

◀B>THE PAST, RESPONSIBILITY AND THE FUTURE ▶ To Laslo Vegel

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1. Defining the subject and several preliminary explanations.

1.1 In this paper I will deal with the question of whether any individual of Serbian nationality may be considered responsible for the crimes perpetrated in the name of the Serbian nation. Before I attempt to defend a positive reply to this question, I owe several explanations, the need for which, and the careful reader will notice this immediately, arise out of the very definition of the problem itself. I must explain the significance of the categories to be used; I must also explain why some other similar categories will not be used. The introductory explanations, as well as the entire paper will combine both analytical and normative methods, although the difference between those two approaches will not always be completely clear. I believe I can show how the specific methodical confusion which will ensue, arises less from my inability or unwillingness to approach the question in a suitable way, than from the very character of the problem itself. In the context of the given subject, analytical questions regarding what responsibility actually is, which forms of responsibility can be identified, who can be held responsible, what the relationship between responsibility and guilt is etc., merely serve to lead us to normative questions. What is the correct way to consider the responsibility for the tragedy which has happened to us? Do we even have the right to think about "our" responsibility? Is this reflection on "our" responsibility legitimate only in the case when the condition of parallelism has been fulfilled, i.e. when the "other side" has also posed the question of "their" responsibility? Finally, what is the aim of posing the question of responsibility at all? Is it sim-

ply a matter of settling our accounts with a detrimental past? Is our principle aim that of discovering the truth about what really happened to us and why? Should such reflection be primarily understood as the road to reconciliation with "others"? Or is it a matter of moral reflection, which is strictly in the interests of the future, as a basic condition for making the first step towards a democratic normality? These are all in a basic sense normative questions, because the answers to them assume certain valued judgements which could be justified, interpreted and defended as the right ones, but whose accuracy cannot be analytically proved.

1.2. We should, therefore, begin with the questions as to what responsibility really is and how this concept can be distinguished from similar categories. In a wider sense, responsibility is the category which points us towards the relationship between different acts, their perpetrator and their subsequent consequences. This concerns a subjective causal relationship. If a specific act could be attributed to me, and if it could be shown that through carrying out such an act I became free and conscious, then the result of my action would be linked to me and would thus be marked with the term of my responsibility for what was done. Hence, within the concept of responsibility lies a particular subjective human characteristic, a characteristic which could be best described as the ability to judge. Understood as an individual, subjective characteristic, responsibility precedes the act, or to be more precise, exists independently of the act which we will judge. The general assumption is that my ability to judge makes me responsible for all my past, present and future acts.

1.3. I will not use the term guilt when discussing crimes perpetrated in the name of one nation against members of another

er nation. Guilt is understood here as a special type of responsibility. Guilt is a legal category, which denotes the perpetrator's relationship to the act which is also according to law a punishable act. Based on the principle that there is no punishable act unless it is defined by law (*Nullum crimen, nulla poena sine lege*), a further principle arises, the principle that there is no punishable guilt if the law does not provide for the perpetrator's relationship to the act which is also according to law a punishable act (*Nullum crimen, nulla poena sine culpa*). This subjective relationship of the perpetrator towards the act is most often legally defined by concepts such as accountability, premeditation, negligence and an awareness of the punishability of the act (guilt exists in the case when the perpetrator was aware, should have been aware or was in a position to be aware that his act was forbidden and punishable by law).

We can conclude from this that guilt is a special type of responsibility (criminal responsibility) which exists only if the act is defined by law and if it can be linked in the strictest sense exclusively to an individual: only *certain* individuals in whom we are able to identify a *certain* type of subjective attitude can be held legally responsible for *certain* acts. In the context of our discussion, this means that acts which we usu-

ally refer to as war crimes become the subject of criminal responsibility if they were legally and clearly defined as criminal acts before they were committed, and if the perpetrators and their subjective attitude towards the acts could be clearly individualised in an appropriate legal procedure. I believe that this definition of criminal responsibility facilitated the accurate individualisation of both the perpetrators and their superiors regardless of whether they were military superiors or political leaders.

