira otvoreno prikazivanje nasilja nije naše svakodnevno ponašanje, već naše komunikacijsko ponašanje, ili, drugim rečima, naš odnos prema društvu i društvenim pravilima: „Te nove kulturne prilike narušavaju principe svih oblika tradicionalnih kultura, zato i znakovi nove metodološke kulture nisu locirani samo u Americi, niti su vezani za kapitalističko ideološko podneblje, već se pojednako javljaju i kod nas, kao i u orijentalnim kulturama“ (Turković, 1985: 170). Radi se, dakle, o univerzalnom modernizacijskom fenomenu: zalaganju za individualizam i političku i kulturnu partikularnost. Otvoreni prikaz nasilja kao zabave ili osećajno otuđene „slike“⁴ u vezi je i sa

⁴ Tipičan primer postmodernog životijalnog, relativističkog poimanja nasilja predstavlja opus svetski poznatog reditelja Kventina Tarantina. Njegovi filmovi spadaju i u kategoriju „retro-filma“, budući da američku i azijsku popularnu/borilačku kulturu citiraju kao tradiciju. Tretiranje

postmodernističkim poimanjem etike: „Postmodernizam je moralni poziv da priznamo autonomiju ‚drugog’ preobrazio u veoma fragmentirane proglose o marginalnosti i razlici, u ‚dekonstrukciju’ dominantnih stavova, u napad na stereotipe“ (Butler, 2007: 95). Kako Maširević navodi: „Moralni standardi su prema postmodernom stanovištu istorijski uslovljeni, što implicira da su vremenom promenljivi. U savremenim društvima, koja se menjaju brže nego ranija, moralni okviri, na osnovu kojih rasuđujemo, su do te mere privremeni i nestabilni, da su promene u moralnom ponašanju i rasuđivanju ljudi uočljive na nivou već samo jedne generacije“ (Maširević, 2011: 201).

Čini se da se pornografske slike i prizori nasilja, kao nikada do sada, uザjamno dopunjaju u savremenoj globalnoj kulturi hiper-proizvodnje i potrošnje slika i vladavine svakovrsnih ekrana. Dok statične i pokretne slike namenjene jeftinom uzbuđenju postaju sve nasilnije, građanstvo kao globalna publika masovne informatičke i zabavne kulture postaje sve manje osetljivo na prizore tuđeg stradanja: „Iz daljine posmatrati katastrofe koje se događaju u nekoj drugoj zemlji moderno je iskustvo, kumulativni doprinos više od jednog i po veka rada profesionalnih, specijalizovanih turista poznatih kao novinari. Danas su ratovi nešto što se slikom i zvukom uvuklo u naše domove“ (Sontag, 2005: 18). Svaka slika u našoj vizuelnoj medijskoj kulturi koja eksplatiše nasilni sadržaj, prema Sontag, postaje i pornografska slika: „Čini se da je potražnja za slikama na kojima su prikazana zlostavljana tela jednaka potražnji za slikama obnaženih tela. (...) Svi prizori koji prikazuju oskvruće nekog privlačnog tela su u određenoj meri pornografski“ (Sontag, 2005: 35, 75). Ovu uznenimirujuću vezu nasilja nad telom i seksualnog i erotskog, koji postaju deo kulture smrti, uspešno tematizuju i svi navedeni filmovi.

Pornografske slike u sva tri filma spadaju u prepoznatljivu ikonografiju globalne medijske kulture, i, po nama, u narativima i stilistici ovih filmova služe kao semantički znak obeležavanja Zapada. Klasična kritika pornografije uključuje njenu konzervativnu kritiku u smislu napada na javni moral, kao i feminističku kritiku pornografije kao dokumentovanog nasilja nad ženama (socijalno podređenim te prinuđenim da uđu u porno-industriju), koje promoviše falički seksizam.⁵ U vezi sa tim Williams navodi: „Pornografija kao žanr želi da govori o seksu. Ona, međutim, uvek mnogo više govori o rodu“ (Williams

filmskih dela ili drugih elemenata kulture modernosti, kao tradicije na koju se referira, spada u srž umetničkog postupka filmskog postmodernizma.

⁵ Videti: Kuhn, 1985.

1990: 267). Dakle, i sama feministička analiza fenomena pornografije nas vraća u domen društvenog, pre svega u domen rodnih režima i odnosa moći. Odličan savremeni pogled na ovaj problem daje Kipnis: „Intenzitet debata koje je prate jesu potvrda fascinaciji koju pornografija proizvodi, i učinku koji postiže kao žanr: ona preuzima pitanja ključna za kulturu u kojoj živimo i našu konstituciju sopstva, i prerađuje ih u seksualni kod. Iako možda ne izgleda tako, sugerisala bih da pornografija sadrži ogroman dijapazon socijalnog znanja, što je još jedan razlog za njeno proučavanje“ (Kipnis, 2000: 155).

Kako pornografija još uvek ima subverzivnu, negativnu konotaciju u odnosu na „pristojni“ građanski poredak, ove slike u datim filmskim delima služe upravo tome da ocrne Zapad, da označe njegov porazni, sveprodirući uticaj na srpsko društvo. Još preciznije, pornografija i spektakularni, ili pak naturalistički, mučno anti-spektakularni prizori smrti, kao oni koje nalazimo u *Porno-bandu*, u ovoj značenjskoj strategiji, označavaju zapadni ekonomski i politički uticaj na Srbiju nakon 2000-te. Ovaj uticaj shvaćen je kao proces koji za direktnu posledicu ima uništenje tradicionalnih nacionalnih i etničkih porodičnih vrednosti, odnosno raspad srpske patrijarhalne porodice. U vezi sa tim levičarski teoretičar Kagarlitsky ističe: „Nova ekonomija uništava društvene veze, tradicionalne norme i obrasce autoriteta te podstiče agresivnost“ (Kagarlitsky, 2009: 32). Ovi procesi, su, svakako, dramatičniji u siromašnijim društвima, kakve su zemlje bivšeg Istočnog bloka, uključujući i Srbiju, koja je društvo poluperiferije, koje uvek kaska za centrom (u slučaju Srbije na početku 21. veka taj centar je EU), kao nekom vrstom „pokretne mete“ koju je nemoguće dostići (Blagojević Hjuson, 2013: 41).

Nasleđe „crnog talasa“ i kritika neoliberalnog kapitalizma u filmu Život i smrt porno-bande (2009)

U *Porno-bandu*, blazirani beogradski filmski reditelj bez posla, diplomac FDU Marko (Mihajlo Jovanović), sporadično sarađuje sa predstavnicima lokalne amaterske porno-industrije.⁶ U tom procesu on pada sve niže, zadužujući se kod reketaša od kojih se skriva u neki podrumski stan, u kome će, prateći tek deo zbivanja na televiziji, nezainteresovano prespavati 5. oktobar,

⁶ Ova delatnost je, na dosta subjektivan i stilizovan način, bila predmet analize zapaženog Đorđevićevog dokumentarca *Made in Serbia* (2005), koji u njegovom opusu prethodi *Porno-bandu*.

dan rušenja Miloševićevog režima. Ovakav politički nihilizam odvešće ga i na put saradnje sa „krvožednicima“ srpskog naroda, dijaboličnim predstavnicima Zapada. Kada su sve opcije za opstanak u gradu propale, Marko okuplja svoju devojku Unu (Ana Aćimović), neostvarenu glumicu, koja životari igrajući sporedne uloge u nekom nebitnom pozorištu, i svoje prijatelje, društvene otpadnike, u grupu koja kombijem odlazi na selo kako bi izvodila porno-kabare uživo. Seljani ih ne prihvataju, a bogati stranac daje im mračnu ponudu: da rade prave tzv. „snaf“ filmove za veliki novac. Oni angažuju seljane na ivici fizičke i mentalne egzistencije da se ubiju ili umru pred kamerama, za šta će njihova porodica dobiti novac, ali posle par takvih poduhvata bivaju razotkreni. Grupa se raspada, a Mladen i njegova devojka, suočeni sa težinom zločina i nemoralu u kojima su aktivno učestvovali, ne videći pred sobom ikakvu budućnost, izvršavaju samoubistvo.

Život i smrt porno-bande spada u producijski niskobudžetno ostvarenje, snimljeno digitalnom tehnikom, sa dokumentarističkim tretmanom scenografije – radnja se odvija u realnim, sirotinjskim ambijentima – i upotreboru kako profesionalnih glumaca tako i naturščika. Fotografiju filma odlikuje učestalo slobodno snimanje kamerom „iz ruke“ i brutalni naturalizam, svesna tehnička nesavršenost, pa čak i amaterizam. Forma filma je generalno fragmentarna, naizgled haotična; međutim, dramaturgiju i ukupnu strukturu ovog dela suštinski odlikuje izrazita samosvest, doslednost i preciznost. Možemo reći da politička i društvena metafora koju uspostavlja *Život i smrt porno-bande* superiorno nalazi uporište u njegovom filmskom izrazu, te ne čudi što je većina srpskih filmskih kritičara, uključujući i autorku ovog teksta, složna da se radi o verovatno najznačajnijem autorskom filmu srpske produkcije u poslednjih petnaest godina.⁷ Tematski okvir filma otvoreno tretira fenomene sa duboke društvene margine: grupu nezaposlene gradske mladeži koja se odaje bavljenju pornografijom, a kasnije i tzv. „snaf“ produkcijom, tj. snimanjem filmova koji uključuju realnu nasilnu smrt, koja se odvija uživo pred kamerama; žene koje po izgledu lica i prekomernoj težini ne zadovoljavaju vladajuće standarde lepote, a koje postaju jeftine porno-glumice; par homoseksualaca zaraženih sidom; narkomaniju; ekstremno siromaštvo, kako glavnih junaka, tako i seoskog okruženja u koje su došli da rade; trans-osobu slomljene psihe; pri-

⁷ Ovaj film dobitnik je velikog broja domaćih i inostranih nagrada, među kojima je nagrada Udruženja beogradskih filmskih novinara i kritičara Nebojša Đukelić za najbolji domaći film na FEST-u 2009.

padnike policije koji se bave kriminalitetom i učestvuju u porno-industriji; i konačno, kao jedine klasno povlašćene, strane špijune zapadne provenijencije, koji cinično profitiraju od ovih bestijalnosti i na njima zarađuju novac.

