The Rule of Overgeneralisation

Review of *The Past Can't Heal Us* (2020) by Lea David

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Lea David, *The Past Can't Heal Us. The Dangers of Mandating Memory In the Name of Human Rights* (Cambridge University Press, 2020)

For a long time, I debated how to approach reviewing this book. I was drawn to it by the resolute tone of its title, a statement of fact that contrasted with my own experience. As it turned out, I was not just a random interested party because the work of the Centre for Nonviolent Action[1] in dealing with the past was used in the book as an example. The author did not, however, actually analyse our work. Instead, she tried to 'squeeze' us into her theoretical model. Hence, my review will be from the very specific perspective of a regional peace organisation.

There is something in the structure of this book, its set-up and its claims that is meant to scandalise us. The main thesis is that human rights ideology has served as the basis for creating an entire framework of international and transnational human rights discourse whose adoption commits states to upholding its norms, ideas and practices at the level of the world polity. These human rights norms have shaped a new global legalism that undermines the conventional assumption of nation-state sovereignty since their adoption requires coercion. A special place within this ideology is reserved for "moral remembrance" – a standardised set of norms imposed on nation-states dealing with the legacy of mass human rights violations. When this moral remembrance is translated into a political recommendation for "proper memorialisation", it produces a long list of false premises that are then further filtered and reduced through the interests of nation-states. The international coercion into "proper remembrance" thus results in the opposite outcome – strengthening divisions in the field, reinforcing ethnic nationalism, and possibly serving to reignite violent conflict in the future.

The book explicates the theoretical model, deals with ideal-types, but still seeks to be universally valid. It also implies higher-order knowledge of objective facts, while at the same time (perhaps for this very reason?) being completely devoid of context. The point of the book may be lost on anyone not already sufficiently familiar with the subject matter, unless the result is meant to be contained in such "apt" slogans like "The Past Can't Heal Us" (as if anyone ever claimed that it could). Namely, the author does not discuss the content of human rights, but instead proclaims and takes issue with their universality, relying primarily on developments in the social sciences, particularly sociology. She has

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1 CNA is a regional peace organisation with offices in Sarajevo and Belgrade. For more on our work, see https://nenasilje. org/en.

little to say about the period from the 1950s to the mid-1970s beyond its function as the period when non-governmental organisations and international publications developed (as the basic instruments of human rights). Nothing is said about the development of human rights during the Cold War or how activists from the Global South influenced the setting up of human rights institutions and the idea of human rights in general. Nothing is said about how the distribution of power in the world was not always as it is today. Despite what may be insinuated here, the establishment of an international order based on humanitarian principles was not exclusively the prerogative of developed Western countries, and these countries have not always been and may not forever be committed to human rights values. The primary advocates of binding international human rights norms in post-war Europe were the newly created democracies whose interests were primarily concerned with political stability at home against possible undemocratic threats. I have no intention of defending the basic premises of the liberal order that form the foundation of this international regime or its hegemonic character. However, if human rights are extracted from this liberal paradigm, their doctrinaire power and might is no longer so self-evident.

Criticism of human rights is not as unusual as the book would like us to think. It comes in large part precisely from academia, but also from within the human rights movement itself. Namely, in contrast to the author's framing, the human rights movement and its institutions are far from a simple sum of units each doing its part in the ideological machine. There is a significant difference between international non-governmental organisations, non-governmental organisations focused on advocacy that have access to UN assemblies or are in a position to have a say in something, and local grass-roots organisations or local non-governmental organisations working in the Global South. It is entirely legitimate to question the role of non-governmental organisations in the functioning of the global system, but it is unjustified, to say the least, to neglect the fact that acting through non-governmental organisations is essentially the only possible option for extra-institutional action (if we disregard ad-hoc groups). It would be legitimate to discuss what needs to be done in order to change how the global system is set up, but for the author, that would already stray dangerously close to activism. Clearly, this assessment of the work of non-governmental organisations is conditioned by the theoretical model, but what practical use it could have in society at large still escapes me.