The theme of this paper is not to analyse war crimes from the perspective of the responsibility of those who directly committed them; I will not deal with the criminal responsibility derived from the commanding responsibility of the superior officers, nor with that of politicians from countries where the perpetrators originated. I do not claim that guilt is the exclusive realm of courts, nor is it the exclusive subject for reflection by legal scientists. A serious understanding of war crimes cannot neglect the fact that this relates to acts which must be morally condemned as acts unworthy of human beings and that the majority of people intuitively attribute immorality ("inhumanity") to their perpetrators. However, when it concerns war crimes, it is essential to repeatedly emphasise that guilt can only be individual. In a logical res-

<1>My thanks to Violeta Beširević for her valuable help in the formulation of the concept of guilt. </1>

<2>Here I have left to one side question of legal and ethical interest regarding to what extent the character of criminal responsibility for crimes committed during the war influences the argument regarding 'the imperative of obedience to the commander' or the theory according to which all acts committed during the war are in fact 'state acts'. In the first case, the obedience is understood as the obligation to respect current laws, while the theory of 'state acts' is basically aimed at the cancellation, or at the very least, the relativisation of individual responsibility for acts committed during war. As an example of this, see Y. Dinstein, *International Law* (article: "The Defence of 'Obedience to Superior Orders'"), Leyden, 1965. Also compare the classical ethical introduction to these problems in: H. Arendt, *Eichmann in Jerusalem*, New York, 1992. </2>

<3>There are many philosophical works regarding the problem of moral responsibility for crimes committed during war and the general questions concerning the relationship between war, morality and justice. Without intending to offer a systematic list of works in this field, I will mention several titles which I believe are worth taking a look at: W. Steiner (ed.), *Nuclear Weapons and Christian Conscience*, London, 1963; P. Ramsey, *The Just War*, New York, 1968; R. A. Wasserstrom (ed.), *War and Morality*, Belmont, 1970; M. Cohen, T. Nagel, T. Scanlon (eds.), *War and Moral Responsibility*, Princeton, 1974; M. Walzer, *Just and Unjust Wars*, New York, 1992; R. Norman, *Ethics, Killing and War*, New York, 1995. </3>

pect it is senseless, and in a legal respect impossible, to build up the criminal responsibility of the collective, regardless of whether it concerns a gang which robbed a bank or a nation in whose name murders were committed.

1.4. Guilt is only one segment of the responsibility we think of when war is at question. There is a further aspect of responsibility which I will mention only briefly, that of political responsibility. In a broader sense, it is a question of the responsibility of a government in launching a war and for any acts committed during the waging of that war. If we adopt the previously suggested understanding of responsibility as an individual subjective characteristic, the concept of political responsibility will thus be problematic. How can we comprehend the position that the regime is responsible for the war and all acts committed during it? On who does this responsibility actually fall? Karl Jaspers claims that this relates to the conduct of the state, i.e. primarily that of officials. He does, however, add that this category of responsibility essentially includes all citizens of that state: "I must bear the consequences of the state's conduct whose power I submit to and in whose system my real existence lies". At first glance this appears to be in

accordance with subjective political responsibility, i.e. the refusal to attribute responsibility to a specific ethnic group which could be referred to as the "state." However, Jaspers questions this assumption, claiming that instances of establishing political responsibility are not the subjects of responsibility themselves, "but the power and willingness of the victor, both in internal and foreign politics." Through his view that "success decides", i.e. that the victor in a war decides between what is politically correct and incorrect, Jaspers transforms political responsibility into quasi criminal responsibility, the difference being that the court instance here is not defined by law but was given to the political power. This is wrong. I think that political responsibility is the only type of political responsibility which cannot be fully subjective, i.e. linked to the specific perpetrators of specific acts. This relates to the fact that the responsibility of state officials cannot be reduced to those specific state officials who began and led the war: the consequences of war outlive the perpetrators and the political responsibility for acts committed in the name of the state is thus passed on to those who come to power after the removal of the political establishment which was in

"The principle objection to collective criminal responsibility is that this concept along with its 'extreme breadth' offends basic standards of justice: the group of individuals who would be treated by this concept as the perpetrators, would surely include those who would be able to successfully defend themselves if the opportunity were to present itself... If we wish to maintain the sense of the concept of 'war crimes', do we then have to individualise the perpetrators of those crimes or confirm that everyone is guilty and thus deserves to be punished." – S.Levinson, "Responsibility for Crimes of War", from the publication: M.Cohen, T.Nagel, T.Scanlon (eds.), *War and Moral Responsibility*, pp. 109-111.

K.Jaspers, *Pitanje krivice*, Belgrade, 1999, page 21. (K. Jaspers, Die Schuldfrage)

Ibid.

