

On April 5, 1999, local police in Serbia found a truck floating half-submerged in the Danube River.

When they pulled it to shore and opened the cargo hold, they found it filled with human bodies. Following orders, they hid the truck and its contents. Two weeks later, on the other side of Serbia, another truck containing bodies surfaced. Once again, it was made to disappear.

The full picture would emerge years later, when the International Criminal Tribunal for the Former Yugoslavia investigated and then prosecuted the chief architects of the ethnic cleansing of Kosovo. These cases, which formally came to a close in 2014, exposed a secret campaign to hide these terrible crimes by transporting and concealing the bodies of the dead.

In *Tell It to the World*, Elliott Behar, a former war crimes prosecutor, tells the true story of what unfolded through the words and experiences of the eyewitnesses, victims, and perpetrators who testified in The Hague. With an incisive look at the nature and operation of international criminal justice, Behar examines the causes and consequences of mass violence, identifying a powerful and disturbing connection between the justice we seek and the injustices we commit.



ELLIOTT BEHAR grew up in Toronto. A long-standing interest in human rights led him to a career as a Crown prosecutor. In 2008, he became a war crimes prosecutor for the International Criminal Tribunal for the Former Yugoslavia in The Hague.

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 **DUNDURN**

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AND THE SECRET CAMPAIGN
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NARRATIVES OF INJUSTICE

"No one will beat you again"

In April of 1987 the president of the Serbian Communist Party, Ivan Stambolić, asked his trusted associate, a then relatively unknown man named Slobodan Milošević, to travel to Kosovo in his stead.

It was a delicate time in the history of Yugoslavia. Josip Broz Tito, the only leader the Socialist Federal Republic of Yugoslavia had known since it was founded after World War II, had died in 1980. Under Tito's leadership, the federation of Slovenia, Croatia, Bosnia-Herzegovina, Montenegro, Serbia, and Macedonia, along with the autonomous territories of Vojvodina and Kosovo, had not only held solidly together, it had become the poster child for the non-aligned movement during the Cold War. Tito's Yugoslavia was a tightly controlled police state, but its brand of Communism-light, which had managed to remain independent from the Stalinist empire next-door, made it in many ways the envy of Eastern Europe. By the 1960s its economy was booming and its

citizens enjoyed the freedom — unusual at the time — to work abroad. What was not tolerated was ethnic nationalism, or the politics of ethnic identity, in any form. Throughout his reign, Tito had aggressively cracked down on any signs of emergent nationalism within Yugoslavia, snuffing out movements before they had a chance to ignite.

The Yugoslav federation held together after Tito's death. But by 1987 the social and political landscape was shifting underfoot. Yugoslavia had lived very much in the shadow of the Soviet Union since being founded as a modern state, and by 1987 both the Cold War and the Soviet Union itself were unwinding. At the same time, the Yugoslav economy began to worsen, and as the willingness and ability of the state to crack down became increasingly unclear, nationalist stirrings were beginning to emerge from the republics.

Kosovo held a strong symbolic importance for the Serbs. It was the seat of the early Serbian Orthodox Church, home to the community's most sacred churches, and the site of the legendary Battle of Kosovo Polje, where the Serb army was defeated by the invading Ottomans in 1389 — a battle that would become an increasingly invoked piece of the Serbian self-narrative. By the 1980s, however, Kosovo's now 90 percent Albanian population was showing increasingly nationalist tendencies, responding to what they saw as the Serbian domination of politics and governance and the heavy presence of Serbian soldiers and police.¹

In 1981 there were protests and then rioting amongst Kosovo Albanian students at the University of Pristina. What reportedly began with a disgusted student throwing his lunch tray to the floor — a reaction, some say, to finding a cockroach in his soup — grew into a demonstration against conditions at the university and then riots involving thousands of people. Within a month, demands had grown from more localized calls for better treatment for Kosovo Albanians to multi-city protests calling for a "Kosovo Republic" distinct from Serbia. In a country where open protests had been essentially unheard of, the events were shocking. The state's response was correspondingly harsh: they brought in tanks, declared a state of emergency, and arrested (and later convicted) hundreds of people. The number of people killed in the riots and the subsequent response was never clearly established.²

