

# ***The “Srebrenica Massacre” Turns 20 Years Old***

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## **Part One**

**The High Status of the “Srebrenica Massacre”**

## **Part Two**

**The Remarkable Stability of the 8,000 Total**

**The Magical 8,000 Bosnian Muslim Men and Boys**

**Blacking Out the Pre-July 1995 Massacres of Bosnian Serbs**

## **Part Three**

**The ICTY as an Instrument of U.S. Policy**

**Concluding Note: The “Reconciliation” Gambit**

## Part One

The “Srebrenica massacre” is repeatedly referred to in the Western media as “the largest massacre in Europe since World War II,”<sup>1</sup> and its alleged Bosnian Serb perpetrators have been relentlessly pursued by the International Criminal Tribunal of the Former Yugoslavia (ICTY) from 1995 up to the present time (the former Bosnian Serb President Radovan Karadzic and General Ratko Mladic are even now on trial for this and other purported crimes). The massacre took place in the vicinity of the small town of Srebrenica in the former Republic of Bosnia and Herzegovina beginning on July 11, 1995 and for some days thereafter, as a small force of the Bosnian Serb army took over the town which a much larger Bosnian Muslim force simultaneously abandoned and fled. The number of Bosnian Muslims killed in this retreat was soon fixed in Western political and media discourse at some 8,000 “men and boys,” which included those killed in action and those executed, although it was soon a matter of ideological and political convenience to make all 8,000 victims of execution.

### The High Status of the “Srebrenica Massacre”

Srebrenica and the “Srebrenica massacre” would not seem to be deserving of repeated attention and bursts of indignation in a world with so many acute problems, disasters, and areas of active strife and much larger-scale killings. But throughout the 20 years following the July 1995 Srebrenica outburst it has regularly been thrust into public consciousness by the mainstream media, with refurbished dramatic images and old and new stories to make it seemingly relevant. This persistence and regularity calls for an explanation. We believe that its continued prominence rests mainly on the fact that this reiteration serves Western political ends (described below). In this connection, we will also show that in seeking these political ends politicians, the quasi-judicial ICTY, and the media distort and suppress evidence on Srebrenica and its context to a degree that yields a thoroughly politicized and misleading history.

Each year, on July 11 or near it, Western media and leading politicians pay their respects to the victims of the “Srebrenica massacre.” The *New York Times*, for example, has published Srebrenica-massacre-related graphics—since September 2003, usually grieving widows at the Srebrenica-Potocari Memorial and Cemetery; before then, images of mass graves being exhumed—on or near July 11 in 14 of the last 19 years (1996-2014). In the most recent illustrations, on July 12, 2013, the paper’s front-page photograph showed a grieving woman kneeling over a green coffin in a location filled with other green coffins. The photo’s caption read: “Bosnian woman at the coffin containing the remains of a relative, one of the victims of the Srebrenica massacre of 1995.”<sup>2</sup> Then again in July 2014, the paper missed July 11, but on July 17 it published a substantial article on a Dutch court’s finding that its own government was responsible for the failure of the Dutch battalion serving in the United Nations Protection Force to prevent the fall of Srebrenica; the caption of the accompanying photo read: “A survivor of the 1995 events in Srebrenica looked for relatives’ graves last week at a cemetery in nearby Potocari.”<sup>3</sup> Over the years, the word “Srebrenica” showed up in 1,108 different items in the *Times* since the first-ever occasion on April 19, 1992,<sup>4</sup> through the end of May, 2015; the phrase

“Srebrenica massacre” appeared in 117 different items in this newspaper since its first-ever usage on October 1, 1995,<sup>5</sup> with a spike in usage of the phrase occurring on or near each July 11.

But the Srebrenica massacre—even if its claimed number of 8,000 victims is taken at face value—is modest in scale when compared with other historical experience of mass killings. The death toll from the 1945 U.S. nuclear bombing of Hiroshima and Nagasaki was more than 25 times as large. The Guatemalan government’s massacres of Mayan Indians in the early 1980s was larger by a factor of 20. Deaths from the “sanctions of mass destruction” era in Iraq (August 1990-2003) were more than 100-times as large. And a March 2015 study of the “total body count in the three main war zones Iraq, Afghanistan and Pakistan during 12 years of ‘war on terrorism’” concluded that this “war has, directly or indirectly, killed around 1 million people in Iraq, 220,000 in Afghanistan and 80,000 in Pakistan, i.e., a total of around 1.3 million.” The report added that “this is only a conservative estimate. The total number of deaths in the three countries named above could also be in excess of 2 million, whereas a figure below 1 million is extremely unlikely.”<sup>6</sup> That is, between 125- and 250-times the death toll claimed for Srebrenica.

Furthermore, whereas these other cases have involved mainly civilian deaths, the Srebrenica toll was comprised almost entirely of military aged men, a large proportion of them undoubtedly soldiers with the 28th Division of the Bosnian Muslim Army. In fact, there were almost surely more Serb women and children killed by the Armed Forces of the Republic of Croatia during Operation Storm in the Krajina in August 1995 than there were Bosnian Muslim women and children killed in the Srebrenica massacre one month earlier. The Bosnian Serbs even bussed the women, children, and elderly from the Srebrenica population to safety; the Croatian military did nothing of the kind for Serb women, children, and elderly of the Krajina,

Yet, aside from the annual memorial services for victims of the nuclear-weapons atrocities at Hiroshima and Nagasaki, there are no annual memorial services or programs featured in the *New York Times* for any of these other civilian-heavy mass atrocities, and, worse, U.S. mass atrocities in Iraq, Afghanistan, and Pakistan are regarded in the United States as just and creditable features of the global policeman’s efforts in the “War on Terror.”

Surely the reasons for these differential levels of memorial attention are political. One factor is that the United States was directly responsible for the mass killings in Japan, and U.S. leaders are not anxious to publicize having killed some 200,000 or more Japanese civilians with two nuclear bombs as World War II neared its end. U.S. military officials suppressed photos and other information on these mass deaths for many years, and clearly didn’t want the public to see graphic evidence that war is hell and that their government helps make it so. The mainstream media help their government by their inattention. In fact, it wasn’t until 2010, at the 65th anniversary of the Hiroshima bombing, that a representative of the United States, in this case, Ambassador John V. Roos, ever participated in the annual ceremony.<sup>7</sup>

In the case of Guatemala, the mass killing of Mayan Indians was carried out by a government that the United States had installed in 1954, aided and trained thereafter, and was led during the peak years of mass killing by a leader, Efraim Rios Montt, who President Ronald Reagan lauded after a December 1982 visit as “totally dedicated to democracy in Guatemala” and getting a “bum rap” in the media.<sup>8</sup> Reagan’s visit and commendations took place during a spurt in the mass killings and at a time when the White House was considering supplying more military aid to the Guatemalan regime; a 1999 Truth Commission report found the killing under Rios Montt

to be genocidal.<sup>9</sup> Clearly, a properly working propaganda system would not feature regular memorials that called attention to a U.S.-sponsored genocide in its own backyard, its local Idi Amin- or Paul Kagame-type manager having been lauded by a U.S. president after whom the main international airport in Washington D.C. is named.

Operation Storm, the Croatian military attack on the ethnic Serbs living in the Krajina (with the assistance of U.S. corporate mercenaries as well as Bosnian Muslim forces on the Bosnian side of the border), successfully drove some 250,000 Serb civilians out of 10,500 square kilometers of territory in the largest ethnic cleansing of the Yugoslav dismantlement wars, and the largest ethnic cleansing in all of Europe since World War II. At least 2,000 Serbs were killed in this operation, including several hundred women and children. It followed the Srebrenica killings by less than a month, but in the West, this was obscured by the attention and anger directed at Srebrenica, which thus served as its cover. Not only was this massive operation given little attention in the West, the media even had trouble using the phrase “ethnic cleansing” to describe it, despite its scope and effectiveness and the clear applicability of the phrase.

Interestingly, the dates of this great ethnic cleansing effort (roughly 84 hours over August 4-7, 1995) are memorialized in Croatia, which celebrates this success in an annual public holiday on August 5, officially designated a “Day of the Croatian Defenders” (and alternatively "Victory and Homeland Thanksgiving Day") with parades, wreath laying ceremonies, and similar events. At the 10th anniversary in August 2005, held in Knin of all places, the former capital of the Republic of Serb Krajina, Croatian President Stjepan Mesic praised the “magnificence and purity of the Homeland Defense War,” to cheers of “Ante! Ante!” and “Franjo! Franjo!”<sup>10</sup> The Western media do not join in this annual celebration, to be sure, but they don’t criticize it, either, as they surely would were the leadership of the Serbs to celebrate their great conquest of July 11, 1995. Operation Storm was actively supported by the Clinton administration, so the victims are “unworthy,”<sup>11</sup> and, as with the Guatemalan victims of Rios Montt, and the Iraqi, Afghan, and Pakistani victims of the United States and its NATO-bloc allies, they arouse little interest and even less moral fervor in the mainstream Western media.

Srebrenica, on the other hand, was a place in which people whose leaders were supported by the United State and NATO were killed by forces the United States and NATO opposed; therefore, these victims are “worthy.” The Serbs were the villains, most importantly because Germany, the United States, and other Western powers no longer needed Yugoslavia as a barrier to the now defunct Soviet Union from 1991 on, and Serbia was the dominant nation and cement in the unitary state. Furthermore, the Serbs had social-democratic and independent tendencies that were an obstacle to the integration of Yugoslavia or its constituent republics into the E.U. and NATO. The West therefore encouraged and supported the separatist nationalist forces in the constituent republics of Yugoslavia, with Serbia automatically becoming the official enemy.<sup>12</sup>

As Table 1 shows, mainstream Western media sources have given the fifth, tenth, and fifteenth anniversaries of the fall of Srebrenica and the sufferings of the “worthy” Bosnian Muslim population far more attention than this same collection of media has ever awarded the fall of the Republic of Serb Krajina and the sufferings of the “unworthy” Krajina Serbs. But these numbers actually understate the bias of the Western media in treating these cases of “worthy” and “unworthy” victims. This is a result of the fact that the bulk of the attention to the “unworthy” victims was given by media from the new states formed during the breakup of Yugoslavia, plus

brief mention by wire services such as Agence France Presse, Associated Press, Inter Press Service, Reuters, and RIA Novosti, as well as by the *Irish Times*.

This point is shown clearly in Table 2, which deals with U.S. media alone, and where we can see immediately that any attention to the “unworthy” victims of Krajina in the U.S. media was negligible—for the three anniversaries together only nine mentions, versus 630 for Srebrenica’s worthy victims. No statements from Serb leadership on the biggest ethnic cleansing in Europe since World War II are cited in the U.S. media. No highly publicized visits are made to St. Mark’s church in Belgrade by any UN Secretary-Generals, ex-U.S. presidents, or celebrities. No photos of grieving relatives of the Krajina Serbs still listed as missing are shown. No demands for justice from the Association of Refugees from Croatia or the Association of Families of Missing Persons from Krajina are reported. In short, the U.S. media don’t care in the least about the fate of the Krajina Serbs—or ethnic Serbs more generally. As always within the U.S. propaganda system, official enemies of the United States make for “unworthy” victims, and U.S. media non-coverage systematically reflects this fact.

**Table 1. Differential Global Media Attention to the Fifth, Tenth, and Fifteenth Anniversaries of the Ethnic Cleansings of the Bosnian Muslim Population from Srebrenica in July 1995 and the Ethnic Serbs from the Krajina in August 1995.[1]**

	2000	2005	2010
(A) Srebrenica	285	2,228	947
(B) Operation Storm	39	118	53

[1] Factiva database searches carried out on May 30, 2015, of the wires, newspapers, and transcriptions archived by Factiva. The searches for Srebrenica were limited to the month of July; the searches of Operation Storm were limited to the month of August. These searches were of the forms: (A) *rst=(twir or tnwp or ttpt) and Srebrenica*; and (B) *rst=(twir or tnwp or ttpt) and ((Operation Storm) or (Krajina and Serbs))*.

**Table 2. Differential U.S. Media Attention to the Fifth, Tenth, and Fifteenth Anniversaries of the Ethnic Cleansings of the Bosnian Muslim Population from Srebrenica in July 1995, and the Ethnic Serbs from the Krajina in August 1995.[2]**

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	2000	2005	2010
(A) Srebrenica	71	403	156
(B) Operation Storm	3	0	6

[2] NewsBank database searches carried out on June 2, 2015, under the USA Media category, which included all 50 states for a total of 3,486 media sources. The searches for Srebrenica were limited to the month of July; the searches for Operation Storm were limited to the month of August. These searches were of the forms: (A) *Srebrenica*; and (B) (*“Operation Storm”*) or (*Krajina and Serbs*).