Jasper's view is obviously determined by the context in which this book was written, that of 1946 when Germany was occupied by the winning alliance, who determined the character, aims and domain of the political responsibility of the Germans (denazification). Secondly, the general problem with this book is that Jasper fails to make any distinction between responsibility and guilt.

power during the war period. By repeating the view that politicians who were in power during the war could be held criminally responsible, I will determine political responsibility as the responsibility of state officials for government acts committed during a war. Ruling citizens differ from ordinary citizens in that they possess a monopoly on physical compulsion, thus their responsibility to make a choice between the right and wrong path must be judged by stricter criteria than the responsibilities of ordinary citizens. To claim that responsibility is passed on to post war officials means defending the view that the new authorities of the state which took part in the war are obliged to publicly and fairly judge the acts committed during the war so as to publicly identify those acts which cannot be defined in any other way than as being <8>wrong.</8>

1.5. The central theme of this paper is marked by the question of whether those who did not take part in the war or in any legal or political way contribute to the subsequent war crimes committed bear any moral responsibility. Moral responsibility can be defined as the ability to judge which enables us to distinguish between right and wrong. The next step could be based on Hannah Arendt's view that everyone possesses "the independent human ability – independent in the sense that it is neither supported by law nor by public opinion – to always spontaneously judge every act and intention anew when the act and intention exist... If we possess this ability, each of us is a maker of laws whenever we <9>act."</9> The concept of responsibility here is obviously determined by Kant's view of moral autonomy. We should bear in mind that Arendt does not offer an academic definition of moral responsibility. She refers to the human ability to judge and act in a moral way in the situation where human life exists under a totalitarian regime.

There have been numerous objections to Hannah Arendt's views to the effect that this type of theory of autonomy and responsibility with reference to institutional crime was based on a non-critical, totally unfounded normative conception of human nature. She will deny this objection, replying that this is only an attempt to explain the possibility of the existence and mass acceptance of totalitarian regimes whose ideology encapsulates the principle that "everything is possible":

The success of totalitarianism can be reduced, to a greater extent than any other form of previous human experiences, to the radical liquidation of freedom as a political and human reality. In such conditions, citing

<8>This gives rise to a whole series of difficult questions to which the replies demand the creation of a whole new work. If we reject Jasper's opinion that external instance judges political responsibility, then we must ask ourselves what impartiality really is, and how it is possible to accept from the politicians, from the state who participated in the war, any impartiality towards the consequences of the war waged by their state (this could be referred to as a question of the motivational capacity of the demand for political responsibility), and what the criteria are for distinguishing between right and wrong political conduct in war.</8>
<9>H. Arendt, "Personal Responsibility under Dictatorship", *The Listener*, August, 6, 1964, pp. 185, 207. A quote from: R.Beiner (ed.), *Hannah Arendt's Lectures on Kant's Political Philosophy*, Chicago, 1982, p. 98.</9>

the constancy of human nature can hardly offer any consolation, leading us to the conclusion that either human essence is destroyed in such situations or that freedom is not an essential human characteristic. Historically, we only know as much about human nature as we are able to perceive from the fact that man does in fact exist. No sphere of eternal essence can offer us consolation if man loses his essential <10>abilities.</10>

The regime Arendt refers to declared wrong as right, hatred as a virtue, encouraged and welcomed mass murder on the basis of their being part of 'another' (less worthy) ethnic group. What happens to responsibility in this type of terrifying context? The reply Arendt offers is clear. Circumstances do not free man from moral responsibility:

Human beings are capable of distinguishing right from wrong, even when everything they can rely on has been reduced to their own ability to judge, and even when this ability to judge is totally opposed to what man must consider as the unified opinion of everyone around him... Those few who, in Nazi Germany, were still willing to distinguish between right and wrong, were in fact strictly guided by their own ability to judge. There were no rules to be obeyed, no rules which could be applied to their particular case. They had to decide for themselves in any situation which arose because no rules existed for such unprecedented <11>events.</11>

2. Serbia: what do we mean when we talk about moral responsibility?

2.1. From what was previously said, it can be seen that moral responsibility, as well as guilt, fall into a strictly individual category. In contrast to guilt, moral responsibility cannot be identified in relation to legal norms. We can also say that, in contrast to guilt as the subjective relationship which is objectivised by court rulings, moral responsibility demonstrates "the internal procedure which has realistic consequences in the <12>world."</12> Claims regarding the individual and internal quality of moral responsibility have far reaching significance in providing the foundation for answers to the normative questions posed in the introduction to this paper.