Following the riots, significant portions of the Serbian media, realizing that they were no longer constrained as they had been under Tito, began

to promote the narrative that Kosovo Serbs were being victimized by Albanians. There were, undoubtedly, genuine cases in which Serbs were being subjected to abuse and intimidation. But the media painted an exaggerated and caricatured picture of crime and injustice, which many members of the public were all too enthusiastic to hear.

In 1985, the Belgrade magazine *NIN* made national news of a brutal assault in which a Serb farmer named Đorđe Martinović was allegedly attacked by two masked Albanians and tied up in a field near his house. When he was treated in the hospital, doctors had to remove a broken beer bottle from his anus. The case was invoked by the Yugoslav Assembly that year, and the following year it was made the subject of a lengthy book with a reported initial print run of fifty thousand copies.³ The actual facts of the assault were unclear; there were reports that Martinović had confessed to impaling himself on the bottle, and while neither the Belgrade Military Medical Academy nor the Federal Ministry of Justice could find sufficient evidence to determine the wound's origin, the Yugoslav secret police and military intelligence subsequently concluded that the injuries were self-inflicted. Regardless of what actually happened, the enthusiastically graphic coverage of the alleged incident willingly fed a perception throughout Serbia that the Kosovo Serbs were being brutally victimized.⁴

During this same period, the Serbian media also trumpeted salacious allegations of epidemics of rape being perpetrated by Kosovo Albanian men against Kosovo Serb women, prompting local movements and complaint campaigns. In contrast to these media depictions, however, an independent committee of Serbian lawyers and human rights experts found that the incidence of rape in Kosovo was in fact markedly lower than in other regions of Yugoslavia. The committee found that there were only a total of thirty-one reported rapes in Kosovo, either committed or attempted, from 1982 to 1989.⁵ At the time, Kosovo also had the lowest murder rate in Yugoslavia. The period from 1981 to 1987 saw only five inter-ethnic murders in total: two Serbs killed by Albanians and three Albanians killed by Serbs.⁶

In 1986, an inflammatory "Memorandum" produced by the Serbian Academy of Sciences and Arts was leaked to the press, painting the Serbs as victims of the Yugoslavian Communist regime and claiming

that Tito — whose parents were a Croat and a Slovene — had been biased against the Serbs, particularly in the granting of autonomous status to the Serbian territories of Kosovo and Vojvodina. With particularly inflammatory aplomb, the Memorandum described expulsions of Kosovo Serbs by the Albanians as a “genocide.” The Martinović bottle case was described as “reminiscent of the blackest periods of Turkish impalings.” The Memorandum urged Serbia not to “take a passive stand in all this, waiting to hear what others will say, as she has done so often in the past.” It was received by many as a call for the expansion of Greater Serbia.⁷

It was against this backdrop that President Stambolić sent Slobodan Milošević to Kosovo. There was news that a large protest was being planned and a request had been made for Stambolić to address a group of Kosovo Serb nationalists in Kosovo Polje. Stambolić had already made several speeches cautioning against the dangers of Serb nationalism and it was clear that some sort of steady-handed appearance by the leadership was called for to quell nationalist sentiments.⁸ Fearing a potentially volatile political situation, Stambolić chose to send Milošević in his stead. It would prove a fatal political mistake.