The author explains the lack of scholarship on human rights as an ideology with the long-standing primacy of the Marxist understanding of ideology as false consciousness, which is our excess baggage and which is why ideology is mostly portrayed in a negative light. The other "excess baggage" is related to current debates in the social sciences, particularly within sociology, focusing on universalism versus cultural relativism and on value-neutral versus normative advocacy claims. I take no issue with proclaiming human rights to be an ideology, but I do find problematic the author's implied position of her own value-neutrality (and hence objectivity) in analysing this social phenomenon. Thus, the author paints human rights sociologists as mostly activists, and their activities as primarily promoting the human rights agenda by identifying solutions and actively engaging with the public to promote change. The author denies such actors the capacity for critical analysis which is conducted through ideologically fixed categories. Or rather, "normatively engaged sociology" cannot contribute to understanding "social reality as it is" precisely because it views it through the lens of how "we would like it to be" and therefore cannot make a sound sociological contribution (David 2020: 30). The topic of value-neutrality is a broad area of debate within sociology, and I will not go into much detail except to say that I believe one's own value positioning is inescapable; there is no neutral position from which it is possible to speak.

This book implies that we should abandon our activism and that we should understand that activism represents the objectification of people (instead of viewing them as people towards whom we should show solidarity) and the subjugation of countries to foreign ideological aims. It completely disregards our role (and here I mean the role of socialist Yugoslavia in the Non-Aligned Movement, in the UN Security Council, its support to post-colonial struggles and the struggle against apartheid,

etc., but also the legacy and influence of the Yugoslav women's movement, from AFŽ[2] to the feminist conference "Drug-ca žena" of 1978) in shaping our own human rights values and imposes them on us as foreign. Today, primacy is mostly given to liberal, individual rights that are somehow linked to private ownership, meaning civil and political rights, which does not, however, mean that our work is exclusively guided by these values. We are being told that our actions follow Western imperialist instructions, completely disregarding the fact that our NGO connections mostly stretch from the Global South to the European South and that this is where we find struggles from which we draw inspiration, even when it comes to memory (Argentina being the most recent example).

What troubles me about such broad generalisations is that they question our authenticity. This type of criticism is almost entirely indistinct from the criticism of our past and present repressive governments in whose eyes we are also "foreign agents" and "mercenaries".

The theoretical model presented in the book intends to show how human rights are an ideology, albeit not a particularly successful one. The model was borrowed from the study of ideology in general, and nationalism in particular. We have a certain sense of nationalism being "successful" in achieving its own vision of the world, but what the author wants to show us is that the ideology of human rights cannot match its power and that, as opposed to nationalism, the micro-solidarity achieved in direct encounters cannot survive except in the environment where it was created and fails to increase the attachment of individuals to human rights. The author does not explain what vision of the world human rights ideology aims for, though she does gesture towards it at one point as being "the grand political mission of providing a global framework for the achievement of freedom, identity and prosperity" (David 2020: 48). So, we are left without a definition of the ideal-type with which the success of human rights is compared and towards which their ideology is directed. Is the establishment of a human rights system a matter of the individual or is it more relational? Is success of the human rights agenda indicated by a change of attitudes in individuals or a change in the community? How do we define change? We can disagree on these matters, but the issue of the legitimacy and the effectiveness of human rights must have some measurable unit. The author asked these questions as well and concluded that it would be impossible to determine a time frame within which to calculate the success of human rights, but that we see no change from human rights advocacy, and that is pretty much it. Indeed, she comes out with some far more scathing assessments.

In any case, when questioning the legitimacy and effectiveness of the human rights agenda and institutions, it would be useful to know the basis for such assessments. We can disagree with some decisions of the International Criminal Tribunal for the former Yugoslavia, but does this bring into question its legitimacy? Legitimacy can be established and it is relational; as long as we see this institution as better or more appropriate than other institutions that could be set up within the given circumstances, it becomes and remains legitimate.