How should the position of the "internal" characteristic of moral responsibility be understood? This may appear problematic since it is possible to defend the view according to which "objective" moral norms were imposed on all people in equal measures. For example, it is possible to claim that forbidding the murder of another human being is the strongest objective moral norm whose observance represents the primary hypothesis of any well organised society, and that the legal norm which forbids murder is just the necessary formalisation of this applied moral imperative. I, nevertheless, believe that the universal validity of certain moral norms does not lead to their "emergence," since that would ultimately mean the reduction of the moral imperative to simple conventions, to "the sum of *mores*, customs and behavioural norms stuck in <13>tradition."</13> The universality of moral norms arises from man's autonomous ability to, while judging what is right and wrong, also give to the good of every other man the same importance as to its own. A correct reading of Jasper's view according to which "nobody can

<10>As mentioned in: R.J.Bernstein, *Hannah Arendt and the Jewish Question*, Cambridge, 1996, p. 146.</10>

<11>H.Arendt, *Eichmann in Jerusalem*, p. 295.</11>

<12>K.Jaspers, *op.cit.*, p. 25.</12>

<13>H.Arendt, *Vita activa*, Zagreb, 1991, p. 198.</13>

morally condemn another, except through internal connections – like condemning <14>oneself” </14> does not lead to the narrowing down of moral judgements to the exclusive responsibility of oneself. Moral responsibility also exists as a form of communication between people, under the condition that “the other person is the same as I <15>am,” </15> i.e. if the question is posed within a community of people unified by solidarity under a unified concept of good. A nation could be defined as such a community, but what is important for Jaspers is that the definition of a nation as a collective characterised by ontological characteristics should never be accepted and in the same way we cannot talk about the moral responsibility of an entire nation. What does that mean?

Here we must consider how to understand the individual character of moral responsibility. A basic reply has already been offered: in as far as it is the characteristic of autonomous personality, moral responsibility cannot be understood in any other way than as an individual category. But how can we then think about “our” moral responsibility? It is impossible to think in terms of the collective responsibility of Serbs since that would mean defining the collectivity of cum being, which should be recognised as the *Serbian nation*. That step would be much further reaching than simply identifying the nation as a sociologically recognisable group – that would be the ontologisation of the nation. Furthermore, that would mean the acceptance of nationalistic discourse, since the quasi-ontological definition of a nation is exactly that which is in nationalist opinion of fundamental importance.

2.2. Since the problem of moral responsibility cannot be understood without reference to the character of that which caused it, I will make a small diversion in which I will summarise the Serbian version of biological <16>nationalism. </16> The concept of the *Serbian nation* as a “natural community”, created in the minds of nationalistic intellectuals and put into practice by Milosevic’s regime is based on illusory contradictory myths. On one side, is the glorious, unique and invincible “heaven’s nation”, and on the other, the myths about the equally glorified defeats, the historical continuity of suffering, the hatred of “others” directed at “us” which apparently results in various anti Serb conspiracies, and their subsequent incalculable victims. The integration of these myths represents a complex process. Their most important aim is to create something which does not exist, i.e. to present the *nation* as a mystical, natural ethnicity. Historians will offer a new version of the past, presenting this version as the “ultimate discovery of the truth”, the truth about what has been forgotten for a long time, or even better, forcefully repressed; archeologists will exhume graves in order to prove the ancient origin of the *nation* (as well as proving “genocidal crimes” committed against “us” a long time ago); writers will glorify epic traditions in order to prove to us the true source and real character of “our”

<14>K.Jaspers, *op.cit.*, p. 28. </14>

<15>*Ibid.* </15>

<16>I dealt with the question of the establishment, reproduction and consequences of contemporary Serbian nationalism in my article “Words and Death. Serbian Nationalist Intellectuals”, in the publication: A.Bozoki (ed.), *Intellectuals and Politics in Central Europe*, Budapest, 1999. The most valuable systematic views regarding the character of Serbian nationalism are collected in N.Popov, *Srpska strana rata*, Belgrade, 1996. </16>

identity. Political propaganda, the creation of stereotypes, manipulation through the media, education, science and popular culture are the most important techniques for the interiorisation of this ideology by its devotees.

This nonsensical portrait of the *Serbian nation* has, however, a clearly defined political goal. Its primary task is to justify the situation in which "natural belonging" to *the group* will be presented and practically-politically reproduced as the exclusive framework of individual identity – this is the ground for the creation of a new reality out of a nationalistic idea. The first aspect of this new reality lies in the fact that no relevant individual, social or political existence outside the framework of the *Serbian nation* is possible. Secondly, the political obligation of every individual is resolutely framed by the character of "the historical mission", articulated by the founders of the *nation* – belonging to such a constructed *nation* demands the obedience of all subjects.