On April 20, Milošević spoke to a crowd of Kosovo Serbs, cautioning them generally against the dangers of “exclusive nationalism based on national hatreds,” repeating the Communist Party position. But in a controversial move, breaking with party and government policy that had always cautiously restricted nationalist expression, Milošević agreed to meet with a group of Kosovo Serb nationalists several days later.⁹

On Friday, April 24, 1987, Milošević sat in a town hall in Kosovo Polje, where a large gathering of local Serbs described a litany of injustices committed against them by the Kosovo Albanians, the local police, and the local government. The events were well orchestrated: outside the hall the Kosovo Serb nationalists had organized an unwieldy mob of protestors who were shouting at the police and pelting them with large rocks — rocks that the organizers had arranged to have brought in on flatbed trucks. The media had been alerted and were on hand to broadcast the spectacle. As the events grew increasingly out of hand, Milošević strode out of the town hall and onto the street. He was flanked by bureaucrats, the chants around him deafening. He took a calculated pause and then waded into the crowd, cameras rolling, men pressing in all around him. It was a bold piece of political theatre.

“Comrades,” he said firmly, “speak up!”

One of the men pressed in towards him, just inches from his face, media microphones and notepads encircling them.

“The police attacked us, they hit women and children,” the man said. “The Albanians got in among us, we were beaten up.”

“They’re beating us!” someone yelled.

Milošević’s response, spoken in front of the cameras and instantly lionized by the Serbian media back in Belgrade, changed the course of Yugoslavian politics.

“*Niko ne sme da vas bije*,” he said. “No one will dare beat you again.”¹⁰

Casting the Serbs as the victims of injustice, Milošević’s words galvanized the Serbian public, stoked pride, and puffed chests. Repeatedly rebroadcast by Radio Television Belgrade, they instantly inflamed divisions between Serbs and Albanians in Kosovo and caused deep concerns amongst the other Yugoslav republics — most notably Croatia — who were wary of Serbian expansion into other territories.

Milošević returned to Belgrade as a heroic figure. As hardline Serb activists organized corresponding protests involving thousands of people, he capitalized on his new-found popularity. He continued to emphasize the injustices perpetrated against the threatened Serbian people, riding this populist drama and the spectre of threatened and victimized Kosovo Serbs into power. By September of 1987 he had ousted Stambolić and gained control of the Communist Central Committee. From there his divisive nationalist agenda spread quickly, and the flames of nationalism and ethnic tension were soon fueled from many sides. What unfolded was a frighteningly rapid descent into war and ethnic cleansing, amongst people who had lived comfortably together as neighbours since the founding of the modern Yugoslavian republic.

Interviewed later about the events in Kosovo that spurred his rise to power, Milošević would say that it was the Albanians who had wanted an ethnically pure Kosovo, not the Serbs. “They murdered Serbs, defiled our graves, burned monasteries,” he said. “The exodus of Serbs began.”

These words would serve as a remarkably succinct summary, if not a blueprint, for the actions Serb forces would ultimately take against the Kosovo Albanians in 1999, actions that many saw as the culmination of what had begun when Milošević first came to power. It would

perhaps be ironic — the almost perfect inversion between the injustices that Milošević described the Serbs suffering and the injustices the Serb forces would subsequently commit against the Albanians — if the causal link between this rhetoric, and the atrocities that followed, were not so clear.

Reclaiming the Field of Blackbirds

It was surely no accident that the moment that transformed Milošević's career, and that set the former Yugoslavia on the path to ethnic bloodshed, took place in the town of Kosovo Polje, where six hundred years earlier the Serbs had fought and lost the fateful battle for their homeland with the Ottoman Turks.

Serbian legend told that prior to the monumental battle with the sultan's army on the "Field of Blackbirds," a grey falcon alighted from Jerusalem and came to Serbian Prince Lazar in a dream. The hawk presented him with a choice: a victory over the sultan's men and a kingdom on earth, or a loss on the battlefield and the promise of an eternal kingdom in heaven. Lazar, of course, chose the heavenly kingdom. The Serbs thus lost the pivotal battle for their homeland and became martyrs instead.¹¹