In short, the Western political establishment’s designation of ethnic Serbs and the Republic of Serbia as official enemies was immediately transmuted into Western media bias against the Serbs, whose leaders were found to be aggressors and seekers of a “Greater Serbia” as they tried to preserve Yugoslavia as a unified federal entity and to permit those Serbs stranded in breakaway republics to remain in the shrinking entity.<sup>13</sup> It affected the UN and the media, both of which were assailing the Serbs from 1990 on, accusing them of “genocide” as early as 1992.<sup>14</sup> The Western media climbed aboard this bandwagon in 1990, and have remained on it to this day.

The media bias was made easy by the fact that the UN served relentlessly as an instrument of Western policy in demonizing Serbs from the onset of the wars in 1991 and throughout Yugoslavia’s dismantlement process up to the present. There were individual UN dissenters from the anti-Serb thrust (some mentioned below), but the institutional segments of the UN played an important part in that U.S.-NATO campaign. Most important, the ICTY, established at U.S. urging by the Security Council in May 1993,<sup>15</sup> served reliably to feature alleged Serb crimes and to give NATO actions a legal-judicial cover. This was most revealingly shown when the ICTY indicted Slobodan Milosevic in May 1990, just as NATO began the intensive bombing of Serbian civilian facilities, diverting attention from those war crimes to the villainy of an official enemy.<sup>16</sup> The steady stream of ICTY propaganda, indictments, trials, and judgments provided ideal pegs for news reports and complementary propaganda, and provided journalists with the rationale or excuse that any possible bias on their part was geared to the demands of justice.<sup>17</sup>

This caused them not only to downplay the victimization of Serbs (as in the case of Operation Storm), but also to ignore matters like the importation of thousands of *mujahideen* and future Al-Qaeda forces to help the Bosnian Muslim war efforts. In his book *Unholy Terror: Bosnia, Al-Qa’ida, and the Rise of Global Jihad*, former U.S. National Security Agency Balkans specialist John Schindler argues that this importation, supported by the Clinton administration, was crucial in allowing Al-Qaeda to make inroads to Western Europe in a manner paralleling the earlier U.S. support of *mujahideen* in Afghanistan—including Khalid Sheik Muhammad, the Pakistani mastermind of 9/11, and two of the 19 suicide hijackers, the Saudis Khalid al-Mihdhar and

Nawaf al-Hazmi. All three had trained and fought on behalf of the Bosnian Muslims against the Bosnian Serbs.<sup>18</sup>

Media bias was also helped by the fact that the Yugoslav wars were hazardous for journalists, most of whom didn't know the relevant history or languages, and who therefore were easy tools of local propagandists as they gathered mainly in Sarajevo at the Holiday Inn. The phrase "journalists of attachment" was coined in this period to describe reporters who were openly proud to "take sides," that is, to be one-sided and biased in reporting on this conflict, with clearly defined "good guys" and "bad guys."<sup>19</sup> "There is no attempt here to be objective towards the perpetrators of Bosnia's ethnic carnage or those who appeased them," the British reporter Ed Vulliamy announced at the outset of his book *Seasons in Hell*. Vulliamy proceeded to find "echoes" and "political resonances" with the "Nazi project" everywhere there were Serbs; by July 1993, the Serb project had produced "hundreds of thousands of Muslims dead," according to Vulliamy's account.<sup>20</sup>

As the onetime head of the U.S. intelligence section in Sarajevo, Lieutenant Colonel John Sray, observed: "America has not been so pathetically deceived since Robert McNamara helped to micromanage and escalate the Vietnam War.... Popular perceptions pertaining to the Bosnian Muslim government... have been forged by a prolific propaganda machine. A strange combination of three major spin doctors, including public relations (PR) firms in the employ of the Bosniacs, media pundits, and sympathetic elements of the US State Department, have managed to manipulate illusions to further Muslim goals."<sup>21</sup>

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In Part Two, we examine more closely how and why the 8,000 number for the "men and boys" allegedly killed from the Srebrenica "safe area" population became sacrosanct. We also assess the credibility of this number. And we look at the systematic stripping of the relevant context from media coverage of the "Srebrenica massacre"—in particular, the nearly 40 months of violence and ethnic cleansing suffered by the Bosnian Serbs of the region.

## Part Two

As noted in Part One, the July 1995 fall of Srebrenica has throughout the past 20 years regularly been thrust into public consciousness by the mainstream media, with refurbished dramatic images and old and new stories crafted to make it seem historically important and emotionally compelling. We believe that this convention—which is observed in academic and human rights circles as well—is rooted in the fact that it serves Western political interests (described below). And we believe that in advancing these interests, politicians, the quasi-judicial International Criminal Tribunal for the Former Yugoslavia (ICTY), and the mainstream media systematically distort and suppress evidence about Srebrenica and its context to such a great degree, it yields a thoroughly politicized and misleading history.

### The Remarkable Stability of the 8,000 Total

The number 8,000 was first put forward officially by the International Committee of the Red Cross (ICRC). By mid-August 1995, the ICRC was reporting that it had “gathered nearly 10,000 allegations of arrest and disappearance from displaced people who were brought to Tuzla and Zenica.”<sup>22</sup> But by mid-September, the ICRC had carried out a review of its developing list of missing persons from the Srebrenica “safe area” population, and concluded that its previous list contained 2,000 errors (i.e., duplicate listings of names reported as missing). Of the remaining 8,000 names, the ICRC now estimated that “about 5,000 concern individuals who fled the enclave before it fell, while the remaining 3,000 relate to persons reportedly arrested by the Bosnian Serb forces.”<sup>23</sup>

It is remarkable that this 8,000 number was eventually institutionalized, not only as the approximate death toll suffered by Srebrenica’s Bosnian Muslim population (i.e., “missing” = dead), but as the death toll from *executions* (i.e., homicide) rather than other manners of death.<sup>24</sup> This was surely not because evidence was at hand or soon forthcoming to justify the number 8,000 as a death or execution total. In fact, the history of ICTY, UN, Bosnian Muslim, and NATO government-sponsored Srebrenica-“safe area” searches for grave sites, exhumations, associated investigations, studies, reports, and trials has proven a long and mainly unsuccessful effort to vindicate the 8,000 number.<sup>25</sup>

The stability of this 8,000 total is exceptional. In most cases of sudden catastrophic losses of human life, whether from natural disasters or human causes, the initial estimates turn out to be too large and are revised downward over time. Thus in the case of the 9/11 attack on New York’s World Trade Center, the Office of the Medical Examiner of New York City determined that the total number of deaths fell from the peak early estimate of 6,886 in the first weeks after the attack, to a final official death toll of 2,749 as of January 2004—a 60 percent decline.<sup>26</sup> And even in Bosnia itself, the wartime Bosnian Muslim claims of 200,000 -300,000 deaths at Bosnian Serb hands were eventually scaled down to roughly 100,000 deaths on all sides, approximately 64,000 of these on the Bosnian Muslim side.<sup>27</sup>



Similarly, the early rape claims of 20,000 women made by partisan government agencies such as the Sarajevo-based State Commission on War Crimes and the Zagreb-based Croatian Information Center in 1992-1993 (“mass rapes as a wartime tactic”), the 1993 European Commission’s Investigative Mission into the Treatment of Muslim Women in the Former Yugoslavia, and, ultimately, the 50,000 figure publicized by a group of U.S. women senators in 1997, all swallowed and regurgitated by the Western mainstream. Media,<sup>28</sup> fell dramatically to “514 allegations” on all sides at the time the UN Commission of Experts produced its Final Report in May 1994.<sup>29</sup> Again, the claims of Serb killings in Kosovo during NATO’s 78 day bombing war, which at one point reached a State Department peak of “some 150,000 to 500,000 military-age men” reported as “missing,”<sup>30</sup> with their fate unknown but the worst feared, ended up below 10,000 in the Kosovo theater on all sides.<sup>31</sup>

But, in contrast, Srebrenica’s 8,000 Bosnian Muslim “men and boys” remains at, near, or slightly above the 8,000 number some 20 years later. What is more, it has been insulated from challenge by law and the threat of facing prosecution if one dares to challenge it. Thus, in January 2009, the European Parliament adopted a resolution by 556 to 9 votes that proclaimed every July 11 a “day of commemoration of the Srebrenica genocide all over the EU,” when “more than 8,000 Muslim men and boys... were summarily executed by Bosnian Serb forces, [and] nearly 25,000 women, children and elderly people were forcibly deported, making this event the biggest war crime to take place in Europe since the end of the Second World War.”<sup>32</sup> If one is a member of the European Union, any questioning of the “Srebrenica massacre” as a genuine case of genocide, and any suggestion that 8,000 is an inflated number, today may be prosecutable as “genocide denial.”

### **The Magical 8,000 Bosnian Muslim Men and Boys**

Within days of the fall of Srebrenica, news reports began to circulate claiming that as many as 7,000 Bosnian Muslim “men and boys” had gone missing from the enclave, and a dire fate was quickly predicted and dramatized heavily. On July 14, *The Guardian* of London reported that “Acute concern was being expressed for the fate of most males, perhaps as many as 7,000, whom the Serbs had rounded up and taken away, reportedly to the nearby town of Bratunac.”<sup>33</sup> “The men have all disappeared, and we think they may be dead,” a young mother told the *New York Times* at a displaced persons camp on the grounds of the Tuzla International Airport, “as she cradled her 4-year-old son,” the *Times*’s reporter added.<sup>34</sup> Very much attuned to the propaganda value of the fall of Srebrenica, John Shattuck, the U.S. assistant secretary of state for human rights, told an audience of reporters in Zagreb at the start of August, “I have heard incredible eyewitnesses’ accounts from refugees of mass executions of men and boys by Bosnian Serb soldiers,” adding that such accounts provide “substantial new evidence of genocide and crimes against humanity in eastern Bosnia.”<sup>35</sup>

On August 10, the UN Security Council met in two consecutive sessions. The first dealt with Operation Storm, the second with the fall of the Srebrenica and Zepa “safe areas.” “My Government expects the war-crimes Tribunal to investigate allegations of abuse against unarmed civilians,” U.S. Ambassador Madeleine Albright said of Operation Storm, “including reports that five elderly Serbs were killed and refugees bombed in the village of Dvor.” Clearly, Albright was minimizing the monumental scale and consequences of the operation.<sup>36</sup> Not so with the fall

of Srebrenica and Zepa, however. “Some 10,000 civilians from Srebrenica and around 3,000 from Zepa are missing and unaccounted for,” she now told the Council, inveighing against the “Pale Serbs” who “beat, raped, and murdered many of those fleeing the violence.” Like a mantra, Albright repeated the phrase “We must not forget” five times during the second session, emphasizing the “magnitude of the suffering” caused by the Bosnian Serbs. “It is important that we focus international attention on the plight of the refugee population from Srebrenica and Zepa,” she added. “[T]rue reconciliation will not be possible in this region until the perception of collective guilt is expunged and personal responsibility is assigned.”<sup>37</sup> The next day’s reports in the major Western media echoed each other on Albright’s “spy plane photos” and her “evidence of mass graves.” Within the propaganda system of the Great Western Powers, the dichotomous treatment of “worthy” (Bosnian Muslims) and “unworthy” (Krajina Serbs and Serbs more generally) victims was and remains an inviolable convention.

As we have noted in the previous section, the 20 year challenge for supporters of the 8,000 “men and boys” target figure, including the ICTY and its Western backers, has been to provide evidence for these numbers, and they have pursued this task doggedly by using body counts, lists of people missing, forensic and DNA evidence derived from graves, claims of reburial operations and even the destruction of bodies, and by witness testimony. Although these efforts have proved a serious failure in substance, they have been a great success in propaganda.

The 8,000 number was adopted long before there was any hard evidence of mass executions, and we believe that it was settled on because, first and foremost, it was large enough to sustain the charge of “genocide” and, second, because it made possible U.S. and NATO military intervention on “humanitarian” grounds. The leaders of the assault on the Bosnian Serbs and, later, Serbia itself, were determined to bring the “genocide” charge against the Serb leadership from the earliest days as a kind of justification for their taking sides against the Bosnian Serbs. Also, the Bosnian Muslim leadership was only too happy to go along with this agenda, even warning of a prospective genocide before July 11, 1995, most famously in a letter that Alija Izetbegovic addressed to Bill Clinton, Jacques Chirac, John Major, and Helmut Kohl on July 9. “Please use all your influence with the international community to fulfill its obligations toward this UN protected area and prevent this act of terrorism and genocide against the civilians of Srebrenica,” the letter pleaded.<sup>38</sup> As some Bosnian Muslim members of a delegation from Srebrenica who met privately with Izetbegovic in Sarajevo in September 1993 have contended, Izetbegovic “told them he learned that a NATO intervention in Bosnia and Herzegovina was possible, but could only occur if the Serbs were to break into Srebrenica, killing at least 5,000 of its people.”<sup>39</sup> We believe that this story is true, and we believe that the forces behind it animated the quick and firm institutionalization of the 8,000 number within the canonical history of the “Srebrenica massacre.”