Finally, in a multinational community like the second Yugoslavia was and like the third Yugoslavia is today, the "pseudo-mystical stupidity" (Arendt) of resantimantic nationalism always focuses on targets which can be achieved only through the extensive use of violence. The violence is directed against those who do not belong to "the natural community", as well as against "our own people" who refuse to accept the biological "objectivity" of that which is inborn in this notion of an exclusive community. Resantimantic nationalism creates a false image of national identity, in order to desubjectivise people and to homogenise them into a non-differential mass of obedient slaves. What is real in this type of 'identity' are the passions and fears, which the ideological engineers will use

in their next step to produce hatred, and then to transform this hatred into war and to subsequently justify murder. I will not analyse in any detail the types of violence at the disposal of those who work on the reproduction of this type of nationalism since this is irrelevant to our context. It is sufficient to say that the choice available to them is unlimited. However, it is more important to consider the way Serbian nationalism closes the circle: between the intellectual and political presentation of the myth regarding wounded honour and dignity as a past event of crucial importance for 'our' identity on the one side, and murder on the other, the difference being only technical. This relates to the two levels of one process. The murder of 'others' is the final phase of the resantimantic mythologisation of identity. Jean Francois Lyotard provides a clear definition of this phenomenon.

I, an Arian, am telling you, other Arians the history our Arian ancestors have handed down to us, listen to it, spread the word about it, implement it ... Arians are the only true people. All that which is not an Arian lives only by the weakness of vital principles and is already dead. It only requires finishing <17>off.</17>

2.3. Returning to our theme, I will repeat that Serbian nationalism is based on the desubjectivisation of the individual. Force by itself was not enough for what was committed in the name of Serbs. It was also necessary to bring a large majority of people in Serbia down to the level of popularization, which would not only take away their personal and political freedom, but

<17>J.F.Lyotard, *Postmoderna protumačena djeci*, Zagreb, 1990, str. 75.</17>

would also greatly reduce their ability to make autonomous judgements. This type of regime cannot rely on the type of citizens who would simply be ready to obediently show their loyalty. The regime needs citizens who would lose the consciousness of their citizenship, i.e. who would see their desubjectivisation and surrender to Behemot in terms of the final achievement of absolute freedom. The majority of people in Serbia, through the process of the interiorisation of the three basic messages from the fathers of the *nation*, drown in the mystical "We". The three basic messages are: 1. "you are what we say you are," 2. "as a Serb, you have the inalienable right to live in one country" and 3. "you have the natural (unlimited) right to do whatever you deem necessary in order to achieve the aim of the second message."

Here we can identify a combination of two of the regime's strategies: the first being the elimination of the people's autonomous ability to judge; and the second which could be defined as the symbolical return of people to their natural state, i.e. freeing them from basic civilisational, moral and legal norms by means of a nationalistic ideology. Although historical analogies are not unknown, this undertaking does not lose any of its grandeur because, and we should always keep this in mind, it concerns the fact that people start believing that their absolute lack of freedom is in fact ideal freedom. The first strategy obviously takes priority: the presentation of total slavery as perfect freedom is possible only if the people have been previously freed of the ability to distinguish between freedom and slavery. If we add to this the fact that slavery in the Serbian dictatorship is also aimed at preventing people from distinguishing right from wrong, i.e. to accept evil which has been declared to be extreme good, then we come to the set of normative questions posed at the beginning of this paper.

2.4. Our attention should be drawn to the fact that something which was initially defined as an analytical question now becomes a normative question: who bears the moral responsibility? The denial of the concept of collective guilt leads us to the problem of the identification of those individuals to whom we can attribute the moral responsibility. A basic reply to this question was offered in the first sentence: various individuals who belong to the Serbian nation are

responsible. None of us – individuals of Serbian nationality – has the right to avoid confronting our own moral responsibility. This normative view does not lead to the idea of a modified, 'soft' collective responsibility which would be understood as the sum of individual self-reflection, but rather to the radical individualisation of responsibility based on national belonging. I am a Serb by chance, but the crime was consciously and systematically carried out in my name. The outcome of this is that the fact of my being a Serb by chance is thus cancelled by the conscious intention and actions of those who declared my nationality as being the reason for the murder of people who bear another name. The chance nature of my national existence comes to an end at this point since the crime committed in my name is in a specific sense the final act: the ideological foundation, character and proportion of the crime is such that it penetrates my individual identity.

This is the most painful point we have to confront: regardless of whether I am innocent or guilty, regardless of whether I voted for or against Milosevic, regardless of whether I was at home among friends expressing understanding for this brutal nationalism or expressing burning liberal arguments against it, regardless of whether I had withdrawn into 'internal immigration' or was actively opposed to such acts at the risk of my own life – those crimes which were committed form part of my individual identity.

Nevertheless, the aforementioned behavioural differences remain of fundamental significance as criteria for evaluating individual moral responsibility. This does not mean that those who did more against the regime or who were against the regime the whole time would have the right to place moral responsibility on the shoulders of those who did less or who supported the regime. This means that every individual should be prepared to perceive the nature of their own moral responsibility. If moral responsibility is defined as self-reflection, as "the internal process which later results in real world consequences," my primary duty is to judge my own actions and conduct. The demand that everyone perceives their own relationship with evil with impartiality assumes the elimination of the strategy of self-justification when faced with unpleasant realisations.