The situation is somewhat different when it comes to the legitimacy of non-governmental organisations. In her analysis, the author does not leave any room for considering what "ideal" non-governmental organisations should look like, and instead simply pronounces them instrumental in setting up the order. However, the legitimacy of a non-governmental organisation can actually be measured, for example by comparing it with other existing non-governmental organisations, such as church-affiliated organisations. The discourse of human rights can be compared with other existing political ideas and discourses to determine its legitimacy.[3] As for effectiveness, it would again be useful to have a comparison, even some basic before-and-after would suffice. Since the matter at hand is dealing with the past, memorialisation can serve as an illustrative example. The place is Bravnice in the Municipality of Jajce. It was here that, on 13 September 1995, a column of refugees retreating from Donji Vakuf came under attack. At least 32 civilians and 9 combatants accompanying the convoy were killed. This crime is currently under investigation, but no one has been held accountable yet, though it is

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2   Women's Antifascist Front

3   *Evidence for Hope: Making Human Rights Work in the 21st Century;* Sikkink, K., 2017. Princeton: Princeton University Press.

known which army committed the crime. Being the site of an atrocity against a minority, Bravnice have remained an unmarked site of suffering. As part of the action to Mark Unmarked Sites of Suffering, peace activists, together with members of the victims' association, put up a sign to mark this place. When we passed through Bravnice again later on, we saw that someone had cleared the undergrowth and raised the sign to a more visible position. A year later, when a mixed group of veterans visited sites of suffering in Jajce, we went to this site and laid flowers. Among us were local officials, from the majority group, as well as a group of war veterans of the army that committed the crime. We stood by the road, with our umbrellas in the rain, a company with the (idealist?) vision that no hierarchy of victims exists and that all victims deserve respect. We listened to the testimony of someone who had been in the convoy as a girl. Following the author's line of argumentation, this was precisely a face-to-face encounter, emotions (including sadness, remorse and shame) were strong and expressed, there was pronounced solidarity within the group. Will that solidarity last? In our experience, it has lasted to this day. But that is not satisfactory for the author because in her book she says that those "beneficiaries" who do adopt human rights values were already inclined to do so. She says that only those veterans that engage in, for instance, peace actions are perceived as "good", while they are otherwise exposed to social stigma, that the veterans the author spoke to would never join such actions. I don't understand what the latter is meant to prove, even if it were true.

That time in Jajce, when victims' associations met with local authorities, it was agreed that a permanent memorial would be installed at the site. Is change visible? Is it measurable? Yes, its external manifestations are measurable. What will remain invisible to the casual observer is the sense within the victims' association and the admission of the local authorities that a crime was committed in Bravnice. Not enough? It may seem so to us in our limited temporal perspective, but memories are fragile, living tissue. Anyone can usurp them. It seems dishonest and unfair to leave the culture of memory to the nationalists. Shortly after the encounter in Jajce, we were driving down that same regional road again. We saw that someone had lifted the flowers to a more prominent spot, too.

This peace action saw the practical application of the duty to remember, dealing with the past and justice for victims (the three basic principles of the human rights memorialisation agenda as noted by David), but the interpretation of these postulates was purely local and as such irreconcilable with the theoretical framework as set out by David – the duty to remember was in this case related to unpopular victims and dealing with the past involved the recognition of a war crime committed by the majority in that community, which is also one of the criteria that must be met to achieve justice for victims. Also, neither the minority nor the majority community belong to David's definition of Victim. In fact, under her terms, both communities would fall within the Perpetrator category. Following the line of argumentation further, these are the last people that we as a peace organisation should be working with according to the "human rights memorialisation agenda". Another example can also serve to illustrate how problematic this theoretical approach is. It originates from the same error or tendency to proclaim some practice of the human rights memorialisation agenda harmful. Here, criticism is only hinted at and nothing is proclaimed outright, but all together a certain conclusion is implied:

> Though all moral remembrance practices *allegedly*[4] encourage victims to speak, this categorical framework forces them to adapt their stories to fit the matrix, to filter and de-contextualise certain memory contents (David 2015a, 2015c; Močnik 2019) to maintain the purity of the classification system [perpetrator-victim-bystander]... culturally embedded differences regarding the perception and expression of suffering, pain, illness, memory and forgetting may often result in silence that is, in the transitional justice discourse, explicitly understood as detrimental to post-conflict collective and individual healing. Silence is perceived as a negatively marked absence, and thus is problematic because it deviates from the Eurocentric psychosocial norm

4   Emphasis mine.

of voice (Kidron 2009: 6). However, evidence from Bosnia shows that silence can be a form of communication, as multifaceted as speech and conveying a broad range of contextually situated social meanings such as respect, recognition and coexistence (Eastmond and Mannergren-Selimović 2012). (David 2020: 63)

Following this line of argumentation, David seems to be circumspectly suggesting that we should try silence as a way for our societies to deal with wartime events and their consequences. Insinuating the Bosnian-Herzegovinian context, however, makes this claim questionable for the very same reasons David objects to the practices of memorialisation under the human rights agenda – because it does not account for the specificity of the context or for the various circumstances within the country where these practices are carried out, nor does it allow for the possibility that we may be able to recognise these subtle ways that silence can function and how it can be interpreted. The silence recipe is thrown out there without giving the subjects of these events, the witnesses, and especially the female witnesses, any possibility for action or subtle change of the context or environment in which we choose to speak or be silent about war. Speech is by no means a substitute for silence or vice versa. Both speaking and silence have their place in post-war reality and remembrance (or forgetting) of wartime events, but the agents of this action are those that have suffered the violence. If what is being insinuated here is that there are or have been some organisations that were forcing people to speak, then such organisations should be denounced for causing re-traumatisation. But it is wholly unfair to question in this way the principle aiming to ensure the conditions that enable people to speak, people who had been denied the right and power to speak, in places where speaking had been hitherto impossible without the intervention of human rights discourse. None of the other scholars David cites in this passage arrived at the conclusion that speaking about wartime trauma has no place of its own.

Of people who voluntarily apply to our peace education programme, our peacebuilding trainings, David says we select them along ethnicity lines and then intentionally push them into ethnic identities, diminishing the importance of other identities such as gender, class, rural/urban location, occupation or gender gap differences. During the training, according to David, these people leave behind their individual identities, only for us to force them into a single ethnic identity that will subsequently take on all the evils committed in the name of that collective, and the participants start viewing themselves and others as an "us" and "them". In this way, even those who were ambivalent about their own ethnic identity prior to the training will become attached to it after the training. They will face problems when they go back home because they will be more sensitive and aware, but no longer having access to the safety net of the training or direct assistance, they will soon revert to their "old, nationalist ways". I find this repeated objectification of people troubling, even if it is only a matter of representation – this notion that training participants become passive receptors of the ethnic impulse which results in their being in danger or feeling uncomfortable when returning to their own communities. I must say that this is a common misconception; the nationalists also believe that this is what we are doing. This bias leads to an expectation that our attitude towards our own identity is the only thing defining and determining that identity. Identity is not a fixed category; we have several identities and their importance and significance to us are highly flexible. We will very often construct an attitude towards one of our identities only when it comes under threat in some way. But there is no way to avoid being assigned an identity by other people – based on our name, what they see or assume about us – and as this shapes their attitude towards us, it will in return shape our attitude towards them. Setting ourselves up into fictitious identity-less categories would only indicate that we are not ready to question the meaning of these categories in our lives. At our trainings, however, we examine our many social identities, either acquired through our direct surroundings or chosen by ourselves, since they often shape our reality – it makes a difference whether you are a man or a woman, a student or an old-age pensioner, a scholar or a worker; national identity is neither the most problematic nor the only fundamental identity we focus on. David takes issue with the practice of facilitators using a safe space as "an excuse" to direct discussions on certain issues. But what do facilitators usually do? A safe space has its rules, as does group work. A safe space refers to the (maximum possible) safety from psychological harm, an equal