Clearly, the demonization of the Bosnian Serbs also played a major role. As we’ve just seen in Madeleine Albright’s performance before the Security Council, not only must we not forget the fate of the Bosnian Muslims, we must treat their fate with the proper indignation. Of course there had been serious fighting from July 11-12 on, as the Bosnian Muslim Army’s 28th Division fled from Srebrenica toward Muslim lines around Tuzla. In his testimony during the Krstic trial, the Chief of the Supreme Command Staff Enver Hadzihasanovic stated that he could “claim for certainty that,” in the retreat from Srebrenica, “2,628 members...of the 28th Division were killed.”<sup>40</sup> The bodies of these unfortunate individuals were interred in often hastily dug

gravesites along with executed prisoners. But in the gravesite excavations sponsored by the ICTY through 2001, and subsequently by the Bosnian Federal Commission on Missing Persons, ignoring or downplaying deaths in combat became standard procedure. This came easily for those who had absorbed the quickly institutionalized demonization of the Serbs from 1991 on; its ease of acceptance was reinforced by the fact that some fraction of the bodies were of people executed.

But the work of the ICTY was based on the premise that these were primarily or exclusively graves holding execution victims—that is, crime scenes, not the aftermath of war. As Sarah Wagner, a forensic anthropologist involved with the early exhumations, once observed: “The exhumations and autopsies were carried out with the primary goal of providing evidence about a crime, such as determining the cause of death or the presence of ligatures or blindfolds...”<sup>41</sup> That these exhumations were not carried out in a juridical investigative manner—for example, without preconceptions about the “‘systematic and widespread’ nature of the crimes, suggesting they were carried out as part of a plan, orders handed down through chain of command,”<sup>42</sup> and with the goal of determining what actually had happened—shows how thoroughly politicized the whole process under the ICTY’s management had become. Before long, the search for the “worthy” victims of the “Srebrenica-related” mass graves had taken hold among a highly educated and politically engaged class of largely Western medico-legal professionals.<sup>43</sup> The grip that this mindset exercises over them has never let go.

The initial exhumations of 21 gravesites between 1996 and 2000, all under the sponsorship of the ICTY and feeding into the Krstic Judgment of 2001, were accompanied by forensic reports on what were claimed to be a conservative estimate of a minimum of 2,028 bodies found at these mass graves.<sup>44</sup> These reports did not attempt to distinguish between deaths from execution and deaths in combat. In Krstic, the trial chamber admitted that it “cannot rule out the possibility that a percentage of the bodies in the gravesites examined may have been men killed in combat.”<sup>45</sup> But the Serb forensic analyst Ljubisa Simic, after a meticulous analysis of the Srebrenica-related forensic reports available at the time of the Krstic Judgment, concluded that “While this statement is in principle correct, it would have been equally correct to say that, based on the same evidence, the Chamber ‘cannot rule out the possibility that some of the men were executed’, since both of those statements are in equal measure true.”<sup>46</sup> But the profound bias of ICTY’s professional culture ruled out this kind of insight. They were present on the ground to investigate “crime scenes.”

Simic examined 3,568 post-mortem reports. He found that in 1,583 of these reports (44.37%), the remains consisted of “only a body part, often just a single bone....Based on such reports, it is impossible to draw any forensically significant conclusions, all the more so since no trauma is noted in a high percentage [92.4%] of them.”<sup>47</sup>

What is more, Simic found that the “number of actual bodies may very well be far less than the number of autopsy reports,” and, based on an analysis of femur bones and femur fragments, he concluded, ultimately, that the ICTY’s post-mortem reports referred to “between 1,919 and 1,923” actual human bodies.<sup>48</sup>

Of course, 1,919 or 1,923 actual human bodies in the “Srebrenica-related graves” as of 2001 fell far short of the 8,000 target, but the Krstic trial chamber helped bridge the gap by treating as evidence the prosecution’s speculation that a “minimum of 2,571 further bodies” would be found

in the 18 then still unexhumed mass graves, bringing the new total to 4,805.<sup>49</sup> But even this would fall far short of 8,000, and if a sizable proportion of the total body count were comprised of combat deaths, the shortfall becomes very large. In fact, Simic found that 627 of the 1,923 bodies in the 2001 set were very likely combat deaths, based on projectile and wound information, and 442 very likely were victims of execution, based on associated blindfolds and/or ligatures, with the residual majority undeterminable.<sup>50</sup>

This led Simic to note that “it is difficult to avoid the impression that Tribunal forensic experts were operating with a mandate that was broader than merely reporting observable facts. Were at least some of the Tribunal’s experts trying to actively respond to the expectation to provide professional cover for institutional perceptions of Srebrenica that had been settled on a political level before the forensic experts were even sent out to perform their task?”<sup>51</sup> At the ICTY, minimizing Bosnian Muslim combat deaths is yet another programmed bias.

Much has been said about DNA testing as an essential tool in establishing the identity of individuals. The Sarajevo-based International Commission for Missing Persons (ICMP) reputedly runs the world’s largest identification system for processing bone samples and matching the DNA extracted from them with the DNA of family members of persons reported as missing from the wars in the former Yugoslavia—of which there were at one time 40,000 overall, with some 30,000 in Bosnia and Herzegovina alone. In 2003, the ICMP’s mandate was extended to the identification of missing persons in other theaters of conflict around the world, as well as to persons missing as the result of natural disasters. And in April 2015, the ICMP announced that it had reached a framework agreement with several European states that will turn it into a treaty-based organization, and that it will be moving its headquarters to The Hague.<sup>52</sup>

But though this corresponds with the worldwide perception of the ICMP as an independent nongovernmental forensic organization, for the first 19 years of its history (1996-2015), it would be more accurate to say that the ICMP existed as an adjunct to the ICTY in the latter’s quest to prosecute ethnic Serbs in the major Srebrenica-related cases, and to help it tie up any loose ends in drafting the official history of the dismantling of Yugoslavia.

As the July 11, 2015, 20th anniversary commemoration of the “Srebrenica massacre” at the Srebrenica-Potocari Memorial Center and Cemetery approached, the ICMP released its most current data on the number of persons identified through DNA analysis from the “Srebrenica-related” graves. As of June 18, 2015, the ICMP reported a total of 6,930 persons had been identified, of which it claimed it had identified 6,827 using DNA matching, while the remaining 103 had been identified using conventional methods.<sup>53</sup> As Thomas Parsons, the ICMP’s director of forensic sciences, told an interviewer after his July 2013 testimony in the Mladic trial, the ICMP’s work helps to “[constrain] the narrative that the perpetrators can say of what actually happened.”<sup>54</sup> These are not the sentiments of a politically disengaged or neutral man.

But the work of the ICMP begs the most important question of all. DNA profiling is powerless to determine either the manner of death (from natural causes, homicide, suicide, or accident) of the persons whom it helps to identify, or the date on which someone died. Non-controversially, the armed factions inside Bosnia and Herzegovina had been in a civil war since at least April 1992. During the Bosnian Muslim column’s trek from Susnjari to Tuzla and other locations, they and the Bosnian Serb army had engaged in combat operations. As Stephen Karganovic notes, the relevant distinction here is therefore between persons who died during lawful combat and

persons who were executed extrajudicially.<sup>55</sup> But as we have seen, the ICTY isn't interested in answering this question. There is also the question of bodies near Srebrenica killed both before and after July 1995, quite a few identified by Milivoje Ivanisevic, but of no interest to the ICMP investigators, who were also uninterested in the large body count of massacred Serbs in dozens of pre-July 1995 graves.<sup>56</sup>

What is more, the ICTY's work remains inscrutable. When for example the defense in the trial of Radovan Karadzic in 2009 asked the prosecution to "allow my experts to see every single piece of material, all the DNA analysis" so they could carry out genuinely independent testing of the ICMP's work, the prosecution declined to release it. "The ICMP is an independent third party organization with its own mandate," went the prosecution's canard. After a year-long battle, the prosecution asked the trial chamber to grant it "declaratory relief" from the Karadzic defense's request. Amazingly, the prosecution stated that "The ICMP is not obliged to provide 300 [or any number] of sample case files to the Accused under any procedure or subject to any preconditions...."<sup>57</sup>

According to American Bar Association Standards for the use of DNA evidence in U.S. courts, "All biological evidence should be made available to defendants and convicted persons upon request...." Only in this way can the issue of wrongful convictions—a major injustice afflicting all criminal justice systems—be mitigated.<sup>58</sup> And as the British journalist Jonathan Rooper has noted, rightly or wrongly, "DNA identification has come to be seen, in much the same way as fingerprint technology, as a gold standard. The perception is that, if there is a DNA match, it constitutes unassailable evidence."<sup>59</sup> But, as with the case of the much vaunted, state-of-the-art crime lab of the U.S. Federal Bureau of Investigation shows, everywhere one turns there are faulty forensic practices, false testimonies by "experts," and pro-prosecution, results-driven claims that not only exceed the limits of science, but constitute outright fabrications.<sup>60</sup> We should expect nothing more or less from the work of the ICMP. Mass graves are nothing, if not DNA contamination pools. Small wonder that the ICMP—and the Office of the Prosecutor—doesn't want competent, independent scrutiny of its Srebrenica-related work.

As to the testimonies of many alleged eye-witnesses in the trials of Krstic, Milosevic, Karadzic, Mladic, and others, those that gave evidence on executions rarely testified to having seen them; most spoke about the evidence of graves, or people missing and claimed to have been lost in the Srebrenica area in July 1995. There were a number who did claim to have witnessed executions, but their testimony is sometimes inconsistent and otherwise not convincing,<sup>61</sup> and it doesn't make a serious advance toward supporting the 8,000 total. The major exception was the testimony of Drazen Erdemovic. An ethnic Croat mercenary who had enlisted in the Bosnian Serb army by July 1995, Erdemovic claimed to have been part of an eight-man team who, acting under orders allegedly from the Bosnian Serb leadership, killed some 1,200 Bosnian Muslim POWs at the Branjevo military farm on July 16, 1995. But this testimony was very problematic as only 138 bodies and a modest number of cartridges were found in the area, the paymasters for the action are unclear, and the ICTY's handling of Erdemovic was revealingly protective (see Part Three). His credibility was effectively demolished in Germinal Civikov's 2009 book, *Srebrenica: The Star Witness*.<sup>62</sup>

In a discussion of the Krstic Judgment, the late Canadian professor of international law Michael Mandel once asked: "why exaggerate the numbers?" Here was his answer: "Because the tribunal really wasn't interested in the murder charges. They were after the big prize of *genocide*, a much

more difficult case to make in these circumstances, so the higher the number of dead the better...In the Krstic case, the concept of genocide, except as pure propaganda, lost all contact with the Holocaust.”<sup>63</sup>

Mandel’s words are true of the entire institutional mechanism that feeds into the ICTY—a theme to which we will return in Part Three.

### **Blacking Out the Pre-July 1995 Massacres of Bosnian Serbs**

An important feature of the recurring, 20-year-long focus on the “Srebrenica massacre” has been the systematic stripping from the event of any pre-July 1995 background of the massacres and ethnic cleansing of Serbs living in eastern Bosnia and Herzegovina, and the role that the Srebrenica enclave played as a military base for carrying out these missions, once the enclave had been designated a “safe area” by the UN Security Council in mid-April 1993. This context-stripping fitted well with the demonization of the Serbs, allowing the Western media to represent them as evil killers, unprovoked and victimizing a UN-protected “safe area” for no reason other than their blood lust.

On April 16, 1993, the Security Council voted unanimously to endorse a resolution that “all parties and others concerned treat Srebrenica and its surroundings as a safe area which should be free from any armed attack,” and for the “immediate withdrawal from the areas surrounding Srebrenica” of the Bosnian Serb forces.<sup>64</sup> This resolution was followed two days later by the signing of a cease-fire and demilitarization agreement between the Army of the Republic of Serbia General Ratko Mladic and his counterpart, General Sefer Halilovic of the Army of the Republic of Bosnia and Herzegovina; the agreement also called for the deployment of the UN Protection Force (UNPROFOR) to Srebrenica.