2.5. The next normative question is whether the accep-

tance to confront 'our' responsibility is on condition that 'others' follow the same process. Whether the 'others' pose the question of their own moral responsibility is irrelevant. The demand for parallelism in judging responsibility is based on the mixing of the categories of guilt and responsibility resulting in the theory that it is unfair that only 'we' admit to our share in the guilt - if the 'others' fail to do so at the same time. We would in such a case remain alone before the court of history, so our partial guilt will remain written as the exclusive guilt. This theory also says that not only will injustice be done to us, but the truth will also remain elusive. This is profoundly wrong. I have already attempted to demonstrate that guilt should not be confused with moral responsibility. The aim of posing the question of responsibility is not to confirm something which could be referred to as the 'objective truth' regarding the recent tragic events. In other words, the aim is not to calculate 'our' and 'their' part in what happened, nor is it to achieve reconciliation on the basis of the thus confirmed 'truth'... I do not wish to negate the great importance of reconciliation with those nations involved in the war – but it is important to understand that reconciliation does not depend on a balancing out of the 'guilt'. Reconciliation depends on the willingness of all sides to confront the question of their own guilt and responsibility. If 'we' do so, we will be ready for reconciliation without any need to calculate the guilt and responsibility of 'others'.

2.6. If we accept the definition of moral responsibility as the individual ability to judge which enables us to distinguish right from wrong, could we then agree with the theory that the monstrous techniques of desubjectivisation have been perfected in Serbia over the past decade, taking away the people's autonomy and thus leaving them without any moral responsibility? Does the circumstance that the rhetoric of hatred as the basic productive principle of this regime and the induction of fear as its basic principle of communication make its citizens merely faceless 'screws in the machine'? There are two fundamental arguments against this theory. The first being empirical. Although we can talk about the desubjectivisation of the majority, people in Serbia have never all been united under the flag of nationalism. Until – not only among intellectuals – there are people who do not succumb to this chauvinistic virus, there will be no tangible proof for the theory that the possibility of choice can never under any circumstances be taken away from the citizens of totalitarianism. This brings us to the fundamental argument that the liquidation of individual and political freedom by a totalitarian regime cannot be equated with the liquidation of moral autonomy. Regardless of the perfection of the regime's manipulative techniques, 'the inability to think' and 'non comprehension' are not the objective consequences of totalitarian governing, but a matter of *freedom of choice*. Confirmation of the contrary would mean confirmation that mass agreement with the crime could be justified. That cannot be done. Confirmation that 'we did not know or we could not have known' is not acceptable and should be seen as a type of defensive reaction which means 'I did not want to know': the choice not to know arises from the choice to accept nationalism as one's own supreme validity. To negate this fundamental view would mean to attribute to the regime the demonical ability to *produce people* according to their own needs and ambitions.

This, however, should not be viewed as a moralistic reproach, nor should it be seen as a criticism of those who did not want to know. I will repeat that the aim of posing the question of moral responsibility is not a moral condemnation, nor is it meant to point the finger at those 'less worthy' – this would be a mistaken strategy. My view is simply that we need to reach a clear and precise understanding of the moral position of all those who supported the regime in order to prepare the ground for the return of moral autonomy to everyone of them.

3. Moral responsibility as a view to the future

3.1. I will repeat that moral responsibility is not a question which could be posed to the nation as a collective. Secondly, from what has been previously said it follows that moral responsibility is not linked in any way to a bad past. The past must be the subject of the moral reflection of the autonomous individuals who form part of the Serbian nation because this type of reflec-

tion is an essential condition for a different future.

Three important conclusions can thus be drawn.

Firstly, moral responsibility assumes the creation of an atmosphere in which each individual will be motivated and willing to use his ability to judge in the aim of perceiving his own position in the context of evil which was carried out in his name. In the Serbian case, this can be understood as an imperative to create an atmosphere in which those who "voluntarily" gave up their autonomy will come to the conclusion that they were desubjectivised and enslaved. For those people such a conclusion would be the first step towards confronting the character and consequences of their conduct under a dictatorship. In its basic sense, this does not relate to the perception which would mainly be aimed at remorse and 'the settling of accounts' when facing one's own conscience for conduct which was morally unacceptable. 'Catharsis' which is often referred to, is only significant when it is understood as an essential step in the process of reclaiming one's lost individual freedom. The sanctification of a bad past and one's personal role in it serves as a condition for the elimination of "the shackles of self imposed immaturity" (Kant) and the establishment of individual moral autonomy. Only autonomous individuals could become citizens. Thus we come to the first basic reason for posing the question of moral responsibility.

