

One Injustice Cannot Be Made by Causing a New One

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Who is it that needs to deal with the past to begin with and why? What would that entail?

The majority would probably think that it is the ‘enemies’ who haven’t dealt with the crimes they have perpetrated. The ones ‘on the other side’ should be punished, the ones who planned, ordered and carried out crimes. And then a step further would be made in the sense that ‘they should also face collective responsibility for supporting criminal undertakings and stop collectively representing themselves as victims’. ‘They should say goodbye to the myths of their people being inculpable and distance themselves from nationalism and desire for retaliation’. ‘They should apologise to us in order for us to be able to even think about reconciliation’.

It is all true, let us not delude ourselves that we do not know what this is about. It is all clear and it is all known. Everything can be listed precisely, what needs to happen in order for us to process, overcome and learn the lessons for the future from the past. The only catch is the fact that there is little willingness to apply this in one’s own society or in an ethnic group that one belongs to. It is not even so much about ‘we don’t want to be the first to do it, they should be the ones’, which can often be heard, but primarily about how implementation of the aforementioned in one’s own backyard (the only place where it can be directly applied because one has the power to do so) takes courage, honesty, boldness, and risks, and one has to be prepared for inconveniences and pressures, as one changes oneself and the society around. ‘Go on, leave that’, it is easier to point fingers to the ‘evil ones’ on the other side who do the same. A finger to a finger! For how long?

We have had the chance to learn many lessons from the World War Two, but we haven't learned them. It is said, 'Another war happened to us!' Well, it didn't happen to us because the positions of the Sun and the Moon were aligned in that way but because our society was not prepared to recognise the evil that had swollen; because we hadn't learned anything from the previous war, except to remember crimes against 'our people' and harbour a desire for revenge, just as we do now. The seed of evil had fallen to a fertile soil, and not on Mars either, but in our/your/their country. And where is it now?

War crimes

The term of 'dealing with the past' is very frequently used in the public of Serbia, Bosnia and Herzegovina and Croatia. Its meaning is more often than not reduced to merely accepting the established facts about the perpetrated war crimes and, in accordance with that, the need for the responsible behaviour of the public. Sanctioning war crimes should attain the goals of unveiling the truth about those events, realising justice, at least partially realising the rights of victims and their loved ones and creating conditions for the process of reconciliation.

Responsibility for war crimes is individual, and thus the trials are directed towards punishing individuals that were directly involved in them. Responsibility of all who have, in their ways and to a different extent, contributed to creating a social climate in which it had been (and still is) 'justified' to perpetrate crimes against 'the enemy people', remains in the shadows.

The process of punishing those directly responsible largely takes place outside the region in which the crimes were committed, in most cases the indictees are on trial in the Tribunal for War Crimes in The Hague, far from the eyes of the local public, and in spite of numerous media reports from the trials. The Hague Tribunal set before itself a goal to punish the most responsible, taking upon itself the right to estimate which processes are the priorities and which ones should be under the jurisdiction of the courts in the countries of the former Yugoslavia.

There are some objections that can justifiably be made of the work of the Tribunal, and they mostly relate to the fact that in the initial years of its work the Tribunal entirely neglected the need for communication and presence in

the public of the countries of the former Yugoslavia. The consequence was a lack of understanding of the importance of the work The Hague performs, and this provided space for the creation of images which portrayed The Hague as a politically biased court. The image of the ICTY¹ bias exists in all of the countries of the former SFRY, and, as a rule, the bias always appears to be to 'our' detriment. I have never heard of someone thinking that the court is biased in 'favour' of his or her 'own' people. Just imagine how beneficial it would be if the court released all of 'our' criminals, and severely punished 'theirs'; we would really 'profit' from that! Or, for lack of that, it would be most convenient if it were in everyone's favour, so that there would be no trials for crimes at all! Yes, it would be beneficial, but only in favour of our detriment!

In ideal conditions it would certainly be better if trials took place in the region where the crimes were committed, but unfortunately the situation was such (and in part still is) that local court systems haven't been able to independently solve such serious processes. All in all, it seems that the benefits from The Hague Tribunal greatly outweigh its disadvantages, because what seems to be the most important thing to me, is that its work has led to the removal of numerous politicians from political office in the post-Yugoslav countries, who not only carried responsibility for crimes, but were also very active after the wars in terms of destruction and obstruction of building a democratic and civil society to the extent that such building was possible.