But as with the subsequent cease-fire and demilitarization agreement of May 8, the call for “all weapons ammunition, mines, explosives and combat supplies...inside Srebrenica [to] be submitted/handed over to UNPROFOR” in a verifiable manner was never implemented.<sup>65</sup> Instead, Srebrenica was allowed to remain an armed Bosnian Muslim camp and jumping off place for attacks on nearby Serb villages—exactly as it had been for the previous year. UNPROFOR’s Canadian (Canbat) and later Dutch (Dutchbat) companies deployed in Srebrenica were perfectly aware of the presence of Bosnian Muslim arms and soldiers and the frequent use of this base for deadly attacks on nearby Serb villages, but they did nothing to stop it, neither attempting to stop the attacks nor protesting to UN authorities about this nullification of the supposed purpose of the “safe area.” As the massive 2002 Dutch report on the fall of Srebrenica makes clear, the Bosnian Muslim forces “did not have to worry about any large-scale UNPROFOR attempt to force demilitarization...Srebrenica was used as an exercise area for its units there and as a base for raids. Insofar as could be determined, the [Bosnian Serbs] undertook little military activity and tried to keep the [Bosnian Muslims] inside the enclave.”<sup>66</sup> Indeed, had the Dutch courts ultimately held Dutchbat legally responsible for the killings of the Srebrenica “safe area” population by the Bosnian Serbs in July 1995 (which they did not),<sup>67</sup> logically, then, the surviving relatives of Serb victims of Bosnian Muslim attacks launched from the “safe area” from late April 1993 to July 1995 should also have been able to sue the Dutch for damages.

Canbat and Dutchbat were of course instruments of the UN, and if they failed to enforce the demilitarization of Srebrenica, this was not only because they faced resistance from the Bosnian Muslims, but also because the UN Department of Peacekeeping Operations in New York didn't want them to enforce it. Again, the Dutch report on Srebrenica makes this clear. Following the adoption of Resolution 819, UNDPD head Kofi Annan expressed the "idea that the fact-finding mission of the Security Council [to Srebrenica] ... would make the Force Commander [Lars-Eric Wahlgren] aware of the 'strong feeling amongst several Member States' that UNPROFOR should not take an active part in 'disarming the victims'," meaning the Bosnian *Muslim* victims, not the Bosnian *Serb*.<sup>68</sup> Clearly, Annan had already absorbed the U.S. and NATO narrative of who were the "worthy" victims, and who were the "unworthy" victims, and merely villains, so he was aligned with the Bosnian Muslims as they used Srebrenica as a killing way-station. Annan's overwhelming bias was also clearly evident in the 1999 UN report on Srebrenica.<sup>69</sup> As George Bogdanich has observed, in Annan's version of *The Fall of Srebrenica*:

Women and children were "deported" from Srebrenica, but the Serbs driven out of Krajina only "fled their homes." Serbs in Western Bosnia were only "displaced," not "ethnically cleansed" or "deported." Croatia's Operation Flash precipitated the "expulsion and flight of several thousand Croatian Serbs across the border into Serb-held territory in the Republic of Bosnia and Herzegovina," with this operation merely "triggering a new wave of 'ethnic cleansing' in western Bosnia, where Bosniacs and Croats were evicted to make way for the influx of displaced Serbs" (para. 183). Here, in the very same paragraph of the UN report, we find what was essentially the same kind of military operations described very differently, with word usage adjusted to meet the UN's and NATO's political agenda, depending on whether the Serbs carried out the operation ("ethnic cleansing") or were the victims of the operation ("expulsion and flight"). Similarly, the report makes the forced expulsion of Croats and Muslims "genocide," while the forced expulsion of Serbs is taken as "retribution." Words like "abhorrent," "horrifying," "savage," "implacable," "horror," and "mass murder" are used only in reference to Serb conduct, never to Croats or Bosnian Muslims (or their imported Mujahadeen fighters). Such word-usage and double standards is compelling evidence of the report's deep biases and NATO-war-supportive role.<sup>70</sup>

But if the UN didn't want to enforce the demilitarization agreements, this was only because those Member States that dominated the UN were against enforcement—which means the United States above all. An oft-quoted remark in the memoir of U.S. State Department negotiator Richard Holbrooke states that the U.S. eventually promoted Kofi Annan to replace Boutros Boutros-Ghali after one term in office as Secretary-General because Annan "had been most helpful" in providing UN authorization for Operation Deliberate Force, NATO's late August and September 1995 bombing campaign against the Bosnian Serbs. "Annan won the job on that day," Holbrooke wrote.<sup>71</sup> And in 1996, Boutros-Ghali was replaced by Annan, who became an even more loyal servant of the United States after his elevation.

Serb victimization from the Srebrenica safe area attacks was far from trivial. Serb historian Milivoje Ivanisevic has produced detailed lists of Serbs from the Srebrenica and Bratunac municipalities killed during the years 1992-1995; they total 3,262 victims in all, including 2,382 civilians (73%), and 880 police (27%).<sup>72</sup> The great majority of these victims were killed prior to

the arrival of Canbat in Srebrenica in April 1993. The government of Yugoslavia (now reduced to Serbia and Montenegro) presented a Memorandum to the General Assembly and Security Council with details on these killings on June 2, 1993,<sup>73</sup> but there was no UN response to this accounting, and it received no publicity in the Western media.

The Serb forensic pathologist Dr. Zoran Stankovic led teams of investigators to East Bosnia beginning in 1993 that eventually would discover mass graves in which were buried the bodies of several thousand largely civilian Serb victims that had been massacred by Bosnian Muslim forces. Many of these victims had been subjected to grisly tortures, including throat-slitting, decapitation, and immolation, and his team took numerous photographs of the victims. The killers had often tried to cover up the bodies, but some of them were left exposed in public places, likely as exhibits to show the surviving Serbs what fate awaited them, if they did not flee. Stankovic prepared some 4,500 dossiers of Serb victims by April 1995 alone.<sup>74</sup> But he found the Prosecutor at the ICTY uninterested in his work, although his team had carefully processed the grave findings and even filmed them. The international community “looks only for the truth that suits it,” Stankovic concluded.<sup>75</sup>

Lieut. Col. Thomas Karremans, commander of Dutchbat III in Srebrenica, stated during a news conference in Zagreb on July 23, 1995: “We know that in the area surrounding the Srebrenica enclave alone, 192 villages were razed to the ground and all the inhabitants killed. That’s what I mean when I say ‘no good guys, no bad guys’.”<sup>76</sup> These numbers exceed Ivanisevic’s, but are worth noting. Karremans was referring to the violence *prior* to the arrival of Canbat and Dutchbat. Much of this violence was organized by Naser Oric, commander of the 28th Division of the Bosnian Muslim Army, whose forces worked out of Srebrenica for several years, with minimal and ineffective constraints placed on them by Canbat and Dutchbat, and operating on the instructions of Muslim leaders in Sarajevo. UN Sarajevo Commander Philippe Morillon stated that “Naser Oric was a warlord who reigned by terror in this area... He could not allow himself to take prisoners. According to my recollection, he didn’t even look for an excuse.”<sup>77</sup>

In fact, Oric was proud of his mass killings, bragging about them and showing videos of Serb victims to *Washington Post* reporter John Pomfret and *Toronto Star* reporter Bill Schiller. As Schiller reported in January 1994 how, on his visit with Oric, he was shown videos of burning Serb houses, Serb dead bodies, and severed Serb heads, noting that “Oric grinned throughout, admiring his handiwork.” In one case of a ghost town, Oric said: “We killed 114 Serbs there.”<sup>78</sup> Although there was a massive search for similar admissions of the deliberate killings of civilians by Bosnian Serb forces during the trial of Slobodan Milosevic, nothing comparable was ever put forward. But these admissions didn’t hurt Oric. In his belated trial for war crimes, the Prosecutor at the ICTY never called Pomfret and Schiller as witnesses, and Oric’s original conviction by the ICTY on minor charges was eventually overturned on appeal.<sup>79</sup>

General Morillon also testified to the importance of Oric’s forces in generating hatred and horror among the Bosnian Serbs. During his January 2001 testimony before France’s parliamentary inquiry into the events at Srebrenica, Morillon was asked, “*Comment expliquez-vous cet abominable massacre?*” He replied:

*Par la haine accumulée. Il y a eu des têtes coupées. Il y avait eu des massacres abominables*



*commis par les forces de Naser Oric dans tous les villages avoisinants. Quand je suis allé à Bratunac à l'époque où je suis intervenu, je l'ai sentie. Il y a eu d'ailleurs de très bons livres depuis sur ce drame qui confirment ce que je vous dis.*<sup>80</sup>

Morillon—like Pomfret and Schiller—was not called as a witness for the Prosecution in the trial of Naser Oric. And the mainstream media ignored Morillon's answer, which provides an inconvenient context to the events in Srebrenica 1995, and was therefore swept under the rug.

The mainstream media have played an immense role in the blacking out of Serb victimization. During the years in which Stankovic was researching and producing and trying to get out evidence of the massacres of Bosnian Serbs, the Big Four of U.S. newspapers (the *New York Times*, *Washington Post*, *Wall Street Journal*, and *Los Angeles Times*) published a grand total of two articles that mentioned Stankovic's work as a forensic pathologist.<sup>81</sup> But as we saw in Part One, both the U.S. and the global media have lavished attention on every facet of the 20 year inquiry into the fate of Srebrenica's "safe area" population—missing persons, exhumations, autopsies, body counts, DNA identifications, indictments, trials, and judgments at the ICTY, not to mention pseudo-moralizing commentaries. Here, we return, as we must, to the concept of "worthy" and "unworthy" victims, and to how U.S. and Western power and ideology frame so much of what passes for the history of the world. Wherever the United States is involved, there are "good guys" (the United States) and "bad guys" (official enemies).

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In Part Three, we turn to the International Criminal Tribunal for the former Yugoslavia, and examine the manifold ways that this political tribunal has used the "Srebrenica massacre" to undermine the cause of international justice, and thwart the expressed goals of peace and reconciliation, in order to serve a higher goal—the advancement of U.S. and NATO policy in the region.

## Part Three

### The ICTY as an Instrument of U.S. Policy

The International Criminal Tribunal for the Former Yugoslavia (ICTY) was brought into existence by the Security Council on May 27, 1993<sup>82</sup>, its structure and terms following closely a draft submitted to the UN Secretary General by the U.S. State Department. Just a few months before this, in December 1992, in a presentation given by U.S. Secretary of State Lawrence Eagleburger at a conference on the former Yugoslavia in Geneva, he called for the creation of a “second Nuremberg.”<sup>83</sup> It is time to “begin identifying individuals who may have to answer for having committed crimes against humanity,” Eagleburger said, and to “signal clearly [to the people of Serbia] the risk they currently run of sharing the inevitable fate of those who practice ethnic cleansing in their name.”<sup>84</sup> Eagleburger also named the potential criminals, mostly Serbs, who would face this “second Nuremberg,” with three big names on the list—Milosevic, Karadzic, and Mladic—accused of “pursu[ing] the suicidal dream of a Greater Serbia.” This was a virtual declaration of war against Serb entities, and the ICTY would be an instrument of that war.

The United States was the dominant force behind the ICTY from its inception, early on supplying much of its funding and personnel, with Secretary of State Madeleine Albright personally vetting prosecutors Louise Arbour and Carla Del Ponte, who, along with the initial prosecutor Richard Goldstone, followed closely the U.S. agenda. The United States had a war agenda for Yugoslavia from 1992 or earlier, and in its pursuit was instrumental in causing the failure of peace efforts from the Lisbon (Cutiliero) agreement in February 1992 up to the time of Dayton (late 1995), and then again at Rambouillet (early 1999), where it engineered a collapse of the Kosovo peace talks and set the stage for NATO’s bombing war.<sup>85</sup> Throughout this period (1992-1999), the United States relied on giving a priority to “justice” over peace, with the alleged demands of “justice” used to sabotage the cause of peace, while enabling the successful pursuit of Serb military and political leaders.<sup>86</sup>

The ICTY was designed to play a key role in this war-making program. It would publicly identify villains (mainly Serbs), who were thereby disqualified from political negotiations, and U.S.-NATO military forces would sometimes be obliged to capture the Serb villains in the pursuit of “justice.” John Laughland recounts an incident in 1997, when the British Special Air Service “shot dead an ICTY indictee” rather than arrest him. Madeleine Albright reportedly expressed her pleasure when told the news. “The next time we arrived in town,” she said, “we were perceived as pretty serious and pretty scary people. Which is what we are supposed to be.”<sup>87</sup> When Karadzic and Mladic were indicted by the ICTY on July 24, 1995, ICTY officials bragged about how the indictments removed these two Bosnian Serb leaders from any peace negotiations. “I challenge anyone to sit down at the negotiating table with someone accused of genocide,” ICTY President Antonio Cassese immediately commented.<sup>88</sup> Most dramatically, Milosevic and four other Serbs would be indicted in May 1999, with Prosecutor Louise Arbour acknowledging in public her intention of removing them as negotiations partners: “this indictment raises serious questions about [the indictees’] suitability to be the guarantors of any deal, let alone a peace agreement.”<sup>89</sup>

At the same time, the United States and NATO could violate the law with complete impunity, and with an ICTY cover. The 1999 bombing war on Yugoslavia was a straightforward violation of the UN Charter, but with U.S.-NATO power controlling the application of law, neither the UN, the International Court of Justice (ICJ), nor the ICTY would address this crime of aggression. On April 28, 1999, Yugoslavia asked the ICJ to enjoin ten NATO member states from attacking the country; Yugoslavia also asked the ICJ to rule on the legality of the attack. In the *Case Concerning Legality of Use of Force*, which extended through December 2004, the ICJ ruled in ten-out-of-the-ten complaints brought by Yugoslavia that it lacked the jurisdiction to hear them. In the U.S. case, for example, decided as early as June 2, 1999, even while the U.S. was still attacking Yugoslavia, the ICJ ruled that since the "United States observes that it 'has not consented to jurisdiction...and will not do so'," the ICJ was left with no alternative: "in the absence of consent by the United States,...the Court cannot exercise jurisdiction..."<sup>90</sup> The other nine cases were rejected on the same terms.