say and a commitment that what is said within the safe space will go no further. The same is true of any group work on issues that are of vital importance to people, as it is true for "dealing with the past". A safe space is not proclaimed, it exists to the degree that all those involved are prepared to take on their share of responsibility. One thing is certain: when such a safe space does not exist, participants will feel it and will certainly not share their thoughts, attitudes or feelings in a group where they don't feel safe. A safe space is safe only insofar as it allows us to show ourselves for what we are instead of substituting what we have learnt to be socially acceptable and permissible.

David also claims that facilitators are recruited along ethnic lines and that we are forbidden from speaking about the crimes of others and only allowed to talk about the crimes committed by "our side". To make matters worse, this is supported by a quotation from a publication by my colleague Ivana Franović that is taken completely out of context. Quoting and citing sources faithfully is a matter of basic academic integrity and, therefore, David should have noted that one of the principles we apply in our work is to deal with all crimes. My ability or readiness to criticise my own side legitimises my taking issue with crimes committed on the other side. If I were not able to speak about the crimes committed "in my name", under the patronage of the country of my citizenship or of the society to which I belong, how would that then make me any different from our nationalist political elites? It is hypocritical to accuse us because we take how others see and categorise us seriously and conscientiously, because we accept the responsibility of the collective we live in, whatever our attachments to any identities we may feel as our own. Can anyone claim that David's national identity (or identities) is immaterial? For this discussion, however, it is completely irrelevant what her intimate attitude towards that identity is. We can pretend to be living in an individualist (neo)liberal fairy tale, but people are social by nature and society is everyone's equal responsibility as much as everyone's well-being is the responsibility of society. Not everyone thinks so, but that is how our trainings should be viewed, because someone completely untouched by war and violence will never apply for this type of training. The application form states clearly which topics and social issues will be dealt with, that peacebuilding refers to a much broader social framework from human rights, and that dealing with the past is viewed within the totality of other social, economic and political processes. We are transparent about the methods and objectives of our trainings, and about the application process, and this is clearly communicated to the participants before they come to the training. The identity they arrive with and the one they will take back home is a matter of personal engagement; peacebuilding trainings are not group therapy or counselling, but a place for reflection and learning how we can actively effect social change and influence the quality of life in our communities. Of course, going back home is difficult for participants because they now have the knowledge and skills to recognise different forms of violence in society, and this obliges them to act. Any action that disrupts the status quo is subversive and will therefore elicit resistance. According to David, this – stepping outside of your own comfort zone, realising your own privileged or unprivileged position, becoming aware of the different levels of discrimination, and learning what tools to use to fight against violence and injustice – is why we should stop with the trainings so as not to make people feel too uncomfortable. Lest they, god forbid, try to influence the societies they live in? Ultimately, all of these principles are made public and available to everyone on our website and so I cannot but see this interpretation as malicious.

The relationship between academia and activism is, to put it mildly, complex. Very often it boils down to "we act - they analyse us" and this book does not stray from this approach. I have no problem with anyone analysing our work, especially if that analysis were to contribute to some direly needed change in structure or approach. But academic criticism of activism rarely goes so far. Indeed, recommending policies to contribute to some aspect of betterment for humanity is still seen as a sign of weakness, it is found to be almost distasteful and is rejected with indignation. Again, this book is no different in that respect either.