Historians have disputed the details of the battle, its ultimate significance, and even whether the Serbian army (really a Serb-dominated Western coalition with Bosnians, Albanians, Bulgarians, and some Hungarians) actually won or lost. What is relatively clear is that the battle saw the Serbian army kill Ottoman Sultan Murad I, the Ottomans kill Prince Lazar, and both sides sustain massive casualties. The battle ended with the Serbian army fleeing, and although both armies declared themselves victorious afterward, the Ottomans held on to the field.¹² Although the Ottomans lost their sultan, he was quickly replaced by his son Bayezid. For Serbia, the defeat marked the end of the independent Serbian kingdom and entrenched the Ottoman Empire in the Balkans.¹³

The narrative of the Field of Blackbirds stoked powerful feelings of nationalism. Though Serbs and Albanians were living in Kosovo together

in the late 1980s — as they had done for decades under Tito — the myth defined and divided its stakeholders based on ethnicity, seemingly aligning the Muslim Kosovo Albanians with the Ottomans and the Serbs with ... well, the Serbs. It was a historical narrative of war and conquest that seemed to cry out for redemption.

The story also dovetailed well with claims that Kosovo's Serbs had been the victims of ongoing injustices at the hands of the Albanians. Propaganda claimed that the Albanians had been killing and deporting Kosovo Serbs since the Ottoman conquest in 1389, often referring to the flight of Serbs and the settlement and growth of the Albanian population as a genocide. A number of Serbian historians similarly claimed that under Communism in Yugoslavia, Kosovo's Albanians had instituted policies of "ethnic cleansing" in order to create an ethnically pure Kosovo. They described ongoing persecution, rape, and murder, and the desecration and destruction of Serbian religious institutions.¹⁴ The creation of this widely held perception that the Serbs were the victims of ongoing atrocities meant that oppressive Serbian actions, dictated from Belgrade, could be cast as a justified response to an ongoing injustice.

The six-hundred-year anniversary of the Battle of Kosovo Polje came in 1989, less than two years from Milošević's ascendance to power. The event was marked with great pomp and circumstance: Prince Lazar's remains were marched around Serbia, hundreds of thousands of pilgrims journeyed to the field, and Milošević made a well-timed appearance in a helicopter to greet them.¹⁵ The battle was recreated in a popular film that year, with Kosovo Albanian extras playing hordes of Ottoman Turks.

That same year, the Serbian assembly tabled amendments to the constitution that would strip Kosovo of its autonomy. Though Kosovo had been an equal subject within the Yugoslav federation pursuant to the 1974 constitution, these amendments transferred control of the local police, courts, and civil defence to Serbia. They also empowered the Serbs to dictate social policy and deem an official language. For the amendments to take effect, they would need to be formally accepted by the Kosovo Assembly. In advance of the vote, Serbian forces brought heavy pressure to bear on the members of the Assembly to support the amendments. On the day of the vote, Serbian military and police vehicles were brought in to surround the Assembly and reinforce the message. In this climate of fear,

and with people who were not members of the Assembly casting votes, the amendments passed. When they were subsequently ratified by the Serbian Assembly, "Serbia at last had become one."¹⁶ With its autonomous status now revoked, Kosovo's political future was dictated from Belgrade.

In response, ethnic Albanian protests raged across Kosovo. Another state of emergency was declared and troops were brought in to control the population. With the territory now an "effective police state," overt discrimination against Kosovo's ethnic Albanians began in earnest. Albanians were harassed, stopped at checkpoints, and often detained in prisons, where they could be held for sixty days at a time. Prominent Kosovo institutions, including radio, television, and newspapers, were shut down. Throughout 1990 and 1991, ethnic Albanians were asked to sign declarations of loyalty to Serbia or face termination from their jobs. They were removed from prominent positions across the public sector and from the police force. Serbian was declared the official language and the entire Albanian school system was shut down, up to and including the University of Pristina, replaced with an overhauled Serbian curriculum to be taught by non-Albanians.

The Kosovo Albanians, in turn, boycotted Serbian institutions and initiated a non-violent campaign led by Ibrahim Rugova. They created a parallel education system for Albanians that took place in improvised classrooms, often in people's homes. They created their own municipal government structures and separate health care centres. The ethnic divisions in Kosovo grew increasingly more entrenched.