Note the contrast between the ICJ's failure to address the "supreme international crime" in the case of NATO's 1999 aggression against Yugoslavia, and the ICJ's extensive treatment of allegations of "genocide" in the Srebrenica-related killings in its 2007 case, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide* (or the *Republic of Bosnia and Herzegovina v. the Federal Republic of Yugoslavia*). In both cases, the jurisdiction of the ICJ was invoked by the *plaintiffs* (i.e., by Yugoslavia in 1999, and by Bosnia and Herzegovina from 1993 on) under Article IX of the Genocide Convention, a straightforward article permitting the parties to the Convention to submit their disputes to the ICJ for adjudication.<sup>91</sup> In both cases, the *respondents* (i.e., the ten member-states of NATO from 1999 on, and Yugoslavia in 2006) argued that the ICJ lacked jurisdiction to hear the case. But whereas in the one case (e.g., *Yugoslavia v. the United States*), the ICJ accepted the *respondent's* rejection of its jurisdiction (an impotent ICJ acquiescing to U.S. and NATO-bloc lawlessness), in the other case (*Bosnia and Herzegovina v. Yugoslavia*), the ICJ undertook laborious arguments to show why it did in fact exercise jurisdiction, devoting roughly 40 percent of its Judgment to a defense of its jurisdiction, and, by a vote of ten-to-five, "Rejects the objections...made by the respondent to the effect that the Court has no jurisdiction; and *affirms* that it has jurisdiction, on the basis of Article IX of the Convention..."<sup>92</sup>

The 1999 NATO bombing war also involved serious war crimes by NATO, which became ever more serious as the bombing war turned increasingly to destroying Serbian civil society; the indictment of Milosevic in May 1999 was therefore well timed to divert attention from the escalating U.S.-NATO war crimes. Here, and throughout the Yugoslavia dismantlement wars, ICTY indictments and publicity campaigns were designed to discredit ethnic Serbs and their leaders, and to put NATO in a good light. The ICTY's bias was often grotesque. In rejecting a massive dossier on NATO war crimes submitted by Canadian law professor Michael Mandel on behalf of a large legal constituency, one of many such submissions,<sup>93</sup> the Office of the Prosecutor (1) refused to even open an investigation; (2) announced that the OTP accepted as "generally reliable" and "honestly given" the evidence provided by NATO that NATO may have committed "mistakes" and "errors of judgment," but that it did not deliberately target civilians; and (3) concluded that with only 495 civilians killed by NATO (a disputed figure), "there is simply no evidence of the necessary crime base for charges of genocide or crimes against humanity."<sup>94</sup> Yet, in the initial indictment of Milosevic *et al.* for Kosovo, the prosecutor found that 344 deaths, only 45 of them alleged to have occurred *prior* to the onset of NATO's bombing

campaign (at Racak on January 15, 1999), provided the “necessary crime base” to bring charges.<sup>95</sup> But Yugoslavia was a U.S.-NATO target; hence, it was the ICTY’s target as well.

Clearly, we are not dealing here with a serious juridical organization, but rather with a political and propaganda arm of the parties that waged war against ethnic Serbs from the early 1990s on. As Milosevic stated during his very first appearance before the ICTY, “[T]he aim of this Tribunal is to justify the crimes committed in Yugoslavia”<sup>96</sup>—and many U.S. and NATO-bloc officials essentially agree. Thus Michael Scharf, a former State Department lawyer and a principal architect of the ICTY statute, acknowledged in the *Washington Post* that within U.S. circles, the “tribunal was widely perceived...as little more than a public relations device and as a potentially useful tool.... Indictments...would serve to isolate offending leaders diplomatically, strengthen the hand of their domestic rivals [i.e., foster regime change] and fortify the international political will to employ sanctions or use force.”<sup>97</sup> David Scheffer, onetime aide to Madeleine Albright and the first U.S. ambassador-at-large for war crimes issues, agrees, but puts the point more graphically: That the United States intended “to wield [the ICTY] like a battering-ram in the execution of U.S. and NATO policy.”<sup>98</sup>

Hans Köchler, president of the International Progress Organization, also agreed with Milosevic (as well as Scharf and Scheffer) on the political services of the ICTY, but he also stressed its illegality. Köchler pointed out in 1999 that as the Security Council has no authority whatsoever in the field of criminal justice, its creation of the *ad hoc* tribunals was illegal.<sup>99</sup> The Security Council’s action in establishing the ICTY was therefore *ultra vires*—beyond the legitimate powers of the Security Council. Köchler also pointed out the ICTY’s perverse, even Orwellian character, given that it was organized and used by parties actually making war, hence advancing a peace-breaking violation of the UN Charter’s Article 2 prohibition of the “threat or use of force against the territorial integrity or political independence of any state.” “If this new form of self-righteous power politics is not being checked,” Köchler argued, “similar actions may be taken in times to come against other sovereign countries and their leadership. In this case the ‘rule of force’ will replace the ‘rule of law’ in international relations.”<sup>100</sup> As it did so conspicuously two years later when the same sponsor governments invaded Afghanistan, followed two years later by their invasion of Iraq (etc.) without impediment by the “international community.”

In dealing with the “Srebrenica massacre,” the ICTY has played its assigned political role without deviation and quite effectively, supported by the Western establishment, including the mainstream media. The Bosnian Serbs were the consistent target, with Karadzic and Mladic indicted and charged with genocide (etc.) as early as July 24, 1995, based largely on actions related to the siege of Sarajevo as well as the camps in Prijedor,<sup>101</sup> dramatic charges not coincidentally brought shortly after the fall of Srebrenica, with charges of “genocide” (etc.) for Srebrenica added later that year on November 14.<sup>102</sup>

In the important Judgment in the case of the Bosnian Serb Commander of the Drina Corps Radislav Krstic on August 2, 2001, the Tribunal declared that the fate of the Srebrenica “safe area” population (deaths as well as forcible transfers) constituted “genocide” and sentenced Krstic to a 46 year prison term (later reduced to 35 years for “aiding and abetting” the crime of genocide).<sup>103</sup> The trial chamber found that “Bosnian Serb forces executed several thousand Bosnian Muslim men. The total number is likely to be within the range of 7,000-8,000 men.”<sup>104</sup> But the trial chamber also asserted that its “experts” (in this case, the Australian Dean Manning)

had only been “able to conservatively estimate that a minimum of 2,028 separate bodies were exhumed from the mass-graves” (which as of 2001, numbered 21 in all).<sup>105</sup> What is more, at the time of this decision, and notwithstanding the trial chamber’s assertion to the contrary,<sup>106</sup> there was little forensic evidence to determine the manner of their deaths—whether the actually-existing set of human remains had been executed rather than killed in combat, or even that they were victims of the July 1995 warfare in and around Srebrenica.<sup>107</sup>

The judges did admit that some might be victims of combat,<sup>108</sup> but once again with little evidence, they concluded that “The results of the forensic investigations suggest that the majority of the bodies exhumed were not killed in combat; they were killed in mass executions.”<sup>109</sup> To which they added the following *non-sequitur*: That of the “minimum of 7,475 persons from Srebrenica...still listed as missing,” the combined evidence “support[s] the proposition that the majority of missing people were, in fact, executed and buried in mass graves.”<sup>110</sup> But as Michael Mandel has argued, a majority of 7,475 is only 3,736, so the trial chamber’s figure of 7,000-8,000 Bosnian Muslim “men and boys” executed by Bosnian Serb forces is a “legal form of propaganda”<sup>111</sup>—and an elegant display of its bias and eagerness to approach the 8,000 target in support of the “genocide” charge.

The ICTY’s further proof that we are dealing here with “genocide” is laughable. It shrank the size of the “group” that the Bosnian Serbs allegedly “intended” to exterminate from one comprised of *all* Bosnian Muslims to the Bosnian Muslims then seeking refuge within the Srebrenica “safe area.” Next, to cope with the fact that the Bosnian Serbs concentrated on military-aged men, and made no effort to kill most of the Muslim inhabitants of the “safe area,” the trial chamber accepted the prosecution’s contention that “what remains of the Srebrenica community survives in many cases only in the biological sense, nothing more,” and concluded that the deaths of the military-aged men “precluded any effective attempt by the Bosnian Muslims to recapture the territory.”<sup>112</sup>

But to survive in a “biological sense” is still to *survive*—it manifestly is not to have been exterminated. For the trial chamber, however, the geographical removal of the “safe area” population was treated as the equivalent of the physical destruction of this refugee community, and, in turn, this was treated as the equivalent of genocide, effectively reducing the “crime of crimes” to ethnic cleansing. As the Canadian legal scholar, William Schabas, wondered shortly after the Krstic Judgment: “Can there be no other plausible explanations for the destruction of 7,000 men and boys in Srebrenica? Could they not have been targeted precisely because they were of *military* age, and thus actual or potential combatants? Would someone truly bent on the physical destruction of a group, and cold-blooded enough to murder more than 7,000 defenseless men and boys, go to the trouble of organizing transport so that women, children, and the elderly could be evacuated?”<sup>113</sup> We may be sure that the trial chamber’s logic was applied only to Srebrenica’s Bosnian Muslims, but never to the Krajina Serbs, against whom the Croatian military carried out a much more massive physical destruction of communities which the Serbs had occupied for centuries.

The appeals chamber realized that the trial chamber decision was problematic, so it adjusted matters to preserve the genocide conclusion. First, it accepted that the 7,000-8,000 Bosnian Muslim men were “systematically murdered” (executed), without any additional proof beyond the trial chamber’s Judgment; all Bosnian Muslim deaths in combat were disappeared.<sup>114</sup> Second, it built on a strand of argument by the trial chamber that stressed the “patriarchal

character of the Bosnian Muslim society in Srebrenica,” with the alleged fact that as the 7,000-8,000 men killed were still “officially listed as missing,” their widows would be “unable to remarry and, consequently, to have new children.” In this way, the missing men “had severe procreative implications for the Srebrenica Muslim community, potentially consigning the community to extinction.”<sup>115</sup>

The appeals chamber added another layer of argument to show the genocidal effects that the geographical removal of the Srebrenica “safe area” population had on the Bosnian Muslims as a whole. “Although this population constituted only a small percentage of the overall Muslim population of Bosnia and Herzegovina at the time” (approximately 1.4 million persons), “Srebrenica was important due to its prominence in the eyes of both the Bosnian Muslim and the international community,” the reasoning went. The fate of the Bosnian Muslims of Srebrenica, therefore, “would serve as a potent example to all Bosnian Muslims of their vulnerability and defenselessness in the face of Serb military forces.”<sup>116</sup>

Aside from the fact that this argument is absurd and reduces the “crime of crimes” to suffering pessimism engendered by warfare, it is on the record that the Bosnian Muslim leadership had for several years been discussing the exchange of Srebrenica for Bosnian Serb-held territory near Sarajevo, strongly suggesting that holding onto Srebrenica was not of compelling strategic importance to the Bosnian Muslim leadership.<sup>117</sup> Furthermore, it is a well-established fact that Sarajevo withdrew the commanders of the 28th Division and began a troop withdrawal prior to and assuring the fall of Srebrenica without a fight, despite having this well-armed and large force in the “demilitarized” town. Contrary to the appeals chamber’s logic, its loss was clearly not something the Muslim leadership “strove to prevent.”<sup>118</sup> In fact, an important case has been made that giving up Srebrenica and using the Bosnian Serb occupation and actions to demonize the Serbs and bring NATO into the war against the Serbs was the explanation for the withdrawal.<sup>119</sup> It required overwhelming bias for the appeals chamber to overlook these considerations.

The appeals chamber also recognized that it had to meet a “specific intent” requirement where the Bosnian Serbs were concerned, namely, “to destroy, in whole or in part, a national, ethnical, racial or religious group, as such.”<sup>120</sup> The appeals chamber agreed with the trial chamber that an “execution plan” was established at the last moment within the command of the Bosnian Serb Army, and passed along to the Drina Corps<sup>121</sup>—but, though the only evidence of this “execution plan” consists of a combination of confessions of Serbs under ICTY control who have sought favorable sentencing terms in exchange for guilty pleas (“Statements of facts and acceptance of responsibility,” the ICTY calls them—Momir Nikolic’s being a cast in point<sup>122</sup>) and alleged intercepts of cryptic, and over-interpreted (and very possibly falsified) communications within the Drina Corps and related units, no other supportive documents have ever been produced—but the appeals chamber found this to be sufficient proof of Bosnian Serb “intent.”