Date formalne i tematske karakteristike stilski određuju *Porno-bandu* kao kreativnu mešavinu andergraund filma, koji kombinuje nasleđe avangardnog filma, društveno subverzivne teme (seks, nasilje, telesne prljavštine, radikalno pobunjenički životni stilovi) i treš-estetiku, sa klasičnim socijalno angažovanim, pa i političkim filmom. Radi se o art-filmu, namenjenom specijalizovanom festivalskom i bioskopskom prikazivanju, koji ispunjava i sve kriterijume alternativnog filma. Tehnički aspekti produkcije filma koji ne ispunjavaju standarde mejnstrim kinematografije, shvaćene i kao „kinematografski aparat sa ideološkim učinkom“,⁸ učvršćuju društveno i politički alternativno, subverzivno ideo-loško opredeljenje samog autora i njegovih saradnika, njegove „bande“.

U pogledu reprezentacije tela i rodnih politika, Đorđevićev film smerio povezuje estetiku amaterske pornografije, socijalnog beznađa i smrti. Telo figurira kao pornografski objekat, i kao žrtva ubistva pred kamerama: siromaštvo kao posledica svetskog ekonomskog ustrojstva proizvodi ove žrtve „snafa“. U izvanrednom tekstu *Porno-anarhisti protiv porno-fašista* Jovanović ističe: „Ova simbolička transgresija aktera filma iz prostora ‚čiste pornografije‘ (javnog pokazivanja polnih organa) i komodifikacije sekса i tela (pretvaranja u robu) da bi se preživelo, u saučesnike porno-fašističke industrije pretvaranja bede, siromaštva, gladi, očaja, depresije, smrti (proizvedenih lošom politikom) u medijsku, zabavnu robu za psihopate, industriju perverzije i organizovanu ekonomiju uz pomoć institucija društva – najsuverzivnija je i najkreativnija ideja ovog filma. On izražava generalno osećanje da živimo u duboko poremećenom svetu u kojem se više ne odigrava sukob između zauvek datih pozitivnih i negativnih vrednosti, nego između bespomoćne, lične, pojedinačne ljudske patnje i globalno/lokalno cinično-ravnodušnog društvenog, političkog i vrednosnog haosa nasuprot njoj“ (Jovanović, 2010: 13).

Đorđevićev film višestruko se nadovezuje na poetiku jugoslovenskog „crnog talasa“. *Porno-banda* sadrži nešto od ogoljenog tretmana zapadnjačkih potkultura u delu Jovana Joce Jovanovića, čija ideološka pozicija i rana postmoderna estetika ostaju najbriljantnije formulisane u njegovom cenzurisanom filmu iz 1973. godine *Mlad i zdrav kao ruža*. Jovanović ovde izražava skepsu i štaviše gađenje spram uvezenih Zapadnih kontraktura, koje u pot-

⁸ Videti: Bodri, 1982.

punosti kompromituje kroz lik prigradskog kriminalca (Dragan Nikolić) koji se ubacuje u redove hipijevske narko-mladeži. Ipak, *Život i smrt porno-bande*, na prvom mestu, snažno referira na kulno crnotalasno ostvarenje Želimira Žilnika *Rani radovi* iz 1969. godine, jedinstvenu ekranizaciju istoimenog Markso-vog klasičnog dela, snimljenom prema scenariju nedavno preminulog Branka Vučićevića (1934-2016). *Rani radovi* prikazuju grupu mladih levičarskih anarhi-sta u ideološkom obračunu sa seljaštvom, kojeg bezuspešno pokušavaju da emancipuju. Film se završava silovanjem i fizičkim uništenjem glavne junakinje (Milja Vujanović), do kojeg dolazi jer njena lepota i seksualna privlačnost postaju nepodnošljive za njene saborce. Ovaj film već tada uvodi femicid kao materijalizaciju ideološko/političkih kontraverzi koje prate neuspeh levice pred svakom malograđansko-protofaističkom kontrarevolucijom, te neuspeh balkanskog mačizma da se emancipuje iz ekonomsko-ideološko-kolonijalnih okova. Neizdržljivost kontraverze se doslovce izručuje na telo žene, kao mizogina praksa koja daje uporište održanju falocentričke konzervativno-patrijarhalne ideologije.

Gržinić ističe da *Rani radovi* predstavljaju doprinos savremenom viđenju intenziviranja procesa prelaska iz biopolitike u nekropolitiku (pojam je uveo Ahil Mbembe): „Nekropolitika povezana je sa konceptom nekrokapitalizma, tj. savremenog kapitalizma, koji organizuje svoje forme organizacione akumulacije koja uključuje otimačinu i podjarmljivanje života moći smrti“ (Gržinić, 2009: 58). Ako je biopolitika predstavljala regulaciju života građana putem nauke, tehnologije i etike, od politika blagostanja do politika minimalnog preživljavanja u represiji, nekropolitika vrši satiranje ljudske mase u ime profita vladajuće klase u neoliberalnom globalnom kapitalizmu i svetskom poretku.

Upravo ovaj pojam direktno dovodi u vezu Đorđevićovo subverzivno ostvarenje sa Žilnikovim klasikom kritičkog levičarskog filma. Junaci *Porno-bande*, suočeni sa sopstvenim društvenim položajem koji ih vodi ispod minimuma egzistencije, nisu revolucionari. Oni, naprotiv, žele da prevare neoliberalni kapitalistički sistem: oni od svojih tela prave robu, kako bi ekonomski preživeli, te selu nude komodifikovanu, takoreći amatersku pornografiju, koja prerasta u filmovani snaf-spektakl. Do tančina detaljno Đorđević analizira neokolonijalne bio i nekro politike koje donose ekonomsku, moralnu i, konačno, fizičku propast srpskog društva. Prizori nasilja, koji uključuju surova prebijanja glumaca, filmovanje samoubistva očajnog povratnika sa ratišta i pokušaj lapota pod svetlostima porno-reflektora, neraskidivo su vezani sa

bljutavim pornografskim prizorima. Telo je objekat bespoštne eksploracije, potpuno lišeno dostojanstva i elementarne zaštite od siromaštva, bolesti i nasilja. Pornografija je shvaćena, najpre, kao simbol seksualnih sloboda koje vuku korene iz liberalnih pokreta 1960-ih, uključujući i feminism, koji se u filmu indirektno interpretiraju i kao seksualno izopačena ideologija ljudskih prava, ali i kao vid satiranja i iscrpljivanja nezaposlenih ljudi, potčinjenih „objekata“ neoliberalizma. Zapad je demonizovan i shvaćen kao izvor perverzije, zona privilegija i bogatstva, koja Srbe vidi kao nakaze: „Snimaćemo nakaze po Srbiji i prodavati to na Zapadu“, kaže Nemac Franc (Srboljub Milin), naručilac „snaf“ filmova. Ženski likovi prikazani su kao pasivne ličnosti, malograđanske saučesnice u zločinima, zavisne od muškaraca u svakom smislu, i više zainteresovane za svoj položaj u patrijarhalnom odnosu sa muškim partnerom/poslodavcem, nego za lični integritet i slobodu. „Politike tela“, inače tipične za klasični avantgardni film, ali i za konzumersko-eksploratorsku porno-kulturu današnjice, ovde dosežu svoj tragični bilans, u ukupnoj pogibiji svih aktera i njihovom samoubistvu, jednoj narušenoj i neostvarenoj budućnosti i prokre-akciji heteroseksualnog (potencijalno roditeljskog) para.

Glamur seksualnog nasilja do smrti i slom patrijarhalne porodice u Srpskom filmu (2010)

Dugo najavljivano i iščekivano ostvarenje, koje je zaista pomerilo granice javnog i realističnog prikazivanja brutalnosti u srpskom filmu i kulturi, *Srpski film* ispunjava solidne standarde žanrovskog filma po uzoru na Holivud i svetski horor-film. Za razliku od *Porno-bande*, u *Srpskom filmu* igra plejada profesionalnih domaćih filmskih zvezda, među kojima se posebno ističe psihološki uverljiv, sirov i istovremeno saosećajan Srđan Todorović u glavnoj ulozi, kao i Slobodan Beštić u sporednoj ulozi policajca i junakovog brata, svojim bri-ljantno stilizovanim, izrazito telesno atrikulisanim performingom. Film nudi intrigantan faustovski zaplet o srpskom porno-glumcu u penziji, Milošu (S. Todorović), koji potpisuje „ugovor sa đavolom“, perverznim psihopatom Vukmirom Vukmirom (odlični Sergej Trifunović), čije ime odjekuje užasima atavizma i zlog vuka iz srpske mitologije. Miloš pristaje da za enormnu svotu novca učestvuje u tzv. slepom snimanju, o kome praktično ne zna ništa, te, pod iznudom i na teškim drogama koje su mu ubrizgane, gradacijski izvodi sve

strašnije zločine za kameru: njegova gluma jeste zapravo tortura, silovanje i mučenje drugih, ali i njega, koje se odvija „uživo, što je, pored, ostalog aluzija na eks-Ju ratišta devedesetih. Scene torture odvijaju se i snimaju u Zavodu za decu bez roditeljskog staranja Vučica (!), što im daje i snažan društveno-kritički ton: nebrige o deci, slabijima i ugroženim društvenim grupama, koja se metaforično proširuje na konstataciju nebrige korumpirane vlasti i države o čitavoj naciji.