Events in Kosovo would serve to bracket the beginning and the end of the most brutal ethnic violence that unfolded in the former Yugoslavia.

III

Violence and Justification

Justified is a powerful word, which seems to receive too little of our attention. It conveys that an act that would otherwise have been unacceptable is considered — for some particular reason — to be morally and ethically permissible. To feel that we were justified is to feel that we were morally and ethically *right* to act as we did.

Where wrongful acts have been committed, various claims to some sort of righteous justification always seem to follow. Children invoke these justifications intuitively, trying to evade blame: he hit me first, he took my toy from me, he started it. Adults do the same, although they tend to be somewhat more sophisticated in their delivery. We are all intimately familiar, through personal experience, with the ready resort to justifications for violence after the fact. What we too often ignore is the way in which the language and emotion of justification can impel us to commit acts of violence in the first place, and then to continue to perpetuate those acts in the face of any otherwise objective notion of immorality or inhumanity. Where hearts and minds must be recruited to a cause — both to initiate violence and to maintain it — the groundwork of righteous justification must be laid in advance.¹⁷

What goes too often unnoticed, then, and in fact constitutes an important and fundamental inversion of the traditional lens through which we see international justice, is that collective violence is almost always motivated by the perpetrators and their base of supporters responding to what *they* see as injustice, and pursuing a form of justice for themselves. It is perpetuated, in much the same way, by the perception that what they are doing, while it might otherwise have been immoral, is justified. Such violence is not typically caused by an *absence* of, or lack of attention to, justice and morality. It is, instead, caused by the direct and overriding pursuit of a *misdirected* view of morality and justice, constructed as justification in the minds of the perpetrators.

American sociologist Donald Black was one of the first to reinterpret crime and violence in this way — as a form of justification. Black understood crime not as the intentional violation of a prohibition but instead as a moralistic pursuit of justice. Crime is not about breaking the law, in other words, but about seeking a sort of "self-help" justice. He observed that murder is less often committed to gain something and more often "related to a grievance or quarrel of some kind."¹⁸ This is not to say that murders are never committed for the mere purpose of gaining some benefit, like money, but that those instances are surprisingly rare. Murders are more often committed in response to adultery, affronts to honour, and *disputes* over money.¹⁹

Black observed that when we deal with an event in court, we may completely redefine that event from the way it was originally conceived by the perpetrator. As he put it:

In the case of a husband who shoots his wife's lover, for example, the definition of who is the offender and who is the victim is reversed: The wife's lover is defined as the victim, even though he was shot because of an offence he committed against the woman's husband. Moreover, the lover's offense is precisely the kind for which violent social control — by the husband — is viewed as acceptable and appropriate, if not obligatory, in numerous tribal and other traditional societies.²⁰

This may be just how we want it, of course — to use the courtroom to redefine the just and the unjust, to reassert a more appropriate societal view of right and wrong.²¹ But recognizing the potential power of our reaction to injustice to *motivate* crime has particularly profound implications in the context of mass violence, where the forces of the state are collectively mobilized, where participants must be rallied to the cause, and where questions of national identity, history, and collective pride are easily brought into play. These are the circumstances in which the potential to warp and distort a collective sense of injustice and victimhood are particularly dangerous.

Our notions of justice, injustice, and victimhood are conveyed — and take hold of us — through the stories that we tell, and the stories that we choose to listen to.

IV

Narratives of Injustice

For the Serbs, the bloodshed and ethnic violence that would spread across Yugoslavia in the 1990s was propelled by narratives of injustice that cast them as the long-oppressed victims of ethnic enemies striving to destroy them. These beliefs were self-perpetuating and became self-fulfilling. Though Milošević climbed to power on the back of events in Kosovo, the rhetoric of victimhood and injustice, and the marshalling of history, was perhaps most vociferous in relation to Croatia.