These last-minute decisions to kill were also based on subtle understandings by the Bosnian Serb villains, who, as we’ve just seen, knew the effects of patriarchal social arrangements on survivability, and who decided not to kill the women and children because it would be poor public relations! The ICTY has never explained why the Bosnian Serb Army did not proceed to separate, detain, and kill the Bosnian Muslim men of the Zepa and Goradze “safe areas,” and treated many of the Bosnian Muslim injured and sent them on to Tuzla.<sup>123</sup> Perhaps the intent at these two enclaves, and in the Serb treatment of women and children—and in stark contrast to the treatment of Srebrenica males—was to score public relations points? Or is it possible that the

ICTY's facts and interpretations of the fall of Srebrenica are a combination of propaganda and disinformation?

This does not exhaust the idiocies of the Krstic judgments. The Krstic case was one of the earliest in which the ICTY deployed its innovative concept of a "joint criminal enterprise" (JCE). This concept does not appear in the ICTY's Statute, or in earlier legal doctrine. In other words, "The ICTY had to invent it," as John Laughland notes.<sup>124</sup> It was first introduced into ICTY jurisprudence in July 1999, in the conviction on appeal of the Bosnian Serb Dusko Tadic for the murder of a small number of Bosnian Muslims in the city of Prijedor. However, Tadic was never alleged to have had, or convicted of actually having had, himself *physically participated* in these murders. Instead, the appeals chamber convicted him of only having had the "intention to participate in and further the criminal activity or the criminal purpose of a group and to contribute to the joint criminal enterprise or in any event to the commission of a crime by the group."<sup>125</sup> This is why William Schabas has written that the "JCE" acronym in truth stands for "just convict everyone."

Eventually, Milosevic would be charged with participation in the same "joint criminal enterprise" in the second amended indictment for Kosovo (October 2001), in all three indictments for Croatia (beginning in September 2001), and in both indictments for Bosnia and Herzegovina (beginning in November 2001). It would have been awkward to prosecute him for his actions in Kosovo alone, given that NATO was very possibly killing more civilians than the Yugoslav armed forces, so the new plan was to tie him to the killings in Bosnia and Croatia as well as Kosovo, as he allegedly strove with other Serb leaders to create a "Greater Serbia."

Thus, in the second session in court on December 11, 2001, Judge Richard May explained that the court would hear the prosecution's "motion for joinder" of the three separate indictments of Milosevic for Kosovo, Croatia, and Bosnia and Herzegovina. May added that in order for the court to rule in the prosecution's favor, the prosecution would have to show that everything under Milosevic's command formed a "single transaction" rather than a series of separate acts in separate theaters of conflict.<sup>126</sup> In making its case for trying Milosevic in a single trial, Chief Prosecutor Carla Del Ponte explained that they "consider the accused Milosevic as the highest official responsible for the crimes committed from March 1991 in Bosnia, Croatia, and Kosovo."<sup>127</sup> A single trial "will contribute to reconciliation and peace in Yugoslavia," Del Ponte added.<sup>128</sup> She then turned the floor over to prosecutor Geoffrey Nice.

"[J]oinder can only occur where there was a single transaction," Nice began, a "common scheme, strategy or plan."<sup>129</sup> Nice continued that, yes, there was a "common scheme, strategy or plan" whereby Milosevic was guilty of "attempting to create a—in quotation marks—'Greater Serbia', a centralized Serbian state encompassing the Serb-populated areas of Croatia and Bosnia and Herzegovina and all of Kosovo. This was to be achieved primarily by forcibly removing non-Serbs from large geographical areas of the territory of the former Yugoslavia through the commission of crimes, in violation of Article 2 to 5 of the Statute of the Tribunal."<sup>130</sup>

Two days later, the trial chamber ruled partly in the prosecution's favor, joining the indictments for Croatia and Bosnia into a common case, while leaving the Kosovo indictment separate, with the two trials to be held one after the other, the Kosovo trial being the first, scheduled to begin on February 12, 2002.<sup>131</sup>

Almost four years later, however, in August 2005, during a courtroom exchange between Milosevic, Nice, and the judges on the meaning of “Greater Serbia,” Judge O-Gon Kwon asked Nice to explain the “difference of the Greater Serbia idea and the idea of...all Serbs living in one state”—the former having been the justification for accepting the “single transaction” and “common scheme,” or “joint criminal enterprise,” argument back in December 2001.

Amazingly, Nice responded in such a way as to show that the prosecution never really believed a word of its original argument:

Did [Milosevic] find the source of his position at least overtly in [the] historical concept of Greater Serbia; no, he didn't. His was perhaps to borrow His Honour Judge Robinson's term or was stated to be the pragmatic one of ensuring that *all the Serbs who had lived in the former Yugoslavia should be allowed for either constitutional or other reasons to live in the same unit*. That meant as we know historically from his perspective first of all that the *former Yugoslavia shouldn't be broken up...*<sup>132</sup>

Clearly, the beauty of the JCE legal construct is that it alleges a *crime of the mind*: It permits a crime to be charged against virtually anybody who can be associated with a criminal act, however distantly removed, because the person so charged is *of the same mind as* (or holds the same beliefs as) the person who physically commits the crime. Thus, if a Serb leader in Croatia is accused of working to ethnically cleanse non-Serbs from territory in Croatia, and the associated killings and removals are found to be genocidal, and it can be alleged that Bosnian Serb and Serbian leaders elsewhere are *of the same mind as* the actors in Croatia, they can be designated as participants in a JCE, and each held responsible for crimes carried out by their mental allies, whether or not they physically participated in them, or even knew about them. The JCE claims in the Milosevic trial allowed him, belatedly and retrospectively, to be held responsible for any Croatian Serb killings in Croatia from August 1991 on, and Bosnian Serb killings in Bosnia from March 1992 on, in addition to any Serb killings in Kosovo from January 1999 on. He, like them, was allegedly participating in a joint criminal enterprise, seeking to extend his own personal power and striving for a “Greater Serbia.”

This extra-legal, opportunistic, and indeed silly charge assumed that Milosevic controlled the behavior of the Bosnian Serbs and Croatian Serbs, which he did not, and failed to recognize that any efforts he made on their behalf could be simply explained by a desire to allow Serbs in Bosnia and Croatia who did not want to leave Yugoslavia and live as minorities in independent breakaway republics with hostile majorities to stay in the shrinking Yugoslavia. The “Greater Serbia” accusation fails to explain Milosevic’s support of a series of agreements from Lisbon in February 1992 through Dayton in 1995 in which Serb minorities would have been left out of any Serbian controlled entity. These agreements were not supported by the United States until Dayton in late 1995, so who was supporting the violence option? Why shouldn’t any Milosevic and Bosnian and Croatian Serb military actions be regarded as defense against the breakup of Yugoslavia being imposed by the real JCE between the United States, Britain, Germany, France, Tudjman’s Zagreb, Sarajevo’s Izetbegovic, and, later, the Kosovo Liberation Army? Because a



Great Power uses the ICTY as a “battering ram,” giving it *carte blanche* for absurdities that can discredit, imprison, and kill innocent victims.

So the Milosevic trial, and, in the end, the Karadzic and Mladic trials, were the culmination of a political program that had nothing to do with justice and were in fact a monument to injustice and the abuse of power. They have been organized to prove that the US.-NATO assault on Yugoslavia was justified by “humanitarian” considerations. This was being done by a collective that was busily trampling on the UN Charter in Yugoslavia and was supporting ethnic cleansing in many theaters of conflict around the world: The Palestinian territories, Paul Kagame’s and Yoweri Museveni’s genocidal operations in the Democratic Republic of Congo as well as ethnic cleansing in Croatia and the post-bombing-war in Kosovo.

Because the ICTY’s major trials of ethnic Serbs were political, it was impossible to assemble evidence of a coherent plan for a “Greater Serbia,” JCE coordination, and killings that would satisfy the demand for exceptional and widespread savagery. There was no documentary evidence of such a plan. The body count evidence was relatively small, as described in Part Two, so the prosecution depended heavily on witnesses in a kitchen-sink effort that inundated but failed to enlighten. Some 295 prosecution witnesses were put before the trial chamber in the Milosevic case, with very problematic results. Very few claimed to have witnessed Serb executions, and while many testified to Serb harshness and sometimes criminal behavior this did not seem exceptional for conflict zones and could easily have been duplicated with witness evidence in areas where Serbs were the victims. The trial was notorious for the judges’ acceptance of hearsay evidence, the use of secret witnesses unavailable for cross-examination, and the acceptability of written statements by the prosecution admittedly not prepared by the witnesses themselves. There was also serious bias by the judges (most notably presiding judge Richard May) in favoring the prosecution and limiting and harassing Milosevic’s cross-examination. As the Canadian defense attorney Edward L. Greenspan observed during the early days of the Milosevic trial, Judge May “clearly reviles Milosevic” and “doesn’t even feign impartiality, or indeed, interest.”<sup>133</sup> These cases were closed before the ICTY ever heard them.

The most important ICTY witness, called as a witness or cited repeatedly in every one of the Srebrenica-related trials from July 1996 on, was the Croatian mercenary, Drazen Erdemovic. His record, testimonies, and handling by the prosecution and ICTY provide revealing proof of the lack of integrity of the ICTY and its brand of “justice.”

Erdemovic claims to have been part of a group of eight members of the Bosnian Serb Army’s 10th Sabotage Detachment, who participated in the execution of some 1,200 Bosnian prisoners at the Branjevo Military Farm, near the town of Pilica on July 16, 1995. He is prized by the prosecution and ICTY judges because he claims not only to have helped kill many Bosnian Muslim prisoners from the Srebrenica population, but also to have done this under orders from the Bosnian Serb Army’s Main Staff.

But the body count in the graves associated with the Branjevo Military Farm area fell far short of 1,200 (in his witness statements for the prosecution, investigator Dusan Janc reports the total number of bodies exhumed there at around 138<sup>134</sup>), and a critical analysis by Germinal Civikov showed that eight men killing 1,200 prisoners in batches of ten in five hours would have been physically impossible.<sup>135</sup> Why would the Bosnian Serbs do this, when they could use these prisoners for prisoner-exchanges, and when executions would produce major negative publicity,

as the allegations about this event have? And if they did do this, why would they entrust it to a group of mercenaries, including several Croats? Civikov shows that Erdemovic's testimony is rife with inconsistencies and contradictions. But these were not explored by the judges, who raised no obvious questions and would not permit serious cross-examination. Until the publication of Civikov's book in 2009, none of the other seven participants or their commanding officer was sought by the Tribunal for questioning to corroborate or to challenge Erdemovic's claims. This was part of a political program and not a search for the truth. And Erdemovic said what the prosecutor, the ICTY judges, and the U.S. State Department wanted him to say.

Milosevic died in March 2006, before the end of his trial, arguably killed by the ICTY, which refused postponement and his going to Moscow for medical treatment for a worsening coronary condition, with a Russian guarantee of his return to The Hague. In fact, Milosevic died just two weeks after this refusal. In contrast, the war-crimes indictee and Kosovo Albanian official Ramush Haradinaj was allowed to return to Kosovo from The Hague, not to have access to medical treatment, but for a political campaign. The ICTY is not in the justice business.

As we noted in Part Two, the ICTY has never been interested in the crimes and crime scenes associated with the pre-July 1995 killings of some 3,262 Bosnian Serbs in the Srebrenica area, of whom 2,382 (73%) were civilians.<sup>136</sup> These killings were carried out by Bosnian Muslim soldiers and paramilitary cadres launching their attacks from the Srebrenica enclave from 1992 on, and they continued their attacks after Srebrenica was designated a "safe area" in April 1993, and after it was supposedly demilitarized by no later than May 1993. The leader of these forces, Naser Oric, was proud of his killings, bragging about them openly and showing videos of Bosnian Serb death scenes to two Western reporters. But it took the ICTY many years to indict this acknowledged killer, and his conviction on minor charges was eventually overturned. Milosevic never bragged about killing anybody, and the long ICTY and Western hunt for any nationalist or imperialist ("Greater Serbia") language by him was unproductive. But as the U.S. and real imperialism's targeted Official Enemy, he topped the U.S. Most Wanted list, and became one of the many victims of an injustice machine.