Sa ciljem da šokira, baci rukavicu u lice licemerju nasilnog društva, ali i osvoji pažnju javnosti, *Srpski film* nedvosmisleno i, veoma svesno, ukršta kodove realističnog, socijalno angažovanog dramskog filma, tako što nas uvođi u priču u kojoj se emotivno poistovećujemo sa junacima, sa žanrovskim obrascima i kodovima reprezentacije pornografskog i horor-filma seksualne i fizičke torture, bivajući izrazito politički nekorektan i šokantan u otvorenom prikazivanju silovanja dece i seksualnog zlostavljanja, prebijanja i ubijanja žena. Ove scene uključuju i silovanje tek rođene bebe u (izmišljenom?) apsurdnom žanru “new-born”, prizore na smrt pretučenih žena, crnih od modrica, kao i izuzetno uznemirujuću sliku silovanja muškog deteta od strane rastrojenog oca, koje na mestu simulirane penetracije ostaje svo u krvi. Ovaj neuobičajeni postupak čini *Srpski film* istovremeno moralno subverzivnim po društvo, kritičnim i parodičnim, te on, u duhu postmodernog hiper-realizma, intertekstualnosti i vrednosnog relativizma ostaje provokativni, otvoreni tekst, neka vrsta „skandalognog“ umetničko-žanrovskog eksperimenta.⁹

Suština konflikta u filmu je podređena ekonomskoj poziciji junaka, koji svoj „talenat“, tačnije rečeno svoju faličku muškost, više ne može da uloži u izdržavanje porodice te, pristankom na nepoznate uslove rada, ulazi u neshvatljive seksualne zločine i sadističke brutalnosti, koji se beleže kamerom. Film je veoma human u prikazu supruge i sina, prema kojima se otac porodice, Miloš, odnosi sa ljubavlju i potpunom predanošću. Sa druge strane, u prikazima nasilja nad ženama on je izrazito seksističan, dehumanizuje junakinje kao objekte da bi se nad njima moglo vršiti gotovo beskonačno nasilje. Film poentira transgresijom ka homoseksualnom silovanju i incestu sa muškim detetom, kao poslednjoj degradaciji muškog junaka, koji potom sa ženom izvršava kolektivno porodično samoubistvo.

⁹ Protiv ovog filma pokrenuto je više postupaka za zabranu usled prikazivanja eksplisitnog nasilja i „kršenja seksualnih sloboda“. Videti opširnije na: https://sr.wikipedia.org/sr/Српски_филм, stranici pristupljeno 20.9.2015.

Činjenica je da *Srpski film* povezuje militarizam i tvrdnu pornografiju, primenjujući horor-obrasce kojima daje lokalnu boju i za eksjugoslovensko-srpski kulturni krug prepoznatljive društvene metafore, kao što su prikaz policijske korupcije i eksplicitne aluzije na haškog optuženika Ratka Mladića, alias Rajka, čija su udovica, majka i maloletna unuka uvučene u perverzni pedofilsko-sadistički zaplet „snafa“.

Ono čime se, u socijalnom ključu, ovaj film ponajviše bavi jeste suština i slom muškog patrijarhalnog autoriteta/identiteta u uslovima tranzicije, ekonomske propasti i policijsko-kriminalne represije. Sudbina glavnog junaka poprima tipično paranoidni okvir psihološkog trilera, u kome su svi koji navodno junaku žele dobro umešani u zločinačku zaveru usmerenu i protiv njega, koji u datoj ikonografiji i lokalnom kontekstu postaje i *politički triler*, u kome je tajna policija umešana u zaveru zla. Koliko god je seksualno nasilje do smrti koje se sprovodi za interesu „snaf“ industrije metafora ratnog nasilja i bestijalnih zločina, toliko je i pornografija kao noseći milje čitave radnje filma izvrnuta metafora konzervativizma i patrijarhalnih porodičnih odnosa. U pristupu pornografiji kao Miloševoj profesiji film inventivno definiše muški rod „kao performans“,¹⁰ u ovom slučaju direktni performans „svemoćne i uvek potentne seksualnosti“ glumca Miloša u pornografskim prizorima, kao suprotstavljene intimnim odnosima u koje je uključena monogamna ljubav. Kada ga supruga, dok zajedno gledaju njegov stari pornoč, pita: „Zašto tako nikad nisi spavao sa mnom?“, Miloš joj odgovara: „Sa tobom tako ne spavam, jer te volim“, da bi na njeno ponovljeno insistiranje sa njom vodio ljubav brutalno, kao na filmu, praktično je silujući. Ovde se pornografski seksualni odnos veoma tačno poistovjećuje sa silovanjem/mržnjom, dok se njegov prikaz shvata i kao ideološka slika, odnosno ubedljivi performans falocentrične, hegemonске muškosti.

Srpska tradicionalna porodica u daljem toku radnje poprima pervertirano, mučiteljsko obliče: satanski nasmejana staramajka nudi Milošu unuku, kako bi nastavio sa tradicijom incesta u Rajkovoј porodici; majka devojčice je glavna žrtva nasilnika i „snaf“ producenata, zatočenica u podrumima dečijeg doma/luksuznih vila, čija žrtva postaje i sam Miloš. Ispostavlja se da policajac Marko, Milošev brat (S. Beštić), koji mu navodno pomaže, gaji nedozvoljene fantazije o sopstvenoj snaji, te da je patološki ljubomoran na Miloša. U dijaboličnom raspletu, koji svesno ukrišta kodove filmskog realizma i krajnje artificijelne horor-stilizacije, čineći da film paradoksalno funkcioniše na dva plana,

¹⁰ Videti radevine američke filozofkinje Judith Butler o ovoj temi.

socijalne realnosti i horor-apsurda, iskazanog u porno-ključu,¹¹ izdrogiranog Miloša na silu odvode u hangar, najavljen kao topli dom, u kome na hirurškom metalnom stolu leže dva naga tela sa pokrivenim glavama. Miloš i Marko siluju ova onesvešćena, takođe drogirana tela, za koja se ispostavlja da su to njegova rođena žena i petogodišnji sin. U trenutku otkrivanja lica žrtava, Vukmir cinično, u trijumfu zla, uzvikuje: „Prava, srećna srpska porodica!“. Nastaje opšti pokolj, u kome niko od mučitelja ni žrtava neće preživeti.

Slike tela-kao-žrtve: *Zverinjak* (2012)

Zverinjak je film koji na radikalnan način u svoju dramsku strukturu ugrađuje koncept perpetuiranog zločina i žrtvovanja muških i ženskih junaka. On ne napušta moralnu paradigmę i ne koristi etički relativizam. Njegov svet je, naprotiv, obeležen fatalizmom i nepromenljivim statusom seoske sredine. Ruralno okruženje i iskušenja koja mu donosi savremeno korumpirano doba uzdignuto je ovde na teren metafizičke rasprave o čovekovim osnovnim instinktima, surovosti prirode i života, i, iznad svega, borbi dobra i zla. Na nivou dramaturgije, ovaj film sadrži razumljivu emotivnu istinu i dosta jasnu i preciznu dramsku motivaciju junaka. Karakteriše ga kvalitetno osmišljeni kasting, koji nadopunjuje scenarističku karakterizaciju likova, te upečatljiva gluma sa naglašenim stilskim patosom.¹² U režiji i fotografiji *Zverinjak* odlikuje klasičan, narativni realistični stil, dubina prostora, kao i precizan, zanosno spori ritam radnje. Ono što remeti dati stil i ritam, a što ovaj film čini posebno zanimljivim za našu analizu, jesu povremeni snažno akcentirani prizori koji skreću iz realističkog diskursa ka simbolizmu i izrazitom naturalizmu, te se javljaju kao neočekivane, i utoliko šokantne, poetske odnosno simboličke, pa možemo reći i ideološke slike, u kojima se kristalizuje moralna i ideološka¹³ poruka filma.

¹¹ Ovde se svakako radi o vezi sa najnasilnjim, ali nažalost dostupnim i komercijalnim žanrovima pornografije, kao što su zloglasna gonzo pornografija i specifični devijantni porno-žanrovi, koji krše granice opštег konsenzusa psihičke normalnosti i mentalnog zdravlja u pogledu seksualnosti. Videti detaljnije u: Dines, 2010.

¹² Patos (grč. Πάσχ - patim, páthos patnja, bolest) – patnja, bolest; bolesno stanje, naročito duše; strast, strasna uzbudjenost; strasna uzvišenost i dirljivost u izrazu i govoru, velika osećajnost govornika ili pesnika, čuvstvenost, toplina, žar, polet, zanos; strastan i zanosan govor u drami, naročito u tragediji (Vujaklija, 1986: 679).

¹³ Ideologiju shvatamo ovde kao skup vrednosti koje određuju pojedine političke pozicije, ideje i programi društvenog i političkog uređenja. Ideološki stav, bilo u smislu kritike određenih

Ovo se u potpunosti odnosi na prizore smrti i seksualnog čina, koji se, usled iznenadnog kršenja realistično-konzervativnog diskursa filmskog pripovedanja, javljaju kao nagle, neprijatne, i čak nepodnošljive slike, ali upravo zato i veoma upečatljive. To su prizor greškom ubijenog psa, dva puta ponovljeni prizor ogoljenog seksualnog opštenja na zemlji, u šumi, slika dva direktno prikazana mrtva tela, pod belim plahtama, kao i slika slepe kaluđerice, koja je u prošlosti bila obeščaćena. Ovi iznenadni prizori seksa i smrti imaju snagu brutalne, ogoljene, čak i pornografske slike, te zauzimaju značajno mesto u ideološko-značenjskoj dimenziji filma. Ostale, makar i brutalne scene, tuče, prebijanja devojke kaišem, ubistva i samoubistva rešene su u realističkom pripovednom diskursu. U navedenim iznenadnim scenama-prizorima, međutim, reditelj menja kod reprezentacije, i u tome inventivno uvodi razgolićenu – „pornografsku“ to jest grafičku, bukvalnu – reprezentaciju nasilja kao vizuelnu paradigmu i označitelja „Zapadnog“, koje se suprotstavlja u čitavom delu zagovaranim klasično-konzervativnim vrednostima, uključujući tu i (pravoslavno) Hrišćanske vrednosti. Ovo je veoma kreativno i u smislu političko-ideološke komunikacije vrlo ekonomično, efektno rediteljsko rešenje.