Trials for war crimes, their significance and success can and must be estimated with regard to the goals that the Tribunal itself states within defining its own mission:

In accordance with the resolution through which the ICTY was founded, its mission is fourfold:

- *to bring to justice persons responsible for violating international humanitarian law*
- *to provide justice for victims*
- *to discourage further perpetration of crimes*

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1 International Crime Tribunal for the Former Yugoslavia.

- *to prevent revisionism, contribute to establishing peace anew and encourage reconciliation in the region of the former Yugoslavia.*

Along with the factual accuracy that undeniably exists and contributes to establishing the truth about those events, the act of sanctioning crimes has torn down numerous attempts of governing political elites responsible for the war to impose themselves as inevitable guarantors of peace in the post-war times and thus establish a system of impunity. The often stated sentence of ‘whatever had happened – happened, let us leave it all to the past and turn towards the future’ is motivated by extremely base urges to save the skin of the ones who have launched this thesis and is nothing other than a call for collective amnesia. What worked for the rulers and murderers of Latin-American dictatorships in numerous cases, providing amnesty for their own evildoing and slighting and underestimating their victims, didn’t work for local rulers here, which is of great importance for our societies, because it sends out the message for the future that crimes cannot go without punishment. Only the occasional ones have escaped justice by dying before or during investigation or during the trial itself. Unfortunately, there are hundreds and thousands of people who have never been called on to take responsibility for their crimes.

Satisfying justice with regard to the victims is something that only they themselves and their loved ones can judge. Numerous objections to the length of sentences indicate the existence of at least partial discontent with them.

What about the goal of the ICTY of ‘establishing peace and encouraging reconciliation in the region of the former Yugoslavia?’ If the assumption of the founders was that the very existence and work of the ICTY will bring about peace and reconciliation, then it could be said that the assumption was wrong.

In the past two or three years, the special courts for war crimes in Bosnia and Herzegovina and Serbia commenced their work. They take evidence material from The Hague Tribunal, currently in its final phase and with no right to open new investigations and merely complete the ongoing trials. The first fair trials have been completed; the trial for the mass murder of prisoners in Ovčara near Vukovar was carried out at the Court for War Crimes in Belgrade.

The work of local courts on war crimes was all but nonexistent until a couple of years ago, except for several farcical trials in Serbia and Croatia. Local prosecutors' offices in Bosnia and Herzegovina, for example, only act in the places in which the crimes happened during the war and were for the most part in the position of starting investigations of (even today) local powerful people. Those who gave orders for persecution and murders during the war have become mayors, chiefs of police stations or 'successful businessmen' as war heroes in the post-war times. Following the logic dictated by ethnic hatred, crimes always meant what had been done to 'our people', not what their 'heroes' had done. Thus those who were not included in indictments of The Hague, even though they had been, say, camp commanders, still walk freely and meet their one time victims in the streets.

Some very encouraging signals that the war crimes will be treated equally regardless of the names of the perpetrators is the cooperation of the war crimes prosecutors' offices of Bosnia and Herzegovina, Serbia, Croatia and Montenegro, that have begun to exchange data and evidence.

War is not a crime

Along with the broad subject of truth, crime and punishment, a question remains that demands an answer and that is seldom even asked: Who is responsible for the war, and the misfortune of millions of people?

If we leave the matter of crimes to the court, as well as that of genocide and aggression that is included in the international humanitarian law and dealt with by it, does that mean that in the war with no crimes against civilians and prisoners everything would be in order? War in itself is not a crime? Killing soldiers is not a crime? Attacking 'legitimate military targets' is not a crime? Encouraging war and hatred? Who is to blame for that? Who is responsible for that? How could we prevent that from happening again? How should we deal with that guilt and that responsibility?

When these questions are asked, the comments on 'relativisation of guilt' are often heard, a dangerous thesis that tries to hide war crimes behind a collective instead of individual responsibility. Why would guilt for the war be collective?

Those who claim collective guilt put themselves among the group of the guilty. Just as guilt for war crimes cannot be collective, it cannot be collective when it comes to war.