## Concluding Note: The “Reconciliation” Gambit

From the beginning of the Great Western Powers’ intervention in the former Yugoslavia, including the 1991-1992 Badinter Arbitration Committee’s wholly prejudicial November 1991 finding that the Socialist Federal Republic of Yugoslavia was “in the process of dissolution,” and in effect no longer existed, contrary to the hopes and wishes of the Serbs,<sup>137</sup> and the ensuing race among these powers to recognize the breakaway republics,<sup>138</sup> it was claimed that a major objective was to restore the “peace” and bring “reconciliation” to this troubled land.

Indeed, the Security Council’s draft resolution on Srebrenica which Russia vetoed on July 8 not only condemned “the crime of genocide at Srebrenica as established by judgments of the ICTY and ICJ,” but added that “acceptance of the tragic events at Srebrenica as genocide is a prerequisite for reconciliation,” calling “upon political leaders on all sides to acknowledge and accept the fact,” and condemned “denial of this genocide as hindering efforts towards reconciliation....”<sup>139</sup> During the Security Council’s session on the morning of July 8, the word “reconciliation” was mentioned no fewer than 50 times. And in the contentious exchanges between the Russian ambassador Vitaly Churkin and his American and British counterparts, one of the issues raised was whose approach to the question of Srebrenica would more likely help to advance the cause of genuine reconciliation—the U.S.-U.K. approach, as expressed by the quotes from the draft resolution, or Russia’s, as when Churkin complained that the draft “contains distortions as a result of which the blame for the past is basically placed on one people,” and is therefore “confrontational and politically motivated.”<sup>140</sup>

Of course, the claim that the Western Powers ever sought “peace” and “reconciliation” in the former Yugoslavia is disingenuous and Orwellian, as the aim from the start was to transform Yugoslavia in accord with U.S. and German geopolitical interests. To accomplish this objective, Yugoslavia had to be pulled apart, and the Republic of Serbia and ethnic Serbs more generally, the most desirous of preserving the unitary, multi-ethnic Yugoslavia, had to be brought to heel. This required exacerbating tensions between the various nations, impelling them to fight wars for land, and eventually intervening militarily to crush first the Bosnian and Croatian Serbs, and, ultimately, Serbia as well. So in reality war rather than peace was the centerpiece of the NATO intervention, and civil wars across four republics were an important part of NATO’s interventionary program. In the process, NATO-encouraged ethnic cleansing would be one-sidedly used by NATO’s “legal” and propaganda arm, the ICTY, to help work over the targeted Serbs.

The pretense that any of this would encourage reconciliation is laughable, and in reality the intervention and ensuing wars quite predictably increased ethnic hostility and made reconciliation more difficult. The Bosnian Muslims have been able to take advantage of NATO-ICTY-ICMP support for their cause to continue the work of Srebrenica grave searches, memorial services, publicity, and support for criminal prosecutions and punishment of Serbs and demands for abject apologies and reparations. In other words, *non-reconciliation* and its corollary, *anti-Serb* policy and propaganda, has been very good business for the Bosnian Muslims as well as for what is by now a whole generation of judges and prosecutors, “journalists of attachment,”

intellectuals, medico-legal personnel, and emotional tourists,<sup>141</sup> all of which promises to continue indefinitely, and all with the support of their Western patrons.

Thus, it is clear that the hostility between the nations in the Bosniak-Croat Federation and the Republika Srpska has not diminished, that “peace” and “reconciliation” are nowhere near at hand, and that Bosnia and Herzegovina is widely recognized to be what David Chandler calls a “phantom state,” still occupied and managed by the intervening NATO parties under a High Representative now almost 20 years after the signing of the Dayton Agreement.<sup>142</sup> Croatia does not have anything like this same problem, because with U.S.-NATO assistance the bulk of the Serb minority was driven out of Croatia, a case of straightforward ethnic cleansing, not reconciliation. In Kosovo, yet another “phantom state” where the U.S. objective, according to U.S. President Bill Clinton, was once claimed to be a “multiethnic, tolerant, inclusive democracy,”<sup>143</sup> this alleged objective has very clearly not been met—and was always nothing more than a propaganda claim, not a genuine objective. The Serbs of the province came under immediate post-war attack by the Kosovo Albanians, with many driven out along with the Roma, and most of those who have remained living in isolated and threatened minority enclaves.

But while there has been no reconciliation in the former Yugoslavia, because none was ever intended, there has been a crushing of Serbia, which *was* intended: subjected to long and costly sanctions, a devastating 1999 bombing war, and political and economic subjugation that has brought toadies into power and forced the country to grovel and beg in its condition of lost independence. As we saw in Part Three, U.S. Secretary of State Lawrence Eagleburger warned the Serbs back in late 1992 of the “risk they currently run of sharing the inevitable fate of those who practice ethnic cleansing in the region.” But if you practice ethnic cleansing in the region, as was done with U.S. aid and protection in eastern Bosnia with Naser Oric operating freely out of Srebrenica from 1992 into 1995, or in Croatia during Operation Storm in August 1995, or in Kosovo starting in June 1999—you won’t suffer any risks of serious prosecution, as you will be protected by the Global Godfather (the United States).

Since Serbs were turned into the demonized target in the U.S.-NATO war, “reconciliation” was made to mean that Serbs were properly punished, but also, as we saw in the case of the Russian-vetoed Security Council resolution, that acceptance of the truth of the party-line on Srebrenica was to be required of everyone. Anyone who resisted this is smeared as a “denialist” and “revisionist.” For as former State Department lawyer Michael Scharf explained in 2004, the Security Council’s (read: U.S.) three objectives in setting up its Tribunal were these: “first, to educate the Serbian people, who were long misled by Milosevic’s propaganda...; second, to facilitate national reconciliation by pinning prime responsibility on Milosevic and other top leaders...; and third, to promote political catharsis while enabling Serbia’s newly elected leaders to distance themselves from the repressive policies of the past.”<sup>144</sup>

But this all rests on what we might call the *Alice-in-NAToland history of modern Yugoslavia*, which stands valid history on its head. We may also ask when apologies and justice will be brought to the relatives and descendants of the 2,382 Serbian civilians slaughtered, and the larger number wounded or expelled from Eastern Bosnia from 1992 on by the Bosnian Muslim hero Naser Oric, with NATO complicity? Recalling Eagleburger’s December 1992 warning to the Serbs, we find an advance warning of possible U.S.-NATO war crimes—the bombing of Serb civilians who failed to constrain their leader’s alleged “genocidal” ambitions—actually realized in 1999.

The entire dismantling of Yugoslavia was at bottom a U.S.-NATO war against the Serbs, who, somehow, managed to stand in the way of the Great Western Powers' geopolitical aims.<sup>145</sup>

Unquestionably, that war was a success for the Great Western Powers—but it was a catastrophe for the ethnic Serbs, international law, and justice.

## ---- Endnotes ----

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### Part One

<sup>1</sup> We take this phrase from the biographical entry for the former *Washington Post* reporter Michael Dobbs at the website of the United States Holocaust Memorial Museum.

<<http://tinyurl.com/pj98bru>>

<sup>2</sup> Marlise Simons, “Genocide Charge Reinstated Against Wartime Leader of the Bosnian Serbs,” *New York Times*, July 12, 2013. <<http://tinyurl.com/p4wdn2r>>

<sup>3</sup> Dan Bilefsky and Marlise Simons, “Netherlands Held Liable for 300 Deaths in Srebrenica Massacre,” *New York Times*, July 17, 2014. <<http://tinyurl.com/obhkorf>>

<sup>4</sup> This is based on a Nexis database search of the *New York Times* carried out on June 1, 2015, for the period January 1, 1980, through May 31, 2015. Taking the *Times* as a proxy for the rest of the mainstream media in the English-language world, the first mention of “Srebrenica” didn’t occur until November 29, 1992: Chuck Sudetic, “After 8 Months, First Relief Reaches One Bosnian Town.” Sudetic reported on the “Thousands of Muslims” then flowing into the “Bosnian town of Srebrenica, . . . persons driven from nearby villages by Serbian forces.”

<<http://tinyurl.com/ggyexfr>>

<sup>5</sup> This is based on a Nexis database search of the *New York Times* carried out on June 1, 2015, for usage of the phrase “Srebrenica massacre” during the period July 1, 1995, through May 31, 2015. See Chris Hedges, “More Expulsions by Serbian Force Reported by U.N.,” *New York Times*, October 1, 1995. <<http://tinyurl.com/nfssvaq>>

<sup>6</sup> Physicians for Social Responsibility (U.S.), Physicians for Global Survival (Canada), and *Internationale Ärzte für die Verhütung des Atomkrieges* (“International Physicians for the Prevention of Nuclear War,” Germany), *Body Count: Casualty Figures after 10 Years of the “War on Terror,”* Executive Summary, March, 2015, p. 15. <<http://tinyurl.com/q7tf3u8>>

<sup>7</sup> Martin Flacker, “At Hiroshima Ceremony, A First for a U.S. Envoy,” *New York Times*, August 7, 2010. <<http://tinyurl.com/ot9o4dq>>

<sup>8</sup> Steven R. Weissman, “Reagan Denounces Threats to Peace in Latin America,” *New York Times*, December 5, 1982. <<http://tinyurl.com/o5vjv6d>>

<sup>9</sup> Christian Tomuschat *et al.*, *Guatemala: Memory of Silence: Report of the Commission for Historical Clarification* (Guatemalan Commission for Historical Clarification, February, 1999). In this report, a countrywide map depicts 669 different massacre sites for 1962-1996 (pp. 83-84). No fewer than 626 of them were carried out during the “so-called scorched-earth operations” of the early 1980s (para. 86; and para. 108-123). <<http://tinyurl.com/olesezf>>

<sup>10</sup> N.A., “Top Croatian Officials say Storm was legitimate and irrefragable operation,” HINA Croatian News Agency, August 5, 2005.

<sup>11</sup> On the distinction between “worthy” and “unworthy” victims, see Edward S. Herman and Noam Chomsky, *Manufacturing Consent: The Political Economy of the Mass Media* (New York: Pantheon Books, 2nd. Ed., 2002), Ch. 2, “Worthy and Unworthy Victims,” pp. 37-86.

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<sup>12</sup> See, e.g., Edward S. Herman and David Peterson, “The Dismantling of Yugoslavia,” *Monthly Review*, Vol. 59, No. 5, October, 2007. < <http://tinyurl.com/o29mrdx> > Also see Ana S. Trbovich, *A Legal Geography of Yugoslavia's Disintegration* (New York: Oxford University Press, 2008).

<sup>13</sup> See Herman and Peterson, “The Dismantling of Yugoslavia,” Sect. 2, “The Role of the Serbs, Milosevic, and ‘Greater Serbia’,” pp. 9-14. < <http://tinyurl.com/o29mrdx> > Also see Trbovich, *A Legal Geography of Yugoslavia's Disintegration*, Sect. 4.4.1, “Krajina’s Trapped Minority,” pp. 205-215; and Sect. 4.6, “The Partition of Bosnia-Herzegovina,” pp. 217-239.

<sup>14</sup> As best we can tell, the earliest instance in which someone accused the Bosnian Serbs of “genocide” that was reported by the Western media was on May 25, 1992, when Sarajevo’s Foreign Minister Harris Silajdzic used the term to characterize the policy and actions of the Bosnian Serbs. See Robert Powell, “Bosnian Factions Discuss Region’s Boundaries,” Reuters, May 25, 1992.

<sup>15</sup> UN Security Council Resolution 827 (S/RES/827), May 25, 1993. Para. 2 states that the Security Council’s “sole purpose” in establishing the ICTY is “prosecuting persons responsible for serious violations of international humanitarian law in the territory of the former Yugoslavia....” < <http://tinyurl.com/nzydj5f> >

<sup>16</sup> See Louise Arbour, *The Prosecutor of the Tribunal against Slobodan Milosevic et al.*, Case No. IT-99-37, ICTY, May 22, 1999. < <http://tinyurl.com/nfgj699> >

<sup>17</sup> See Michael Mandel, *How America Gets Away with Murder: Illegal Wars, Collateral Damage, and Crimes Against Humanity* (Ann Arbor, MI: Pluto Press, 2004), pp. 57-175.

<sup>18</sup> John R. Schindler, *Unholy Terror: Bosnia, Al-Qa’ida, and the Rise of Global Jihad* (St. Paul, MN: Zenith Press, 2007), Ch. 8, “Europe’s Afghanistan,” pp. 273-324; here pp. 280-281. Also see David Peterson, “Not-So-Strange Bedfellows,” ZCommunications, July 4, 2005. < <http://tinyurl.com/q943g25> >

<sup>19</sup> See Philip Hammond, “Moral Combat: Advocacy Journalists and the New Humanitarianism,” in David Chandler, Ed., *Rethinking Human Rights: Critical Approaches to International Politics* (New York: Palgrave Macmillan, 2002), pp. 176-195.