Zaplet filma *Zverinjak* temelji se na zločinu iz prošlosti, koji je zapravo bio čin samoodbrane. Nekadašnji šumar Petar (Nikola Ristanovski) ubio je sina gazde Straina (Miodrag Krstović) koji je, uprkos zabrani, u lokalnoj šumi ubijao divljač. Petar je u pokušaju da ga spreči dva puta pucao u vazduh i, potom, iz nužde u samoodbrani, kada ga je i ubio, zbog čega je išao na robiju. Pokazuje se da je celo selo umešano u zločin lovokradnje i nedozvoljene seče šuma, te da meštani štite jedni druge, a najgori među njima, Lukići, koji sprovode seču, sa početkom rata švercuju i oružje u Bosnu. Jedini junak u filmu koji biva kažnjen za zločin, i na kraju i sam bude ubijen, jeste i najmoralniji, najneviniјi junak filma. Nakon Novakovićevog prvenca *Neko me ipak čeka* (2009), igranog TV-filma posvećenog problemu i kritici abortusa, *Zverinjak* otvoreno uvodi hrišćansku paradigmu i etiku u filmski narativ. Motivi zajedništva, saosećanja i praštanja među junacima, istaknuti su u hrišćanskom duhu, dok je sa druge strane osuđeno prepuštanje grehu i korupciji, makar i iz razloga ekonomске nužde. Spasojević i Novaković svesno pokazuju da su njihovi junaci, u okviru sudbine koja im je data, napravili jasan moralni izbor. U sociološkom smislu, ovo je još jedan film „poratne traume“, u kome odjeci građanskog (pa i verskog) rata na prostoru

ideologija, bilo u smislu zastupanja određenih vrednosti, implicitno, a u slučaju angažovanog dela i eksplicitno, prisutan je, po pravilu, u svakom umetničkom delu.

bivše SFRJ (ovde se konkretno radi o Bosni) osujećuju i čine beznadežnim život junaka. Politički i ideološki, film se pozicionira umereno konzervativno te, kao odgovor na društvenu krizu, nudi utočište u tradicionalnim i religijskim vrednostima i etičnosti, i, shodno tome, elementarnoj humanosti.

Rodni poredak u filmskoj priči obeležen je patrijarhalnom dominacijom oca, koji je neretko nasilan. Mladima se nameću neslobodni emotivni izbori, kao nužni dogovori među roditeljima radi makar i sirotinjskog opstanka. Jedan od muških junaka, pasivna osoba, ali izuzetno saosećajni Vidan (Ivan Đorđević), okarakterisan je kao sin koji je podbacio, takoreći „ne-muško“, koji više puta trpi očeva omalovažavanja. Radnja se komplikuje sa povratkom bivšeg šumara Petra, koji je i ranije zastupao red i zakon; on traga za svojom nekadašnjom verenicom, Anđom (Nada Šargin), koju vidimo kao kaluđericu u manastiru, izolovanu od sveta. Ispostavlja se da je ona od strane gazda Strašina bila, kako sama kaže, obešćena – silovana, kao i da je oslepela. Dok mlada devojka Srna (Marijana Pejatović) iz bunta, ali i iskrene zainteresovanosti, koketira sa Petrom kao zrelim muškarcem, svi seljani se udružuju da ga uklone. Devojku šalju kod verenika, mladića Jovana (Mladen Sovilj), koji sa njom vrši seksualni čin u šumi. Jovanov otac Tadija (Tanasije Uzunović) ubija bivšeg šumara, a zatim i sebe, što je još jedno samoubistvo u ovoj grupi filmova. Na kraju filma, slabiji sin, Srnin brat se žrtvuje, te umesto supruga svoje sestre, koji u dатој sredini funkcioniše kao potentan i aktivan muškarac, inače svog vršnjaka, odlazi u prisilnu mobilizaciju (nagovešteno je da će tamo i okončati svoj život). U naglašenim momentima radnje, koji se dotiču seksualnosti i smrti, *Zverinjak* je okupiran telom kao žrtvom nasilja, nudeći slike smrti tela kao hipnotički prizor, te kao poetski simbol. Seksualnost je, pak, prikazana kao nužno zlo, kao biološki nagon, te nešto što navodi na nasilje i greh, što je izrazito hrišćansko-konzervativna perspektiva. Silovanje buduće kaluđerice kao zločin ostaje centralna metafora rodnih odnosa u filmu, te figurira kao u praksi dominantan oblik svih društvenih odnosa, metaforično ili neposredno: od uništavanja prirode i ubijanja životinja, do seksualnog nasilja nad ženskim telom i ubijanja muškog tela. Poruka je pesimistična, jer ubijen je jedini pojedinc koji je zahtevao da ostane sloboden: lepo telo jedinog prema ženama nenasilnog, ali zrelog i muževnog muškarca takođe je žrtva, koju će u okolini manastira pokopati kaluđerica. Slobodna erotska ljubav ovo dvoje ljudi tako ostaje pokopana od strane ruralne i nasilne falocentrične norme, koja u krajnjem ishodu onemogućava slobodu svim akterima.

Zaključak: Nasilje nad telom žrtve kao simbol i praksa

Veoma je važno reći da filmovi *Porno-banda*, *Srpski film* i *Zverinjak* koriste pornografiju i nasilnu telesnu smrt kao metaforični jezik svoje društvene kritike. I u odnosu na ovakav zaključak, među analiziranim delima postoje razlike. *Porno-banda* kao direktnog uzročnika nepravde vidi obaveštajnog predstavnika Evrope, dakle Evropu i čitav zapadni kapitalizam; ona uvažava tradicije subverzivnih zapadnih potkultura levice i andergrunda, dajući im precizni, estetski dosledni omaž u postavci likova i radnje, fotografiji i scenografiji,¹⁴ ali u krajnjem ishodu proglašava njihov slom i opštu komodifikaciju, ostajući na pozicijama antiglobalizma. *Porno-banda* koristi avangardni šok i subverziju građanskih normi i mejnstrim filmskog narativa, ali ih ne sprovodi u ime levičarske i/ili liberalne društvene kritike; njen cilj je artikulacija lokalnih pozicija potčinjenosti u tranziciji i praksi neoliberalnog kapitalizma na našem tlu, koje razaraju kako ruralnu srpsku porodicu, tako i budućnost deklasirane gradske mladeži, te u krajnjem ishodu opstanak i kulturni, shvaćen kao biološki i etnički, identitet lokalne zajednice.

Srpski film, pak, najeksplicitnije dovodi u vezu rodne režime i politički poredak, koje neraskidivo vezuje korumpirana lokalna verzija neoliberalnog sistema vlasti, prožeta jakim ideološkim kontraverzama između socijalističkog nasleđa i nove desnice, moderniteta i neotradicionalizma. Ovo delo formatizuje nekropolitiku kroz simbolične slike pornografske torture, gradirajući nasilje od „običnih“ brutalnosti prema ženskom telu do „neobičnog“, košmarног incestnog silovanja muškog deteta od strane oca, koje kao da otelovljuje najgoru društvenu noćnu moru: smrt konzervativnog patrijarhalnog muškog identiteta.

Zverinjak, konačno, vizuelizuje ideju smrti-kao-pornografije i seksa-kao-greha, pomerajući tačnu dijagnozu moralnog raspadanja društva neznatno u prošlost, na početak devedesetih i građanske ratove u bivšoj Jugoslaviji, ponovo se obračunavajući sa rušenjem konzervativne patrijarhalnosti, pri čemu on kao dihotomiju vidi Zapad (simbolizovan u prizorima seksa i smrti kao medijskog spektakla) i, sa druge strane, nacionalno intoniranu hrišćansku

¹⁴ Đorđević, kao što je pomenuto, daje omaž crnotalasnim ostvarenjima Želimira Žilnika, Živojina Pavlovića i Jovana Joce Jovanovića, ali i bogatoj tradiciji američkog andergraud i treš-filma, od Endi Vorhola i Pola Morisija do Džona Votresa i Denisa Hopera. Osim toga, na njega je u ovom delu značajno uticao žanr horora i savremeni japanski film, od šezdesetih godina do danas.

etiku, koja podrazumeva i patrijarhalno porodično ustrojstvo, kao nedosegnuti, iznevereni ideal.

Izvanredno mesto društvene analize unutar ovih filmova jeste što oni odlično razumeju i direktno ističu vezu između patrijarhalne hegemonije državnih i paradržavnih aparata moći – oficijelnog militarizma, paravojnih jedinica, specijalne policije: DB/BIA, sprege lokalne uprave i inostranih obaveštajnih službi (*Porno-banda*), kriminalnih struktura koje kontrolišu društveni i politički život, političko-tajkunskih oligarhija, pa čak i službi obrazovanja i socijalnog staranja – i rodnog i seksualnog poretku društva. Ovaj izvanredan uvid dovodi u direktnu vezu kolektivno političko stanje i hijerarhijsko ustrojstvo sa privatnim i porodičnim domenom seksualnosti i staranja. Ovu vezu sam feminizam/feminizmi inače stalno ističe. Ono što dati filmovi čine jeste da oni otelovljuju važan društveni simptom, te signaliziraju neuralgične i traumatske tačke nečega što bi se moglo nazvati „srpsko kolektivno političko ne/svesno“.

U pogledu prikazivanja nasilja kao *kritike nasilja* koje na svim nivoima postoji u realnom životu, kontroverza se nalazi u činjenici da autori radikalnog socijalnog horora – Đorđević i Spasojević – kritiku nasilja sprovode simbolima i narativima rodne mizoginije/ženomržnje,¹⁵ te nedovoljno osvešćeno u odnosu na empirijsko-teorijske platforme sociologije, viktimologije, feminizma i slično, koriste motive porodičnog i rodnog nasilja – silovanja, incesta, prebijanja, femicida – kao plakatske (para)političke metafore. Ono što ova dela ne nude jeste rodno i ili politički angažovana emancipacija; ona simbolično završavaju kapitulacijom, samoubistvima aktera, po pravilu heteroseksualnog para.