Secondly, only the universal acceptance of the need for this type of individual self-reflection will enable "for others to be like me," i.e. for us to confront each other in the next step. This means that universal recognition of the importance of individual moral responsibility opens up the possibility for communication in which "we can talk among ourselves and boost a common clear moral <18>understanding."</18> In the following paragraphs I will attempt to show how this communicational quality of moral responsibility is of essential importance in the reconstruction of what currently does not exist as neither a civil, social, political nor national category – it concerns Serbian society. Thus we come to the second basic reason for posing the question of moral responsibility.

Thirdly, only when those who are today enslaved achieve their own autonomy, and when in the place we now find chaos a society is built, it will be possible for those individuals of Serbian nationality to clearly perceive their place in the world. In practical terms, this perception must be developed in two basic directions. It is essential for those who form part of the Serbian nation to interiorise themselves and accept a minimum universally valid moral, legal and political validity as their own, the exact minimum which these days distinguishes civilisation from that which is not civilised. In the next step this acceptance of a universal civilisational orientation should lead to quality changes with regard to those who live in Serbia and are not of Serbian nationality. The moral principle of equal freedom for everyone in a heterogeneous society must exceed the borders of a classic catalogue of individual rights. This principle, when it regards 'the others' must be transformed into the political and legal establishment of autonomous and minority rights – in so far as I negate the right to the recognition of those who belong to other nations, I also negate my own autonomy. Thus we come to the third reason for posing the question of moral responsibility.

3.2. Everything that has been said so far can be accepted as a normative view worthy of due consideration, but it could simply be rejected as an idealised intuitive position. Consequently, in the conclusion to this paper I will attempt to offer some additional arguments to confirm that not a single democratic establishment, no matter how serious and universal in the field of political, economic and social reforms, has any chance of success if it is not followed by a period of moral reflection on what happened to us and on what our relationship as individuals toward such events was. Here I will leave the question of the possible paths towards the democratic transition of Serbia to one <19>side.</19> I will limit myself to an attempt to demonstrate the untenability of the theory according to which the elimination of the current regime and the establishment of procedural democratic regulations would be enough to ensure entry into <20>normality.</20> I sim-

<18>K.Jaspers, op.cit, p. 50.</18>

<19>I covered this in greater detail in the text "In Praise of Utopian Thinking: Civil Society and Constitutional Patriotism for Serbia"; in: N. Skenderovi - Ćuk and Milan Podunavac (eds.), *Civil Society in Countries of Transition*, Subotica, 1999.</19>

ply believe that after the wars which were waged in the name of false moral aims, transition into a state of civil peace cannot be achieved only through the replacement of the governing elite and the setting up of new legal-institutional establishments. If the war was a false response to what was a falsely fabricated moral question on the part of the regime, peace in Serbia cannot be merely a political <21>matter.</21> This could also be formulised in a different way, as the need for a clear, radically new moral political foundation after a moral catastrophe. We cannot allow ourselves the luxury of pretending that nothing was done in the name of 'our identity'. The long-standing logic of nationalistic hysteria cannot simply be erased by replacing the rhetoric of hatred with politically democratic vocabulary. If it is not clearly shown what is wrong in the discourse which governs Milosevic's Serbia, an alternative validity will not be affirmed simply because the liberal discourse of freedom, rights and limitations has no quasi-biological power of receptivity which could be compared with bio-nationalism. In other words, the acceptance of liberal validity is not possible without the established ability for varied reflection: what does freedom mean for me if I have to recognise that same freedom for others; what is the relationship

between individual freedom and the limitations which were imposed on us by constitutional authorities and where are the borders of the legitimacy of this relationship; why is the view of freedom in minority nations different from that in majority nations, etc. In this sense, posing the question of moral responsibility means a discussion about the bad past, which should enable us to turn to the future which we hope will be different. This discussion about responsibility for what was done in our name yesterday will serve to create a democratic normality in the future. This is why the theory that legal-political transition will be enough appears to me as naive optimism rather than political realism.