Contrary to that, responsibility is a category that can relate to society and a collective. Through our being and actions, we belong to the community we live in, and thus we carry a part of responsibility for the direction of the development of the society and its (dis)harmony with ethical principles we have adopted at a personal level and (dis)harmony of social currents with publicly proclaimed basic social values around which there is no consensus or majority support.

And for the very reason that social values and their establishing are in a living process of movement, our responsibility exists, because everyone can influence this living current, starting from the most banal act of voting on elections to taking responsibility and risks of social engagement.

Even though the assumption of social responsibility certainly does not exclude global responsibility, for the time being, I would linger on the social one and wonder: 'What kind of a society do we live in, if war in itself is not a crime?'

In accordance with that, where and when does dealing with the past begin? It is not enough for me to stop at condemning crimes, even though a large portion of the society in Serbia, I live in, is not ready to take that step even nowadays, but rather strives towards getting even and 'throwing the ball to the other's court' when it comes to the perpetrated crimes, as if the crime perpetrated against 'us' could justify or minimise the ones perpetrated 'on our behalf'.

In my opinion, the goal of dealing with the past has to be to learn a lesson for the future and prevent violence, and the road towards it leads through accepting personal and collective responsibility, understanding and eliminating ideological and other sources of evil that lead to perversion of our social values. Dealing with war crimes is but a first step and in itself cannot be the end if what remains after it are images of enemies in our societies, feelings of hatred, lack of understanding and injustice, even division within the society between the reckless ones who refuse to take responsibility for the evil (who are popularly called 'patriots') and those who advocate dealing with it (affectionately called 'traitors'). If the truth be told, and for the purpose of the struggle against

misrepresentation, acting in accordance with one's consciousness cannot be called treason, but genuine patriotism.

Heroes and criminals in a good war

Dealing with the past must be a social process, and not merely a court procedure. It has to be effective in the sense of peacebuilding, building the new, honest social values, building the broken communication and trust between different ethnic communities, establishing a stronghold against political destruction, xenophobia, nazism, fascism and chauvinism.

The frequent way of experiencing the notion of 'dealing with the past' in the public, leads to the conclusion that it deconstructs peace rather than builds it. Speaking of Serbia, it could be noted that, eleven years after the war in Bosnia and Herzegovina and seven years after the war in Kosovo, several characteristic groups and ways of dealing with the past are present in the public.

- Younger generations mostly experience this issue as a burden and a heritage of the past that they can see no links to. In fact, they have no awareness of this having anything to do with their life perspectives or current problems of society.
- Those who claim that the past should be forgotten or repressed to the background. Many of them indeed find it troubling to gain insight into their personal misconceptions that makes them responsible (not automatically guilty) for the evil of the past, so they rather opt for escapism through which they do further injustice to victims without even realising it. The social pattern in this is not to be neglected, that gaining insight into one's own mistake represents an unforgivable weakness.
- Those who feed on hatred either justify or shamelessly deny both perpetrated crimes and any responsibility of individuals and the collective whatsoever.
- Those who understand both the guilt and responsibility, but keep silent in order to avoid personal inconvenience and attacks or because they believe that establishing the truth would harm our country and society.

- Those who publicly oppose shameless denial of responsibility, believing they are doing good for the society they live in.
- Those who see taking responsibility as uncritically adopting the 'other' side's interpretation of the past and fall into the trap of adopting the model of generalised guilt, but in the opposite direction.²

Such stratification of society, not only characteristic of Serbia, has the consequence of sending out the same threatening message to neighbouring countries that the war had been lead against. The mechanism of creating the image of the neighbours hasn't changed much and it still functions according to the principle of the loudest and the most aggressive; what we hear about each other are the voices of the most shameless and most aggressive amongst us. In this way, the feeling of opposition and hostility is maintained, which for the most part makes both the peacebuilding process and the process that could be called reconciliation harder.

In spite of the trials for war crimes, that have to a smaller extent recently started to take place at local courts as well, we face a realistic peril, especially with regard to The Hague indictees, as some of the most responsible will come back to their countries and be welcomed as heroes after completing their sentence.