Pogađajući u srž gore pomenute feminističke analize rodnih efekata srpske tranzicije, dati filmovi i autori koriste silovanje i ili pornografiju i ubistvo kao osnovni model društvenih odnosa, pa tako i kao formu sopstvene društvene kritike. Oni ne pronalaze drugi jezik da izraze svoje nezadovoljstvo, te nastavljaju da se oslanjaju na patrijarhalnu hegemoniju, iako je ona upravo i proizvodila dato nasilje. Hrabrost autora i njihova odvažnost da rizikuju izazivajući estetičke i političke norme licemerne korupcione tranzicije, te njihovo obračunavanje sa rigidnim, represivnim patrijarhalnim poretkom, ipak, predstavljaju značajan polemički pomak kako u istraživanju savremenih filmskih estetičkih prosedera, tako i u odmicanju od opšteg političkog defetizma i nemogućnosti nalaženja emancipatornih strategija kulturnog i društvenog

¹⁵ Čiji je eklatantni primer pornografija, sa svojim isticanjem faličke nadmoći i polne razlike, i dominacijom u aktuelnoj virtuelnoj kulturi.

pregovaranja, koje je usled višestruke represije – neokolonijalne, ideološko-političke, patrijarhalnog neo-konzervativizma, vladavine tajkunsko-političkih oligarhija i slično – dosta otežano u našoj sredini.

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IVANA KRONJA

"Social horror": A Critical Analysis of Ideological and Poetic Function of the Motive of Victim in the Contemporary Serbian Film

This paper analyses achievements of Serbian cinematography after 2000, which narrative strategies and visual aesthetics are focused on the issues of violence and victims in the context of social despair, post-communist transition and ongoing global value crisis. Films made by Mladen Đorđević *Life and Death of a Porn Gang* (2009), Srđan Spasojević *A Serbian Movie* (2010), and Marko Novaković *Menagerie* (2012) integrate these complex characteristics of disintegration of Serbian community and dysfunctional state system into their cinematic poetics. These films present examples of radical film aesthetics, which, through strategies of making things unusual, and the influence of underground, pornography and horror on the realistic drama, speak about permanently traumatised Serbian society. They directly connect collective political state and the domain of personal, family, intimate and sexual, controversially relying on the images and narratives of gender misogyny and the violence it produces and its victims. The paper critically approaches these issues from the gender-feminist perspective.

Key words: a motive of victim, film violence, post-modernism, contemporary Serbian films, ideological and aesthetic analysis of the film.

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Taking Victim Support to the Next Level: Connect and Commit

(Victim Support Europe Annual Conference)

Ka sledećem nivou u razvoju podrške žrtvama: Povezati se i biti posvećen
(Godišnja konferencija Evropske podrške žrtvama)
Utrecht, Holandija, 25-26. maj 2016. godine

Godišnja konferencija Evropske podrške žrtvama (Victim Support Europe, u nastavku: VSE) pod nazivom *Ka sledećem nivou u razvoju podrške žrtvama: povezati se i biti posvećen*, održana je u Utreht-u, Holandija, u prostorijama Muntgebouw centra, 25. i 26. maja 2016. godine, u organizaciji holandske Službe za podršku žrtvama (Slachtofferhulp). Na konferenciji je bilo prisutno 225 učesnika iz Evrope i sveta, od članova službi za žrtve i studenata do predstavnika akademске zajednice, pravosudnog sistema i državnih institucija.

Konferenciju je otvorila Michèle Blom, direktorka Uprave za krivične sankcije Ministarstva pravde Holandije. Zatim su se učesnicima pozdravnim rečima obratili Harry Crielaars, predsednik holandske Službe za žrtve i João Lázaro, predsednik Evropske podrške žrtvama (VSE).

Prvo izlaganje imala je Michèle de Kerckhove, predsednica INAVEM-a, francuske službe za žrtve, na temu *Uloga INAVEM-a nakon terorističkog napada u Parizu*. Ona se fokusirala na tri važne uloge koje INAVEM ima u pružanju pomoći žrtvama terorističkog napada: hitno delovanje, koordinacija srednjo-ročne i dugoročne pomoći žrtvama i ne gubiti iz vida pojedinačne potrebe žrtava. Posebno je naglasila važnost koordinacije svih onih koji pružaju pomoć žrtvama terorističkog napada kako bi žrtve dobile blagovremenu, odgovarajuću i kvalitetnu pomoć. Sledće izlaganje pod naslovom *Rezilijentnost* imala je Corinne Dettmeijer, holandska nacionalna izvestiteljka za trgo-

vinu ljudima i seksualno nasilje nad decom. Ona je naglasila da su trgovina ljudima i seksualno nasilje nad decom dva različita krivična dela, ali da imaju dosta sličnosti po posledicama koje ostavljaju na žrtve i društvo u celini. Pošto je iznela statističke podatke vezane za ova krivična dela u Holandiji, svoje izlaganje je završila pitanjem koje bi trebalo svi sebi da postavimo: ako želimo da zaustavimo eksploraciju i nasilje, kako tome može doprineti povezana i delotvorna pomoć žrtvama?

Rad konferencije je nastavljen po radionicama koje su bile podeljene po sledećim temama: Digitalno povezivanje; Izgradnja kapaciteta i potrebe žrtava; Restorativna pravda; Victimizacija u stranoj zemlji; Terorizam; Osetljive žrtve i seksualno nasilje; Ljudska prava i prava žrtava i Victimologija. U okviru svake teme održane su po dve različite radionice dnevno, u dva termina, što je ukupno činilo 32 radionice. Predstavnice Victimološkog društva Srbije, Mirjana Tripković i Jasmina Nikolić, učestvovale su na osam radionica, čiji će sadržaj, u daljem tekstu, biti predstavljen.

Radioniku *Potrebe žrtava i kako ih prepoznati*, u okviru teme „Ljudska prava i prava žrtava“, vodila je Ilse Vande Walle iz belgijske Službe za žrtve (Victim Support Belgium). U svom izlaganju Vande Walle je naglasila da su žrtvama najbitnije tri stvari: prepoznavanje onoga što im je potrebno, informacije i podrška. U tom smislu, naglasila je da žrtve žele da budu shvaćene na pravi način od strane zajednice, države, pravosudnog sistema, medija i slično. Informacije koje im se daju trebalo bi da budu tačne, pravovremene i kompletne. Podrška (fizička, psihička, pravna, socijalna, materijalna i praktična) bi trebalo da bude pružena pravovremeno i da bude bazirana na potrebama žrtava. Naglasila je da kod prepoznavanja potreba žrtava treba praviti razliku između pitanja koje žrtve postavljaju i njihovih potreba jer žrtve, često, nemaju saznanje o tome kakvu sve vrstu pomoći mogu dobiti. Na kraju radionice, ona je navela tri bitna principa podrške žrtvama, koji se zasnivaju na praksi i istraživanjima belgijske Službe za žrtve: 1) model postepene brige (eng. *Stepped Care Model*) koji polazi od toga da je najefektivnije za žrtvu prvo pružiti najsavojniju pomoć a zatim prelaziti na druge nivo pomoći zavisno od potreba; 2) aktivni monitoring (eng. *Watchful Waiting*) koji omogućava pružaocu pomoći spremnost na moguće rizike i probleme i adekvatan odgovor na njih u skladu sa prvim principom; i 3) nuđenje pomoći žrtvama (eng. *Outreaching*), dakle, proaktivni pristup, jer žrtve najčešće ne traže same pomoć.

U okviru teme „Restorativna pravda”, održana je radionica pod nazivom *Koliko je vaša organizacija usmerena prema žrtvama?*, koju je vodio Gert Jan Slump iz organizacije Restorativna pravda iz Holandije (RJN). Na početku radionice Jan Slump je govorio o restorativnom pristupu koji se ne odnosi samo na uobičajeno shvatanje restorativne pravde, već i na prepoznavanje da je obnavljanje (eng. *restoration*) potreba žrtava u raznim aspektima njihovog života. On je nastavio izlaganje predstavljanjem matrice „Organizaciona zrelost u odnosu na praktičnu usmerenost prema žrtvama”, koja predstavlja alat, koji je razvila RJN, pomoću koga svaka organizacija koja se bavi žrtvama može da uvidi gde se trenutno nalazi i kako, pomoću samoocenjivanja, može svoju usmerenost prema žrtvama da podigne na viši nivo. Učesnici radionice su imali priliku da, pomoću navedene matrice, kroz edukativnu igru, uporede usmerenost svojih organizacija prema žrtvama u sadašnjem trenutku, kao i da, razmenjujući iskustva sa drugim učesnicima, uvide načine za podizanje te usmerenosti na viši nivo.

Jedna od radionica u okviru teme „Digitalno povezivanje“ je imala naziv *Upotreba novih tehnologija u cilju približavanja žrtvama – projekat „Pomozi nekom“*. Na ovoj radionici prikazan je projekat finske službe za žrtve koji je imao za cilj da prikaže kako se putem interaktivne internet stranice može pomoći žrtvama.

Rad konferencije nastavljen je interaktivnom plenarnom sesijom pod nazivom *Studenti u susretu sa praktičarima, sledeća generacija!*, tokom koje su studenti postavljali pitanja na koja su odgovarali učesnici konferencije, koji su već imali praktična iskustva u vezi sa postavljenim pitanjima.

Radni deo prvog dana konferencije okončao je završnom reči gradonačelnik Utreht-a, Jan van Zanen, koji je naglasio značaj ove konferencije, kako zbog žrtava uopšte tako i zbog savremenih dešavanja vezanih za terorističke napade i migrantsku krizu.