I think that the starting point for moral reflection should be the realisation that life in Serbia is still life under the regime, and that within the social, cultural and ideological framework which made war possible in the first place, there is not a single basis for the belicistic project which has not been questioned until <22>now.</22> In as much as it is possible to talk about the identity of present day Serbia, we must face up to the fact that this identity has been tainted by war and murder. Thus, while the revolutionary way of bringing the current legal-political system to an end is an extremely risky scenario which

<20>I believe that from what was previously presented it can be seen that I do not accept the theory of collective catharsis as an essential condition for the transition into a state of democratic normality in Serbia. For an accurate criticism of the theory regarding the possibility and need for collective catharsis, see N.Popov, "Traumatology of the Party-State"; in the publication: N.Popov (ed.), *The Road to War in Serbia*, Budapest, 2000.</20>

<21>Here I rely on the political-philosophical analysis made by čárko Puhovski, which emphasises the unusual circumstance that the moral basis for war has never been claimed to be a problem, neither for philosophy nor military doctrine. While war is theoretically (and practically) legitimised without any argumentative difficulties, the question of the explanation and justification of peace – the question of explaining the need to justify peace – appears almost always as a stumbling block. Using the example of Yugoslavian wars and their consequences, Puhovski shows that this is not merely a theoretical problem. - Ž.Puhovski, "Frieden oder Gerechtigkeit? Über die Unwahrscheinlichkeiten einer weltgeschichtlichen Wende irgendwo zwischen Zagreb und Sarajevo"; in: G.Mader und W.G.Eberwein (hrsg.), *Frieden durch Zivilisierung*, Minster, 1996.</21>

<22>Regarding belicism as both a legitimate matrix and the reproductive core of the Serbian regime, see M.Podunavac, "The principle of citizenship and the nature of the political regime in post-communism: the case of Serbia"; in: V.Pavlović, *Potismuto civilno druatvo*, Belgrade, 1995, p. 230-233.</22>

should be avoided if at all <23>possible</23>, a radical, moral end to this belicistic identity is seen as essential. *The strategy of moral reflection is the strategy of discontinuity.* In this respect, it should be useful to remind ourselves of the period just after the Dayton agreement was signed. At that time, our corrupt court intellectuals and the regime controlled media, the same people who were used to create and spread chauvenism, showered the nation with the message that Serbia 'had always been on the side of civilised peace and democracy'. Their ambitions were complex: not only did their ideological and political turnabout have to be justified in the eyes of the citizens, but this turnabout also had to be presented as the regime's political and ideological continuity in their fight to protect 'our true interests'. Hidden behind this was the rationally-instrumentalised idea that "the future belongs to those who fill the empty space of remembrance, those who create the concepts and those who interpret the <24>future." </24> The fundamental aim of this idea is to reinterpret and revalue the moral catastrophe of a nation so that this catastrophe could be then presented as a legitimate part of national identity. Any attempt to question this type of ideological engineering of continuity is declared as a betrayal of the national interests.

However, one thing must be made clear: moral reflection about the war based on the universal validity orientation does not destroy either tradition or national identity, not only because this is not the aim of moral reflection. This sim-

ply relates to the fact that Serbian national identity no longer exists. The project which was aimed at the homogenisation of all Serbs into The Great One led to the total destruction of the nation. What ideological planners attempt to impose in the shape of 'continuous traditions and true identity' is pure nationalistic mysticism which considers human beings to be merely the instruments used to achieve their expansionistic aims and to maintain the internal status quo. The alternative discourse of civil peace, which would begin as a question of the moral responsibility for nationalism and war, represents an essential step in the process of the establishment of new identities free from ideological myths: this relates to both the identity of the individual and the community. As citizens/subjects of the country which created a moral catastrophe, we must investigate the past in an unambiguous non-functionalistic way. The aim of this reflection would be to reach a "change of mentality... which could leave yesterday's self knowledge behind as a useless <25>ruin." </25> Instead of the acceptance of a selective view of the past in an attempt to remodel history by falsifying continuity and tradition, we must pose the question of moral responsibility, showing that after the war, continuity is no longer morally acceptable and that we must attempt to find new answers to the questions of who we are as individuals and what the society we live in is. To sum up, we must in a clear way, break away from our humiliating past in order to prepare the way for a new beginning.

<23>I wrote about the possibility of legal and political continuity as a strategy for democratic transition in Serbia in the work "In Praise of Utopian Thinking". </23>
<24>J.Habermas, "Apologetic Tendencies"; in the publication: *New Conservatism*, Cambridge, 1993, p. 215. In this part of the paper I rely on Habermas's concept of post-conventional identity based on his criticism of certain views of German national identity in the context of the well-known *Historikerstreit*. I am fully aware of the methodical danger which Habermas alludes to: his concept presents an attempt at reflection on the specific German problem. Nevertheless, I think that Habermas's methodical position of theoretical paradigm and analytical views supercedes the local morality of the specific German situation </24>
<25>J.Habermas, "Die neue Intimität zwischen Kultur und Politik"; in the publication: *Die nachholende Revolution*, Frankfurt am Main, 1990, p. 17. </25>