A dilemma existed among some peace activists in Croatia about the approach to Gotovina, who was seen by the broader public as a hero of the defensive war against Serbian aggressors. Namely, Gotovina has been indicted by The Hague Tribunal for war crimes, which the greater part of the Croatian public found unacceptable, because he is 'a hero, not a criminal'. One of the ideas of the public

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2 This is how a liberal politician in Serbia has recently commented on the footage of killing of Serbs from Krajina during the military campaign Oluja (Storm): "Are all of the victims from the procession of refugees innocent victims or do some of them have their own responsibility for what happened? Was establishing the so called Serbian states in the territory of Croatia followed by ethnic cleansing against the local Croats? Had they been robbed of their possessions and had there been crimes against them too? Only a truthful answer to those questions leads to a real understanding of Oluja and its consequences". Even if the people who were killed were personally responsible for a crime, killing them would still be a crime! What does a murder have to do with the matter of collective responsibility, does it perhaps justify the murder? General Mladić was allegedly also lead by the logic of avenging the killing of Serbian civilians in the villages around Srebrenica when he commanded 8000 people to be killed.

advertising of peace activists in Croatia was to act with the message of ‘both hero and criminal’. This very example emphasises the necessity of asking the questions about co-responsibility for the war and about nurturing the myth of ‘just war’.

The idea that peacebuilding in the region and the process of reconciliation can take place, in spite of the existence of the ‘just war’ as a generally accepted social value in any of the societies here, seems absurd. The very acceptance of such a grotesque thesis about ‘just war’ entails in itself the seed of the future war, and the thesis exists in all of the countries that have been at war in the Balkans, and is more or less accepted, or applied to the latest wars. Whilst Serbia has this bit of luck in the midst of the misfortune – that the consequences of the wars lead ‘for the just cause of defending the Serbian people’ are so catastrophic, that it is obvious that those who had allegedly meant to be protected gained nothing but misery from this war – the message in Kosovo and Croatia after the wars that did attain set political goals is that the wars and the violence paid off, that the war was good!

The lessons derived from the more recent history emphasise this thesis and the calls for recognising one’s own responsibility are brought to the level of malevolent blabbering of enemies of the people. Condemning the war crimes of one’s own side seems to be the ultimate act of peace activism and an attitude against the war on principle remains a value some future generations will have to become committed to.

Maybe, for example, Croatia’s membership to NATO in the near future can provide conditions for development of the awareness on the war as an authentic crime in itself.

Victimisation

Why is dealing with the past so hard, at least in the segment of dealing with crimes committed on one’s own behalf? A large number of people, regardless of the region, react with a counter-question, when will ‘they’ admit and apologise for crimes against ‘us’. Both when they objectively are victims and when they are not but draw this feeling from their ethnic affiliation, people feel like victims, they feel injustice against their people and as a rule have a series of good and

meaningful reasons to found such a statement. The problem emerges when the sense of injustice and objective circumstances in which they were victims (or feel like that) is felt as a part of identity. They tend to disperse certain circumstances and generalise them through projection on the entire people. Thus one becomes a victim and the righteous and the others are, thence, evil and aggressors. This generalisation and simplification intends to attain, consciously or not, two goals: the first is to release themselves and their own side of responsibility by accusing others and assigning the identification label of the evil or aggressors to others; the other is a powerful position of a victim who deserves unreserved support; a position of the morally pure who were, are and will remain such.

What mostly goes unnoticed, is that the real victims in this process become an all purpose currency; in other words, ‘the more our victims, the better, because we get more arguments through that’³. Never mind the fact that many of those who are victims or belong to victims’ families get actively involved in the construction of these generalised and ‘geneticised’ images of victims and perpetrators (entire peoples) through which they unconsciously undermine and relativise their genuine position of a victim who seeks a just punishment for the responsible with a reason.

Such a process is primarily encouraged by nationalist governing elites who have an enormous influence on building the public opinion. Unfortunately, the majority simply repeats and uncritically adopts what they are being served through the media. The more heterogeneous the attitudes within an ethnic group the better, because the hardship and responsibility for creating one’s opinion is at least partly transferred to individuals. Many will still repeat what

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3 An example is an attitude towards the Research-Documentation Centre from Sarajevo. The director of the Centre who was formerly a representative of the State Commission for collecting facts about war crimes in Bosnia and Herzegovina, founded in 1992 in Sarajevo, has of late been exposed to attacks and belligerence, having made public systematically collected and checked data on the number of victims of the war in Bosnia and Herzegovina. Instead of the often mentioned 300.000, the current registered number (in July 2006) is 97.163 of the killed and the missing. It sounds paradoxical that someone should be attacked for the number being ‘smaller than it should be’. No, it’s not better if the number of victims is smaller, it’s better if there are more of them, primarily on ‘our side’. That is the logic of the majority today, or perhaps these are less citizens, and more individuals in nationally passionate sheepfolds?

the political parties they approve of tell them, but at least there won't be a single dominant standpoint.