Drugi dan konferencije počeo je izlaganjem Han Valk-a, finansijskog consultanta, na temu *Prikupljanje sredstava za podršku žrtvama – od magle (ničega) do sredstava*. U svom izlaganju Valk je dao pregled različitih kampanja za prikupljanje sredstava i ukazao na važnost dobrog koncipiranja ovih kampanja. Cilj njegovog izlaganja bio je predstavljanje dobrih praksi koje mogu prisutne da inspirišu za njihove akcije vezane za prikupljanje sredstava. On je, između ostalog, ukazao da je vrlo važno za održivost projekata da oni budu inovativni i da se ne ograničavaju na mali broj izvora finansiranja. Valk je naglasio da sle-

deća tri koraka vode do uspešnog prikupljanja sredstava: imati viziju, uspostaviti kontakt i dobiti sredstva. Sledeće izlaganje imala je Sonja Leferink, savetnica u holandskoj Službi za podršku žrtvama, na temu *Centar za razmenu znanja*. Svoje izlaganje započela je veoma inspirativnim podsećanjem na ranije konferencije Evropske podrške žrtvama, kojima je ona prisustvovala, sa naznatom šta su one značile za nju na ličnom i profesionalnom planu. Ona smatra da se, nakon 30 godina rada evropskih službi za žrtve, impresivnih istraživanja i razvijanja dobre prakse, još uvek nedovoljno razmenjuju znanja i iskustva i da bi u tom cilju trebalo osnovati Evropski centar za razmenu znanja vezanih za podršku žrtvama. Zatim je izlagao Francisco Fonseca Morillo iz generalnog direktorata za pravdu Evropske komisije na temu *Dosadašnja primena Direktive EU o uspostavljanju minimalnih standarda o pravima, podršci i zaštiti žrtava krivičnih dela*. Između ostalog, u svom izlaganju naglasio je važnost međunarodne saradnje između svih organizacija i relevantnih institucija koje se bave žrtvama kriminaliteta.

Rad konferencije nastavljen je po radionicama. Radioniku *Kako sakupiti više sredstava za podršku žrtvama*, u okviru teme „Izgradnja kapaciteta i potrebe žrtava“, vodio je Han Valk. U svom izlaganju on je ukazao da postoji velika razlika između potreba organizacija za podršku žrtvama, broja tih organizacija i visine fondova koji su im namenjeni. U takvoj situaciji bitno je potražiti nove izvore sredstava, maksimalno iskoristiti potencijal svoje organizacije i naći i primeniti metodologiju koja će dati najbolje rezultate. Naglasio je da je svaka organizacija jedinstvena i da zahteva odgovarajuću metodologiju za prikupljanje sredstava. Kao jedan od metoda za prikupljanje sredstava naveo je učešće članova organizacija na sportskim manifestacijama sa širokim brojem učesnika (npr. maraton), na kojima mogu da učestvuju sa interesantnim sloganima i obeležjima svojih organizacija i tako učine organizaciju vidljivjom potencijalnim donatorima. Kao drugi primer naveden je metod „licem u lice“ (*face to face*), gde članovi organizacija izlaze na prometna mesta i upoznaju prolaznike sa svojom organizacijom i potrebama.

Na radionici *Platforma za krivično pravosuđe* u okviru teme „Restorativna pravda“, svoja izlaganja su imali: Janneke de Visser iz holandske probacione službe sa temom *Svest o žrtvama u radu službi za probaciju*, Walter Burke iz irske zatvorske službe sa temom *Pravo žrtava da budu informisane o puštanju zatvorenika na uslovni otpust* i Daria Nashat iz Evropskog foruma za restorativnu pravdu sa temom *Dajmo glas: Restorativni pristupi koji povezuju i osna-*

žuju. Radionicu je započela Janneke de Visser, koja je opisala svoj rad u probacionoj službi. U svom izlaganju ona je opisala na koji način kod osuđenih lica pokušava da podigne svest o potrebama žrtava. Uz ilustrativne primere, ona je govorila o postignutim rezultatima, ali i o važnosti kontinuiranog rada sa osuđenicima i stalnom potenciraju raznih aspekata viktimizacije. Svojim izlaganjem je pokazala veliku ljubav i posvećenost svom radu i izmamila veliki aplauz učesnika radionice. Walter Burke, koji radi kao oficir za vezu sa žrtvama u okviru irskog zatvorskog sistema, ukazao je na važnost prenošenja informacija žrtvama gde se osuđeno lice nalazi, kao i informisanje o svim promenama, uključujući i izlaska na slobodu tokom vikenda ili puštanje na uslovni otpust i slično. Završno izlaganje, na ovoj radionici, imala je Daria Nashat, koja je predstavila Evropski forum za restorativnu pravdu i najvažnija istraživanja koja su radili. Rezultati istraživanja govore da žrtve najčešće žele odgovor od učinioca zašto su nešto uradili, ali i da im stave do znanja kako se one osećaju. Takođe, rezultati istraživanja pokazuju da je više od 50% žrtava zadovoljno restorativnim pristupima. Na samom kraju, ona je naglasila da ima mnogo stvari koje treba reći, ali da joj vremensko ograničenje to ne dozvoljava pa je pozvala učesnike/ce da zajedno osete kako to izgleda kada se u praksi primene restorativni pristupi. Svi učesnicu su seli u krug, facilitatorka je objasnila kako funkcionišu restorativni krugovi i pozvala sve učesnike/ce da kažu šta će poneti kući sa radionice. Radionica je završena u duhu razumevanja i uzajamnog poštovanja svih učesnika.

U okviru teme „Terorizam”, održana je radionica *Terapeutsko suočavanje sa fotografijama (TPC)*, koju je vodio Herman de Mönnink, psiholog i trauma-terapeut. On je prikazao pristup u radu sa žrtvama (TPC), koji se zasniva na potrebama žrtava da vide video zapis ili fotografiju tela svojih bližnjih nakon iznenadnih smrtnih slučajeva (teroristički napadi, saobraćajni udesi, ubistva, samoubistva, prirodne katastrofe i slično). Ovo sredstvo je namenjeno socijalnim radnicima i ostalima koji pružaju podršku tokom procesa žaljenja. TPC procedura je postepena i podrazumeva sledeće korake: 1) verbalno suočavanje (razgovor o događaju), 2) suočavanje putem crteža (žrtvi se pokazuju crteži najpričitniji video zapisima ili fotografijama koje slede), 3) pokazivanje video zapisa ili fotografija i 4) (ako je potrebno i moguće) pokazivanje tela. Kao ilustraciju primene TPC-a, Mönnink je pokazao crteže i video zapis, koji je pokazan ocu (na njegov zahtev) tinejdžerke koja je poginula na železničkim šinama. Ovaj vrlo potresan primer je ostavio dubok utisak na sve prisutne na

radionici. Johanna van Rosum iz holandske Službe za podršku žrtvama prikazala je studiju slučaja koji je vodila i u kojem je bio primjenjen TPC, a odnosi se na žrtve avionske nesreće. Radionica je završena izlaganjem Dineke Peters, takođe iz holandske Službe za podršku žrtvama, koja je iznela podatke istraživanja koje je sproveo Univerzitet iz Leiden-a, a koji pokazuju da TPC u potpunosti odgovara potrebama osoba koje žele da vide fotografije tela onih koje su izgubili.

Radionica *Naučite kako da se povežete – vodič za pametno korišćenje novih tehnologija u digitalnom dobu* organizovana je u okviru teme „Digitalno povezivanje“. Martin Pronk je počeo svoje izlaganje pričom kako je on sam, od potpunog laika za korišćenje društvenih mreža, odnosno Twittera, postao stručnjak koji sada koristi svoje znanje za mnoge društveno korisne inicijative. U svom izlaganju je dao primere upotrebe Twittera u političkim i mnogim drugim kampanjama, kao i prikaz različitih alata koje nudi ova društvena mreža za brzo prenošenje ideja i informacija do velikog broja korisnika. Dao je prikaz kampanje koju je započeo u Holandiji, a koja se dalje prenela na mnoge građeve u Evropi. Naime, u cilju zaštite životne sredine, putem Twittera građani su pozvani da se slikaju svaki put kada sklone neko đubre sa ulice, parka i slično i svoje fotografije podele sa drugima. Kampanja je jako dobro prihvaćena i dobijeno je mnogo slika papira od slatkiša, flaša, bačenih sendviča i sličnih stvari koje su građani odložili u kante za smeće i na taj način učinili da njihov prostor bude bolje mesto za život. Martin Pronk je ohrabrio sve prisutne da se ne boje, već da počnu da istražuju i koriste društvene mreže. Naveo je da je njegov prvi twitt bio „Idem na večeru...“ i da nije bilo nikavog odgovora, ali da nije odustao već je dalje istraživao.

Rad konferencije je nastavljen izlaganjem Sue O’Sullivan, državne ombudsmanke za žrtve kriminaliteta iz Kanade, na temu *Od zakonodavstva do primene – važnost građenja i održavanja dobre povezanosti*. Kao pozitivan primer navela je usvajanje kanadskog Zakona o pravima žrtava (Canadian Victim Bill of Rights – CVBR), koji predstavlja korak napred prema primeni postojećih zakonskih rešenja u praksi. Ona je, takođe, navela pozitivna iskustva koja ima njena kancelarija u međusobnom povezivanju u okviru sveobuhvatne mreže službi za žrtve, kako u Kanadi tako i internacionalno. Zatim je, na temu *Evropska platforma za krivično pravosuđe: njena uloga u promovisanju prava žrtava kriminaliteta*, izlagao Marc Cerón, predsednik Udruženja evropskih probacijskih službi (CEP). On je ukazao da Platforma nije još samo jedna inovacija koja

treba da se uzme u razmatranje, već primer kako bi žrtve trebalo da budu stavljenе u fokus napora svih onih koji su uključeni u rad sa njima.

Konferenciju je, prigodnom završnom reči, zatvorio Victor Jammers, član Upravnog odbora holandske podrške žrtvama (Slachtofferhulp).

Ovom vrlo zanimljivom i inspirativnom konferencijom, kroz uvodna izlaganja i veliki broj interesantnih radionica, stavljen je naglasak na međusobno povezivanje evropskih službi za podršku žrtvama, kako zbog razmene značja i razvoja organizacija tako i zbog razvoja i poboljšanja podrške žrtvama. Takođe, u državnim okvirima, ukazano je na važnost povezivanja službi za podršku žrtvama sa pravosudnim sistemom i organizacijama koje su specijalizovane u raznim oblastima podrške, kao i, još bolje, povezivanje praktičara, koji pružaju podršku, sa žrtvama kriminaliteta i njihovim bližnjima. Naglašeno je da pored povezivanja, i posvećenost vlada pojedinih zemalja pomaganju rada organizacija za podršku žrtvama, kao i posvećenost tih službi svom radu, doprinosi podizanju podrške žrtvama na viši nivo.