As David Bruce MacDonald has traced persuasively in *Balkan Holocausts: Serbian and Croatian Victim-Centred Propaganda and the War in Yugoslavia*, the run-up to the inter-ethnic bloodshed in the former Yugoslavia involved a sweeping “tragedizing of history” in which “every aspect of Serbian history was seen to be another example of persecution and victimisation at the hands of external negative forces.”²² The past became a tool fashioned for the present, with ancient battles, the very real brutality of World War II, and the years of federation within Tito's Yugoslavia all marshalled into narratives of injustice and victimhood at the hands of other ethnic groups. The result was a repositioning of the present along a narrative arc in which ethnic conflict was made to seem inevitable, and “pre-emptive” violence somehow justified. Casting themselves as threatened victims in the long and short arcs of history, violent acts could be repurposed as defensive actions.

It was not just the Serbs. Responding to what they perceived as an inevitable Serbian ideology of aggressive expansion, other nationalities within the now-precarious Yugoslav federation — Croatia chief among them — kicked their own corresponding national narratives into overdrive. History was recast and contemporary events were viewed through this narrowing prism, with individuals and territories increasingly defined along ethnic lines. As the republics sought their independence from the Yugoslav federation following Milošević's rise to power, events soon turned catastrophically violent.

The secessionist movements began with Slovenia, which voted for independence on December 23, 1990. On June 27, 1991, two days after its independence was formally declared, the Yugoslav army was dispatched to Slovenia. The fighting that followed — later dubbed the Ten Day War — was brief and relatively uneventful, resulting in forty deaths, most of them members of the Yugoslav Army, before the European Community brokered a ceasefire on July 7, 1991.

But more violent fissures had been forming in Croatia, which had declared its independence on the same day as Slovenia. Croatia's ethnic Serb minority rebelled and the Yugoslav National Army and Serb paramilitaries commenced attacks to support them. Intense fighting in the second half of 1991 saw the historic city of Dubrovnik shelled, the town of Vukovar levelled, and almost one third of Croatia become Serb territory,

violently "cleansed" of Croats and other non-Serbs. Early 1992 saw a U.N.-monitored ceasefire imposed, which Croatia used to arm and reinforce its military. In 1995, the Croatian army mounted two major offensives and drove out tens of thousands of Serbs. The events in Croatia, which came to an end later that year, saw extensive inter-ethnic violence between men and women who had been living and working side by side for their entire lives. It resulted in the indictment and subsequent prosecution of both Serbs and Croats at the ICTY.

The events in Bosnia would turn out to be the deadliest, however, marking one of the darkest chapters of the twentieth century. Following the declarations of independence in Slovenia and Croatia, a majority of Bosnians voted for independence in March of 1992. With an ethnically diverse population that was approximately 45 percent Bosnian Muslim, 30 percent Bosnian Serb, and 15 percent Bosnian Croat, there soon developed a protracted and shockingly violent three-sided fight for territory.

The Bosnian Serbs, supported by the Yugoslav National Army and forces from Serbia, waged a brutal campaign of ethnic cleansing and took control of 60 percent of Bosnia, declaring it a Serb republic. Bosnian Croats followed suit, declaring a republic of their own. Violence from all sides claimed an estimated one hundred thousand lives and saw an epidemic of systematic rape, the extended and ruthless shelling of Sarajevo, brutal civilian detention centres established throughout the country, and the organized slaughter of eight thousand Bosnian Muslim men and boys who had been sheltering in Srebrenica, a supposed "safe area" under United Nations protection. When international pressure by a global community that had been too slow to act finally forced an end to the violence with the signing of the Dayton Accords in November 1995, an estimated two million people had been forced from their homes and the Serbs had consolidated their hold over Bosnian territory, now dubbed Republika Srpska.

The final stage of the conflict would unfold in Kosovo, which had been slow-warming on the back burner as the brutal violence in Croatia and Bosnia played out.