I have no problem with being seen as biased. I most certainly am biased, as are all of us working to contribute to the overall corpus of knowledge and betterment of humanity, which is what I believe David also thinks her work is doing. I would note that some of us who are active (among other things)

in human rights, and David acknowledges this, are fastidious about noting shortcomings or faults in our practices and detailing experiences in order to find ways to remedy these shortcoming and adopt new approaches. All the changes we initiated in our work stemmed from the needs expressed and recognised by the people we work with, or from the changes our communities and societies were going through. It is completely dishonest to use this documentation (which is available to everyone) tendentiously – cherry-picking this open self-criticism out of the totality of our results and lessons – because it fits with your thesis. The fact that our work, and the external scientific evaluations of our work conducted at our initiative contain a preponderance of practices and experiences that go against her thesis is something David ignores. Indeed, though she amply (wrongly and tendentiously) cites us in her book, David did not think it necessary to contact us about any dilemmas or assessments of our work.

In addition to everything mentioned above, for the purposes of her book, David freezes us in time in 2008, so that, even though the book was published in 2020, anything we have been doing since 2008 is rendered irrelevant to her diagnosis of our work and to evaluating the success of dealing with the past processes and methods. All of this leads me to think that we were used for the purposes of an academic exercise. David's need to generalise comes from that academic exercise. The method may be justifiable, but that still leaves the question of what purpose does a thesis "generated" in this way serve? Apart from discouraging the already small number of souls that feel responsible and motivated to act for social change.

Finally, if we look at this from the perspective of policy, in terms of desirable practices prescribed for countries that have violated human rights, especially on a massive scale, even when it is completely clear that these are symbolic gestures, even when it is clear that these practices are adopted only as a way to score points with EU institutions, is there really something wrong with Prime Minister Plenković attending the commemoration in Varivode this year? When his speech, despite all its hedging, contained a recognition of responsibility, clearly stating that these were unacceptable war crimes, should we still wish the whole thing never happened because we find it hypocritical? Finally, this is not about Plenković. It is about proclaiming a public policy on these crimes. It is about acting in line with that proclaimed policy, which becomes Plenković's responsibility from that moment onwards. This has concrete impacts not just for the Serb minority in Croatia, but for Croatian society as a whole. The nationalist reaction was expected and it was quick to follow, as it always is when something stands in the way of their plans. Should this be a reason to stop with these initiatives?

It was not my intention to be a defender of human rights, because I don't usually see myself as one. I am very critical towards human rights institutions, standards, policies and practices, not least because I have the opportunity to observe their impact directly in the field. That is why I take issue with an analysis that has decided to neglect concrete socio-political circumstances, the immanent political developments that issue from them, and to a certain extent even the development of human rights themselves, in order to preserve the purity of its theoretical model. Instead of making things clearer, after reading this book, apart from presenting the human rights memorialisation agenda in a generally negative light, we learn little else. We do not learn how this paradigm was established, or what developments in other related disciplines (such as history) contributed to the "age of commemorations", or how nationalism came to be the main driving force behind memorialisation efforts in Europe. How can we assess the extent of coercion in the human rights agenda if we completely ignore the coercive aspects of all other norms in the liberal order? Can the coercion of the human rights agenda be extricated from other demands – the influx of foreign capital, the free market, liberalisation, privatisation, deregulation (or, more recently, the demands of capacity-building, state-building and other external forms of structuring bureaucratic and administrative governance at the expense of political struggle)? Pinning the blame on human rights advocates conceals much and reveals little; after all, we have heard all these accusations many times before coming from nationalists.

As an activist, I believe academic work is work for the public good. Academic work that not only claims to possess higher-order knowledge and insight, but that denies legitimacy to anyone not in

agreement with it, is socially destructive in my opinion. That is my opinion of this book – despite observations that could in some ways be significant for a critique of the practices established through the dominance of the liberal paradigm and the human rights ideology associated with it – David's tendentious, lacking and deeply problematic analysis calls for a complete abandonment of past practices without any idea or intention to suggest what should be done instead. That, after all, is not the job of sociologists, according to David.

Whose job is it then and what are we to do, remains an open question.

Translated by Ulvija Tanović