Ovom prilikom želimo da se zahvalimo Misiji OEBS u Srbiji, Odeljenju za policijske poslove (Department for police affairs), i posebno Denise Mazzolani i Valdete Osmani, što su razumele značaj ove konferencije za rad Viktimološkog društva Srbije, i finansijski pomogli odlazak autorki ovog prikaza na nju. Pored inspirativnih izlaganja, na konferenciji smo doatile puno novih ideja i ostvarile niz kontakata koje ćemo koristiti u cilju daljeg rada u okviru Viktimološkog društva Srbije uopšte i posebno u okviru službe *VDS info i podrška žrtvama*.

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MIRJANA TRIPKOVIĆ
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RIANNE LETSCHERT, INES STAIGER, ANTONY PEMBERTON (EDS.)

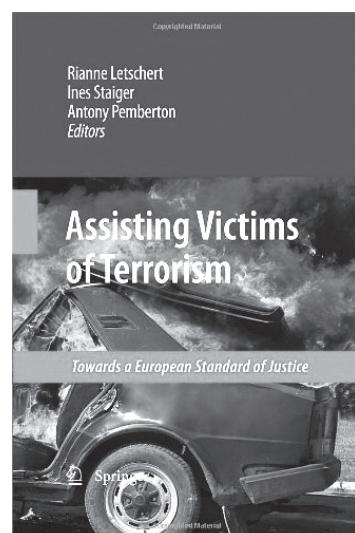
Assisting Victims of Terrorism: Towards a European Standards of Justice

(Podrška žrtvama terorizma: Ka evropskim standardima pravde)
Springer, Dordrecht, 2010, str. 348

Knjiga Podrška žrtvama terorizma: Ka evropskim standardima pravde (*Assisting Victims of Terrorism: Towards a European Standards of Justice*), koju su uredili Rianne Letschert, Ines Staiger i Antony Pemberton, obrađuje različite oblike pružanja pomoći žrtvama terorističkih napada. Knjiga je organizovana u sedam poglavlja ispred kojih se, pored sažetka, nalazi i Uvod u predložene Preporuke Evropske unije za pomoć žrtvama terorističkih napada (Tilburška deklaracija).

U okviru prvog poglavlja *Introduction and definitions* Rianne Letschert i Ines Staiger ističu problematiku definisanja koncepcata: terorizam (zbog njegovih različitih oblika, npr. nacionalistički, fundamentalistički, međunarodni i slično), žrtve terorizma (zbog podele na primarne, sekundarne i tercijarne) i restorativna pravda (zbog različitih značenja pojma i onoga što on obuhvata, pri čemu autorke nalaze zajednički imenitelj svim definicijama kroz susret, reparaciju i transformaciju).

U sledećem poglavlju koje nosi naziv *International initiatives and activities focusing specifically on victims of terrorism, including existing international*



instruments autorka Rianne Letschert nudi pregled i analizu različitih aktivnosti i usvojenih dokumenata u okviru međunarodnih i evropskih organizacija (Ujedinjene nacije, Međunarodni krivični sud, Savet Evrope, Organizacija za evropsku bezbednost i saradnju – OEBS, Evropska podrška žrtvama, Evropska unija), koje bi mogле biti značajne i pomoći zaštiti prava žrtava terorističkih napada u vidu dobijanja urgentne i kontinuirane pomoći, zaštite i podrške, izbegavanja njihove sekundarne viktimizacije, primene restorativne pravde i slično.

U trećem i četvrtom poglavlju - *Needs of victims of terrorism* i *Psycho-social assistance*, Antony Pemberton poredi potrebe žrtava terorističkih napada i žrtava drugih oblika kriminaliteta. Politički kontekst terorističkih napada je specifičan, žrtava obično ima više (masovna viktimizacija), a samim tim i težih oblika trauma, pri čemu se žrtve mogu osećati kao civilne žrtve nekog rata. Autor govorи i o emotivnim posledicama koje su iste kao i zabeležene emotivne posledice kod žrtava kriminaliteta. U četvrtom poglavlju se posebno bavi negativnim (strah, trauma), ali i pozitivnim (rezilijentnost, pomaganje i solidarnost) posledicama na psihološkom i socijalnom planu za pojedince, ali i za čitave zajednice, kao i načinima kako se žrtvama može pomoći (podrška, psihoterapija, davanje informacija). Autor zaključuje da se individualna podrška žrtvama terorizma ne razlikuje od pružanja podrške žrtvama kriminaliteta, ali da intervencije na nivou zajednice mogu biti specifične, pozivajući se na Gersonov pristup koji ima više nivoa.

U narednom poglavlju čiji je naslov *Access to justice and administration of justice* autorka Ines Staiger analizira koliko je žrtvama dostupna pravda i pravna pomoć na osnovu postojećih preporuka i odluka međunarodnih tela. Autorka analizira razlike između pravnih sistema i onoga što se nudi žrtvama u smislu pravne pomoći i slično. Zaključak autorke je da primena međunarodnih standarda zavisi, pre svega, od njihove implementacije u nacionalna zakonodavstva, kao i da su najveće prepreke pristupu pravdi u nekim zemljama članicama EU ograničena prava participacije žrtava.

U šestom poglavlju *Compensation and reparation for victims of terrorism* autorke Rianne Letschert i Karin Ammerlaan bave se različitim oblicima kompenzacije i reparacije za žrtve u različitim državama EU i SAD (iz uspostavljenih fondova za žrtve, dobrotvornih akcija, putem privatnih tužbi ili preko osiguranja). Autorke razmatraju i potrebe žrtava terorizma za reparacijom, ali i šire zajednice u vidu, na primer, komemorativnih aktivnosti, otvaranjem muzeja i slično, kao i probleme sa kojima se države mogu suočiti, poput masovnih zah-

teva za naknadu štete. Na kraju, razmatrana je i ideja uspostavljanja zajedničkog fonda Evropske unije za žrtve terorizma, pošto je prepoznato da je terorizam rizik za sve članice i da bi zajednički fond pomogao kod terorističkih akata velikih razmara koji bi mogli da uniše i društvenu infrastrukturu.

U poslednjem poglavlju *Restorative justice and victims of terrorism* Ines Stager analizira potencijal restorativne pravde za žrtve terorizma na mikro, mezo i makro nivou. Poglavlje obrađuje različite oblike restorativnih praksi i analizira njihovu primenljivost (na primer, medijacija između žrtve i teroriste), pri čemu izlaže studije pojedinačnih slučajeva kao ilustracije. Na primer, interesantan je primer Laure Blumenfeld čiji je otac ubijen u Izraelu kao turista. Laura je planirala osvetu i ubici koji je bio u zatvoru lažno se predstavila kao novinarka. Tokom razgovora, obe strane su se promenile, Laurina želja za osvetom je nestala i ona se na kraju zalagala za ranije puštanje ubice njenog oca na slobodu. Ubica je sa druge strane pokazao iskreno žaljenje zbog svog postupka. Naravno, autorka ističe i da u nekim slučajevima nije došlo do razumevanja ni pozitivnih pomaka pri ovakvim susretima.

U prilozima iza svih poglavlja nalazi se i lista eksperata i praktičara u oblasti pružanja podrške i zaštite žrtvama terorizma.

Preporučio bih ovu knjigu svim kriminolozima, sociologima, viktimalozima, pravnicima, psiholozima, studentima i praktičarima koji se bave pružanjem podrške i zaštite žrtvama i koji su zainteresovani da izučavaju i da se bave istraživanjima vezanim za žrtve terorističkih napada, kao i da im direktno pomažu, jer ova knjiga nudi detaljnu analizu potreba ovih žrtava, kao i načina na kojima im se može pružiti podrška.

DR NIKOLA PETROVIĆ

Poziv na saradnju i preplatu

TEMIDA je časopis o viktimizaciji (stradanju), ljudskim pravima i rodu. Časopis objavljuje naučne i stručne radove koji za svoj predmet imaju problem žrtava kriminaliteta, rata, kršenja ljudskih prava i drugih oblika stradanja (sa posebnim naglaskom na probleme žena, dece, manjinskih grupa, osoba sa invaliditetom i drugih kategorija koje su posebno izložene viktimizaciji), strah od kriminaliteta, kršenje ljudskih prava u zatvoru i u krivičnom postupku, prevenciju viktimizacije i slično. Svaki broj je tematski koncipiran, ali se objavljaju i tekstovi van određenih tema.

TEMIDA je referisana u **DOAJ** (Directory of Open Access Journals), **EBSCO** istraživačkoj bazi i uvrštena je u Emerging Sources Citation Index (**ESCI**), novu ediciju Web of Science.

Teme za 2016. godinu su: broj 3 – **Viktimizacija i internet** (rok za predaju radova je 1. septembar 2016. godine); broj 4 – **Femicid** (rok za predaju radova je 1. novembar 2016. godine). Članci van ovih tema mogu biti predati Redakciji bez obzira na navedene rokove.

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Naslove dati iznad slika i tabela.

Primer: **Tabela 1.** Struktura viktimizacije prema polu

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Primer: Milutinović, M. (1977) *Penologija*. Beograd: Savremena administracija.

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Primer: Benton, T. (2006) Do we need rights? If so, what sort? U: L. Morris (ur.) *Rights: Sociological perspectives*. New York: Routledge, str. 21-36.

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Primer: Kelly, L. (2011) Violence against women and children in the national legislations of the EU member states: an overview of the research results. *Druga godišnja konferencija Viktimološkog društva Srbije – Žrtve kriminaliteta i žrtve rata: međunarodni i domaći kontekst, knjiga apstrakta* (str. 13). Beograd: Viktimološko društvo Srbije i Prometej.