Thus the court procedures for crimes are partly rendered meaningless too, because what goes in the favour of the statement that 'we' are the good ones will be experienced as a confirmation, and those who disturb such an image refused as politically motivated and malevolent towards 'our people'.

At the same time, such 'identity' setting of the notions of *victim* and *violence* excludes the possibility that perhaps the very same people or group of people were victims in one situation, and perpetrators of injustice and violence in another. At the mention of this, many would jump up and cry that this is making aggressors and victims equal.

How would it even be possible to make aggressors and victims equal? By failing to see that the situation and what a person (or a group) does in it determines the role of a victim and the role of an aggressor. A person who committed crime and injustice is an aggressor, but that same person or persons, were perhaps victims in another situation. One does not exclude the other, these two categories do not annihilate each other and they are neither genetically determined nor are they the identity related definitions we often try to represent them as. Isn't it aggression and violence when nowadays some people who were in the past undeniably and objectively victims, call for collective and non-selective revenge and punishing the others, when they justify discrimination. It is difficult to stand up against it when it is known that these same people had gone through horrible suffering and pain, but one has to oppose injustice and calls for violence, however inconvenient it may be. Because one injustice cannot be made right by causing a new one. At the same time, one must not neglect the fact that it is exactly some victims of injustice and crime that significantly contribute to creating an identification definition of an entire people as a victim. If we turn the due respect for the victims into a myth of inculpability of our side and additionally slight other victims because they 'deserved it by being on the opposite side', we can be certain that we have created excellent preconditions for a new war.

This mechanism is not new, nor does it appear for the first time after the latest wars. Concretely, the Serbian side has, by harbouring myths of the just wars for freedom, created a self image of an inculpable, just and freedom loving people, an image uncritically adopted by many, mostly through education and also through the media propaganda during the past fifteen or so years, so that now they find it more difficult to accept crimes perpetrated by the Serbian army/armies in the past wars. So, on the Serbian side, there is a certain historic process and experience that has lead to the possibility of realisation that things cannot be viewed as black and white. The definition of a victim cannot be projected on the entire people. Although, in spite of the possibility of this realisation, it hasn't yet reached the awareness of many.

The set of circumstances in Serbia and neighbouring countries is not the same, so that the process of victimisation (identification definition as a victim) is also not in the same development stage. Due to the fact that the greatest burden of the recent past is born by Serbs and Serbia, because its leadership played a crucial part in starting the wars in the region, the ways in which they had been lead and then hiding those responsible for crimes, one gets the impression that the public in Serbia would be content if the talks about the past just stopped or if everyone just covered themselves with ashes and left determining guilt and responsibility for some 'better' times. Still, such a thing is not possible and this is the chance that Serbia has to finally shatter the senseless myth about the character of Serbian people and such similar nonsense once and for all.

Since a great part of the trials for war crimes is taking place outside the country and under the supervision of the United Nations and is not seldom presented in Serbia as 'The Court of the West', and the pressures for sorting out the wartime past also come from the West personified by the NATO who lead the war against SR Yugoslavia in 1999, it is logical that there is a huge resistance to the process because it is experienced as imposed and particularly malevolent towards the Serbs.

Political steps in that direction are literally coerced because there is no awareness about the fact that dealing with the past is primarily necessary for our own sake and the sake of our society and then for the sake of respecting

the victims and building neighbourly relations and a better future, and not in order to fulfil the demands of the USA, whose government proves through its politics that they see themselves as above international law, and acts as if the whole world were its own private possession where it has the exclusive right to administer justice as it sees fit, i.e. according to its economic interests.