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Naslov prikaza treba da sadrži sledeće podatke:

Prikaz knjige: naziv u originalu, prevod naziva na srpski jezik u zagradi (ukoliko je naziv na stranom jeziku), naziv izdavača, mesto izdanja, godina izdanja i broj strana.

Prikaz skupa: naziv u originalu, prevod naziva na srpski jezik u zagradi (ukoliko je naziv na stranom jeziku), mesto i datum održavanja skupa.

Radovi ne smeju biti već objavljeni, niti predati za objavljivanje na nekom drugom mestu.

Pretplata

Cena pojedinačnog štampanog primerka naučnog časopisa Temida iznosi 750 dinara. Pretplata na štampani primerak za 2016. godinu iznosi 3.000 dinara za pojedince i 10.000 dinara za institucije.

Cena pojedinačnog štampanog primerka naučnog časopisa Temida za inostranstvo je EUR 30. Za inostranstvo pretplata na štampani primerak za 2016. godinu iznosi EUR 60 za pojedince i EUR 120 za institucije.

Cena pretplate obuhvata dostavljanje poštom primerka časopisa Temida i pristup svim elektronskim brojevima Temide u 2016. i prethodnim godinama.

Godišnja pretplata za pristup elektronskim izdanjima naučnog časopisa Temida preko internet stranice Viktimološkog društva Srbije za pojedince iznosi 2000,00 dinara, a za institucije 6000,00 dinara. Pristup pojedinačnom broju u elektronskoj formi iznosi 200,00 dinara.

Godišnja preplata za pristup elektronskim izdanjima Temide preko internet stranice Viktimološkog društva Srbije za inostranstvo iznosi EUR 40 za pojedince i EUR 100 za institucije. Pristup pojedinačnom broju u elektronskoj formi za inostranstvo iznosi EUR 5.

Časopis Temida će u 2016. godini biti dostupan u elektronskoj formi na internet stranici Viktimološkog društva Srbije www.vds.org.rs i preko EBSCO istraživačke baze podataka **samo za pojedince i institucije koji plate preplatu.**

U vezi preplate na štampano izdanje ili pristup elektronskim izdanjima naučnog časopisa Temida, molimo Vas obratite se redakciji časopisa.

Call for papers and subscription

Temida is the peer reviewed journal on victimization, human rights and gender, which is accredited as an academic journal by Serbian Ministry of Science. Papers are mainly published in Serbian. Papers written in other languages are either translated in Serbian or published in the language they are written in.

TEMIDA is indexed in the **DOAJ** (Directory of Open Access Journals), **EBSCO** research database and has been accepted for coverage in the Emerging Sources Citation Index (**ESCI**), a new edition of the Web of Science.

Topics for 2016 are: No. 3 – **Victims and internet** (submission deadline: September, 1, 2016); No. 4 – **Femicide** (submission deadline: November, 1, 2016). Contributions not specifically dedicated to these themes, as well as conference and book reviews, may be submitted irrespective of the indicated terms.

Manuscripts should be submitted by e-mail: temida.vds@gmail.com or vds@eunet.rs.

All articles will be peer reviewed anonymously by two competent scholars. Afterwards, the Editorial Board will decide about its publishing. The manuscripts will not be returned.

Technical instructions for authors of articles

1. Contributions should not exceed **20 pages** typed in double line spacing. The recommended font type is Times New Roman 12.
2. First page should contain: **the title, the author's name, abstract** (up to 150 words) and **4-5 key words**.
 - 2.1. After the author's surname put the footnote that should contain the name of the institution where the author works, academic title, and e-mail. In case of multiple authors, specify data for each co-author separately.
Example: Petar PETROVIĆ*
 - 2.2. The abstract must clearly state the problem and the aim of the paper, as well as the main topics that will be covered in the article.
3. Subheadings should be written in the following way:
Paragraph heading (Times New Roman, 12, Bold)
Sub-Heading 1 (Times New Roman, 12, Italic)
Sub-Heading 2 (alphabet letter in the bracket, Times New Roman, 12, Regular)
Example: **Victim support services**
Categories of the users
a) Women and children

* Dr Petar Petrović je docent na Fakultetu..... u Beogradu. E-mail: nikola@primer.net

4. Please use the Harvard referencing system. At the end of citation you should open a bracket and give the author's surname, the year of publication and page number. Example: (Christie, 2005: 28).

When there are two or three authors they should be separated with a comma (e.g. Boom, Kuijpers, 2012).

When there is more than three authors, after the surname of the first author, add "et al." (e.g. Shapland et al., 2009).

In case that two authors share the same surname add the first letter of their first name (e.g. H. Jones, R. Jones, 2003).

When a secondary source is cited, add "according to" (e.g. Ćopić according to Nikolić-Ristanović, 2011).

If there are multiple papers of different authors in the same bracket, they should be separated with a semicolon (e.g. Dokmanović, 2011; Nikolić-Ristanović, 2012).

In that case the papers should be mentioned chronologically according to the year of publishing.

- 4.1. Footnotes should contain only brief accompanying comments, law articles and Official Gazzetes.

- 4.2. Foreign names should be written originally.

5. If the pictures and tables are included, please make a reference to them at the proper place, E.g. (Table 2)

Please give the titles above the pictures/tables.

Example: **Table 1.** Structure of victimization by gender

6. It is necessary to enclose the list of the **literature** at the end of the paper. List all the references in alphabetical order, according to the first author's surname. A list of references should contain:

For books: surname and initials of the author, year of publication (in the bracket), title of the book (italic), place of publication and publisher.

E.g. Milutinović, M. (1977) *Penologija*. Beograd: Savremena administracija.

For book chapters: surname and initials of the author, year of publication (in the bracket), chapter title, In: initial, surname of the editor followed by ed. in the bracket, title of the book (italic), place of publication, name of publisher and the page numbers of the chapter.

E.g. Benton, T. (2006) Do we need rights? If so, what sort? In: L. Morris (ed.) *Rights: Sociological perspectives*. London and New York: Routledge, pp. 21-36.

For journal articles: surname and initials of the author, year of publication (in the bracket), title of the article, title of the Journal (italic) and page numbers of the article.

E.g. Christie, N. (2005) Restorativna i retributivna pravda u kontekstu rata i ratnih zločina. *Temida*, 4, pp. 27-32.

For documents accessed by internet: give the electronic address and the date you accessed the source.

E.g. <http://webrzs.stat.gov.rs/WebSite/Public/PageView.aspx?pKey=2>, page accessed 5. 10. 2012.

Prior to the web page there can be the author's name (if known) and the title of the text. In this case, in front of the web page write – available at:

For laws: next to the name of the law, mention the Official Gazette in which it was published.

E.g. Zakon o krivičnom postupku, Službeni glasnik RS, br. 58/04.

For conference papers: surname and initials of the author, year of publication (in the bracket), title, name of the conference (in italics), page number in the book of abstracts (in the bracket), place of publication, name of the publisher.

E.g. Kelly, L. (2011) Violence against women and children in the national legislations of the EU member states: an overview of the research results. *Druga godišnja konferencija Viktimološkog društva Srbije – Žrtve kriminaliteta i žrtve rata: međunarodni i domaći kontekst, knjiga apstrakta* (str. 13). Beograd: Viktimološko društvo Srbije & Prometej.

For magazine articles: surname and initials of the author, year and day of publication in the bracket, headline, newspaper name, page number.

E.g. Jovanović, A. (2012, 5. decembar) Otkriveni plagijati naučnih radova, Blic, p. 5.

It is possible to specify the web edition of the newspaper, when instead of the page you can write – available at: and then web site address and the date of accessing the site.

Additional note: In the reference list there must not be bibliographic items that are not mentioned in the text, and should be all the items that are mentioned in the text, including laws, reports but also web pages (which go into a separate section called Internet sources within the Bibliography).

7. Be sure to attach the title, abstract and keywords in English at the end of the manuscript.

Please be sure to properly use the intellectual property of other authors during the presentation of statements, research results, and graphics from their texts. The journal *Temida* is a subject of **plagiarism control** and is located in the **Digital Object Identifier (DOI)** Repository.

Changing a few words from the sentence of the original author, as well as changing the order of words in their sentences is plagiarism if the author is not cited.

When you paraphrase a text of another author you should reproduce the exact meaning of their ideas, but express them through your own words and with a different sentence structure:

E.g. Lack of good mechanisms of recognition is the most probable cause for the small number of identified victims under the age of 18 years (Nikolic-Ristanović, 2009).

The same rule applies in the case when you wish to refer to the assertion from another research:

E.g. The survey of domestic violence in Vojvodina has shown that almost every second woman suffered psychological abuse (Nikolic-Ristanović, 2010).

If the only way to express the assertions of another author is to quote their words, you must put these sentences in quotation marks, and indicate the page number on which these sentences are located in their text in the bracket next to the names of the authors and the year in which their paper was published:

E.g. The author states that "a smaller number of minor victims probably speaks more of a poor mechanism of identification" (Nikolić-Ristanović, 2009: 284).

Technical instructions for authors of reviews

The review should not exceed 6 pages typed in double line spacing. Recommended font is 12 point Times New Roman.

Title of the review should include:

Book review: title of the book in original, translation of the book title in Serbian in the bracket (if the title is in foreign language), name of the publisher, place of publication, year of publication and number of pages.

Conference review: title of the conference in original, translation of the conference title in Serbian in the bracket (if the title is in foreign language), place and date of conference.

Papers should not be already published neither submitted for publishing at some other place.

Subscription

Price for single printed copy of scientific journal Temida is 750 Dinars. Annual subscription for printed copy for 2016 is 3000 RSD for individuals and 10000 RSD for institutions. Price for single printed copy for abroad is 30 EUR. Annual subscription rate for printed copy for abroad is 60 EUR for individuals and 120 EUR for institutions. The subscription includes delivery of the copy of Temida by mail and the access to all electronic issues of Temida in 2016 and all previous years. Regarding the subscription please contact the Editorial office.

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