At any rate, statements such as the answer of the former NATO spokesperson to the question of whether he expects the investigations related to claims of war crimes against civil population of SRY to begin at The Hague Tribunal, who said ‘Why, we fund them (the Tribunal)!’, certainly do not represent an encouragement for a fair dealing with the past in Serbia, or abandoning the role of a victim. The man was sincere, which may not have been bad, but it is bad to demonstrate power and act on the principle of the rule of the stronger. If that is how it is done in the West, why would ‘we’ be to blame for having tried the same? To that I say, they are not my role models nor do I think they should be anyone’s, responsibility for peacebuilding in the region is upon those of us who live here and we don’t do it for anyone other than ourselves. Let us clear our own backyard, maybe even with the help of our neighbours, and then, after we have sorted that out, let’s see where to go from there.

Dealing with the past as a contribution to peacebuilding

The main challenge is represented by establishing dealing with the past as a generally accepted social process in which interests of citizens are recognised in going through the process and thereby transforming their society into a more just one, with more solidarity, freedom and honesty. Once established as such, the process would certainly contribute to peacebuilding and not its deconstruction as it often happens nowadays.

Firstly, in order for the process to be generally accepted, it is necessary to build a broad alliance with various social groups, at the same time not making compromises in terms of the values we advocate but rather looking for shared interest and building trust and cooperation. Peacebuilding and dealing with the past cannot be carried out by a handful of citizens’ initiatives and groups for peace and human rights, they can set an example, create an initiative, but the

process must be a lot broader in scope. For lack of public support, it seems to me that many who are committed to encouraging the process of dealing with the past fall into a trap of building an image of enemies and frequently enter the role of a victim themselves and a role of the lone righteous in a society in which immorality prevails. When this happens, it couldn't be called productive in terms of the very goal of the work they do.

However senseless fighting the windmills may seem at times, once 'patriotism' justifying crime and glorifying one people whilst belittling another is condemned, the potential for building a broad social alliance in peacebuilding and dealing with the past is huge for one simple reason. Namely, people who do not want to see themselves as unjust and immoral, even when they advocate ideas that imperil other groups, they are not aware of it or try to justify it by equal treatment ('they did the same to us'). Accusing and devaluing the ones who don't share our opinions will not attain the building of a broad alliance of support, this instead is achieved by communication and cooperation, and at the same time by transparently displaying all differences in attitudes and making them the object of communication, not running away from conflicts but rather working on them constructively.

Working with the veterans from the wars from Bosnia and Herzegovina, Croatia and Serbia and Montenegro I could clearly recognise that the motives of a vast majority of them (apart from a couple of dishonourable exceptions) were to fight for something they had perceived as just at the time. If it is easy for us to understand the motives of a person whose home and family were directly endangered to get actively involved in warfare, it seems more difficult in the case of the others. Still, their motives were 'to defend my own people', their country, their extended family, the ideal of freedom. I have never directly heard or sensed in a single person that they had gone to the war in order to commit crimes, to conquer territories and exile people, even though after the war many have realised that they had been in the service of the machinery that was doing exactly that.

When we condemn the actions of that machinery or those machineries we cannot put all people, who had found themselves in them, in a single bracket, and more than that we cannot judge them as such today. Those who have

objective criminal responsibility should and must be brought to justice for it, and let us leave people room to change. They carry the burden of responsibility that belongs to them and it would be good to support those who are ready to accept the responsibility and to act differently today in accordance with it.

The influence of the former soldiers, through their legitimacy, is very strong on different sides, and along with that potential they also have a great responsibility of acting today in such a way as to prevent this evil from ever happening again. People should be given a chance, and as I have seen through the work with the veterans, many do not want to lose that chance.

Acting from the position of the moral who recognised the evil that was about to happen and publicly stood to oppose it is of no great help today, and when you put yourself on the pedestal for those reasons whilst slighting others for having been 'naïve and stupid' is very selfish, and from the perspective of peacebuilding, also stupid, i.e. counterproductive. I have to emphasise that with this I do not advocate the position that any attitude is fine and should be respected, but I distinguish between conflicting opinions and giving oneself the right to judge others and characterise them, especially when projecting it on entire groups. On the contrary, my standpoint is that reacting and acting against chauvinist ideas is necessary and that it is this very citizens' readiness to stand up against such ideas in alert and resolute ways that reflects the degree of 'mental health' of society itself.