<sup>20</sup> Ed Vulliamy, *Seasons in Hell: Understanding Bosnia's War* (New York: St. Martin's Press, 1994), p. xi; p. 43.

<sup>21</sup> LTC John E. Sray, “Selling the Bosnian Myth to America: Buyer Beware,” *Foreign Military Studies Office Publications* (Fort Leavenworth, KS: Department of the Army, October, 1995). < <http://tinyurl.com/pvmg9n3> >

## Part Two

<sup>22</sup> N.A., “Former Yugoslavia: ICRC steps up activities as human wave crosses Bosnia and minorities come under threat,” ICRC News Release 33, August 16, 1995. < <http://tinyurl.com/nrh8868> >

<sup>23</sup> N.A., “Former Yugoslavia: Srebrenica: help for families still awaiting news,” ICRC News Release 37, September 13, 1995. < <http://tinyurl.com/npv2o9f> >

<sup>24</sup> So-called “manner of death” is a legal designation, and includes deaths classified as resulting from natural causes, accidents, homicides, suicides, and undetermined.

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<sup>25</sup> See, among others, Jonathan Rooper, "The Numbers Game," in Edward S. Herman, Ed., *The Srebrenica Massacre: Evidence, Context, Politics* (Evergreen Park, IL: Alphabet Soup, 2011), pp. 103-154. <<http://tinyurl.com/kyrfw2b>> Also see Stephen Karganovic and Ljubisa Simic, *Rethinking Srebrenica* (New York: Unwritten History, Inc., 2013).

<sup>26</sup> See Ula Ilnytzky, "Report drops trade center death toll by three, to 2,749," Associated Press, January 23, 2004. <<http://tinyurl.com/qe9qnxv>> Also see David Peterson, "Counting Bodies at the World Trade Center," *Rocinante*, June 14, 2004. <<http://tinyurl.com/pdorjb7>>

<sup>27</sup> See Ewa Tabeau and Jakub Bijak, "War-related Deaths in the 1992-1995 Armed Conflicts in Bosnia and Herzegovina: A Critique of Previous Estimates and Recent Results," *European Journal of Population*, Vol. 21, No. 2-3, June, 2005, pp. 187-215.

<<http://tinyurl.com/os625xx>> Also see Patrick Ball *et al.*, *The Bosnian Book of the Dead: Assessment of the Database*, Research and Documentation Center, Sarajevo, June 17, 2007. <<http://tinyurl.com/pj9cu9p>> Ball *et al.* estimate a total of 64,003 Bosnian Muslim deaths during the wars, 24,826 Serb, 7,598 Croat, and 468 Others. (See Table 19, "Ethnicity of Victims Reported in BBD," p. 29.)

<sup>28</sup> See Diana Johnstone, *Fools' Crusade: Yugoslavia, NATO, and Western Delusions* (New York: Monthly Review Press, 2002), "The Uses of Rape," pp. 78-88. Also see Peter Brock, *Media Cleansing: Dirty Reporting. Journalism and Tragedy in Yugoslavia* (Los Angeles: Graphics Management Press, 2005), Ch. 5, "Only Muslim Victims... Only Serb Perpetrators," pp. 59-72.

<sup>29</sup> M. Cherif Bassiouni *et al.*, *Final Report of the Commission of Experts Established Pursuant to Security Council Resolution 780 (1992) (S/1994/674)*, May 27, 1994, n. 71, p. 83.

<<http://tinyurl.com/ov7n8dk>> As Diana Johnstone notes, "There is not the slightest reason to doubt that a large number of women were raped and otherwise abused during the Yugoslav conflicts, just as there is no reason to be surprised that the rapes were exaggerated and exploited for propaganda purposes." (*Fools' Crusade*, pp. 82-83.)

<sup>30</sup> "Ethnic Cleansing in Kosovo. Fact Sheet based on information from U.S. Government sources," U.S. Department of State, April 22, 1999. <<http://tinyurl.com/qdp26g9>>

<sup>31</sup> For the 4,000-figure, see "Statement to the Press by Carla Del Ponte" (FH/P.I.S./550-e), International Criminal Tribunal for the Former Yugoslavia, December 20, 2000, par. 16. <<http://www.icty.org/sid/7793>> And for the number of missing in Kosovo, see "Over 18,000 persons still missing in the Balkans," ICRC, August 30, 2006. At the time, the ICRC listed a total of 2,284 persons as "missing" in Kosovo. <<http://tinyurl.com/p4d7ptq>>

<sup>32</sup> N.A., "European Parliament resolution of 15 January 2009 on Srebrenica" (P6\_TAP(2009)0028), EUR-Lex, January 15, 2009, para. H.2; para. B. <<http://tinyurl.com/orvx7od>>

<sup>33</sup> Julian Borger and Ian Traynor, "Brutality Mixed with Kindness Produces Hysteria in Srebrenica," *The Guardian*, July 14, 1995.

<sup>34</sup> Stephen Kinzer, "Muslims Tell of Atrocities in Bosnian Town," *New York Times*, July 14, 1995. <<http://tinyurl.com/p9ddksl>>

<sup>35</sup> N.A., "U.S. Official Cites Evidence of Genocide By Serbs," Associated Press, August 1, 1995.

<sup>36</sup> "The situation in Croatia" (S/PV.3563), UN Security Council, August 10, 1995, p. 20. <<http://tinyurl.com/oqq6cck>>

<sup>37</sup> "The situation in the republic of Bosnia and Herzegovina" (S/PV.3564), UN Security Council, August 10, 1995, pp. 6-7. <<http://tinyurl.com/npp5eq8>>



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- <sup>38</sup> “Government Reaction; President asks Clinton, Major and others to help Srebrenica,” BBC Summary of World Broadcasts, July 11, 1995.
- <sup>39</sup> This story has been recounted in multiple places. Here we are taking it from David Harland *et al.*, *The Fall of Srebrenica* (A/54/549), Report of the Secretary-General pursuant to General Assembly resolution 53/35, November 15, 1999, para. 115. <<http://tinyurl.com/kkmr6b4>>
- <sup>40</sup> Trial Transcript, *Prosecutor v. Radislav Krstic*, Case No. IT-98-33-T, International Criminal Tribunal for the Former Yugoslavia, April 6, 2001, p. 9532. <<http://tinyurl.com/oo9uftu>>
- <sup>41</sup> Sarah E. Wagner, *To Know Where He Lies: DNA Technology and the Search for Srebrenica’s Missing* (Berkeley: University of California Press, 2008), p. 95.
- <sup>42</sup> See, e.g., Adam Rosenblatt, *Digging for the Disappeared: Forensic Science After Atrocity* (Stanford, CA: Stanford University Press, 2015), pp. 49-50.
- <sup>43</sup> *Ibid.*, “Born at the Graves: A New Human Rights Movement Takes Shape,” pp. 1-37.—The obvious critical question, *Born at whose graves: The graves of “worthy” or “unworthy” victims?*, passes unasked.
- <sup>44</sup> Judge Almiro Rodrigues *et al.*, *Judgment, Prosecutor v. Radislav Krstic*, Case No. IT-98-33-T, International Criminal Tribunal for the Former Yugoslavia, August 2, 2001, para. 71; and para. 73. <<http://tinyurl.com/lohd5hy>>
- <sup>45</sup> *Ibid.*, para. 77.
- <sup>46</sup> Ljubisa Simic, “An Analysis of the Srebrenica Forensic Reports Prepared by ICTY Prosecution Experts,” in Karganovic and Simic, *Rethinking Srebrenica*, pp. 130-167; here p. 149.
- <sup>47</sup> Ljubisa Simic, “General Presentation and Interpretation of Srebrenica Forensic Data (Pattern of Injury Breakdown),” in Karganovic and Simic, *Rethinking Srebrenica*, pp. 108-129; here p. 123; and p. 126.
- <sup>48</sup> *Ibid.*, pp. 123-124; and pp. 127-129.
- <sup>49</sup> Rodrigues *et al.*, *Judgment, Prosecutor v. Radislav Krstic*, para. 80; and n. 166, p. 26. <<http://tinyurl.com/lohd5hy>>
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- <sup>51</sup> Simic, “An Analysis of the Srebrenica Forensic Reports Prepared by ICTY Prosecution Experts,” in Karganovic and Simic, *Rethinking Srebrenica*, pp. 164-165.
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- <sup>55</sup> Stephen Karganovic, “An Analysis of Muslim Column Losses Attributable to Minefields, Combat Activity, and Other Causes,” in Karganovic and Simic, *Rethinking Srebrenica*, pp. 168-194.
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- <sup>59</sup> Jonathan Rooper, “The Numbers Game,” in Herman, Ed., *The Srebrenica Massacre*, pp. 103-154; here p. 139. < <http://tinyurl.com/kyrfw2b> >
- <sup>60</sup> See, e.g., Spencer S. Hsu, “Federal review stalled after finding forensic errors by FBI lab unit spanned two decades,” *Washington Post*, July 30, 2014. < <http://tinyurl.com/n75zbaw> > Also see Henry Gass, “When expert testimony isn’t: Tainted evidence wreaks havoc in courts, lives,” *Christian Science Monitor*, May 26, 2015. < <http://tinyurl.com/nf3x975> >
- <sup>61</sup> See George Szamuely, “Securing Verdicts: The Misuse of Witness Testimony at The Hague,” in Herman, Ed., *The Srebrenica Massacre*, pp. 155-212. < <http://tinyurl.com/kyrfw2b> >
- <sup>62</sup> Germinal Civikov, *Srebrenica: The Star Witness*, John Laughland, Trans. (Belgrade: Srebrenica Historical Project, 2010). < <http://tinyurl.com/o22mn7e> >
- <sup>63</sup> Mandel, *How America Gets Away with Murder*, p. 156; and p. 159.
- <sup>64</sup> UN. Security Council Resolution 819 (S/RES/819), April 16, 1993, para. 1-2. < <http://tinyurl.com/neytwcf> >
- <sup>65</sup> For copies of the April 18 and May 8, 1993 demilitarization agreements, see Karganovic and Simic, *Rethinking Srebrenica*, Annex 3, pp. 288-289; and Annex 4, pp. 290-293.
- <sup>66</sup> J.C.H. Blom *et al.*, *Srebrenica: A "safe" area—Reconstruction, background, consequences and analyses of the fall of a Safe Area*, Trans. Taalcentrum - VU (Amsterdam: Netherlands Institute for War Documentation, 2002), p. 973. < <http://tinyurl.com/m6gy7ag> > Also see Stephen Karganovic, “Demilitarization of the UN Safe Zone of Srebrenica,” in Karganovic and Simic, *Rethinking Srebrenica*, pp. 53-74.
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- <sup>69</sup> See Harland *et al.*, *The Fall of Srebrenica* (A/54/549). < <http://tinyurl.com/kkmr6b4> >
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- <sup>72</sup> Milivoje Ivanisevic, *Srebrenica July 1995: In Search of Truth*, Institute for Research on Suffering of the Serbs, 2007, p. 4. < <http://tinyurl.com/opzdpky> >
- <sup>73</sup> For an early assessment of the violence inflicted on the Bosnian Serbs in the Srebrenica and Bratunac municipalities during the period April 1992 - April 1993, see the Annex to Dragomir Djokic, Letter dated 24 May 1993 from the Chargé d'affaires a.i. of the Permanent Mission of Yugoslavia to the United Nations addressed to the Secretary-General (A/48/177 – S/25835), June 2, 1993. < <http://tinyurl.com/o6fr6wg> >
- <sup>74</sup> N.A., “Yugoslav Pathologist Presents Data on War Crimes against Serbs,” BBC Monitoring Service: Central Europe and Balkans, April 19, 1995.
- <sup>75</sup> N.A., “Yugoslav Forensic Expert Says No Proof about Srebrenica Mass Grave,” BBC Monitoring Service: Central Europe and Balkans, July 15, 1996.
- <sup>76</sup> Blom *et al.*, *Srebrenica*, p. 2259. < <http://tinyurl.com/m6gy7ag> >
- <sup>77</sup> Trial Transcript, *The Prosecutor of the Tribunal Against Slobodan Milosevic*, Case No. IT-02-54-T, February 12, 2004, p. 31,966. < <http://tinyurl.com/owoolx4> >

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<sup>78</sup> Bill Schiller, "Muslims' hero vows he'll fight to the last man," *Toronto Star*, January 31, 1994, Also see John Pomfret, "Weapons, Cash and Chaos Lend Clout to Srebrenica's Tough Guy," *Washington Post*, February 16, 1994.

<sup>79</sup> See Judge Carmel Agius *et al.*, *Judgment, Prosecutor v. Naser Oric*, Case No. IT-03-68-T, June 30, 2006. < <http://tinyurl.com/p5tx4oa> > Also see Judge Wolfgang Schomburg *et al.*, *Judgment on Appeal, Prosecutor v. Naser Oric*, Case No. IT-03-68-A, July 3, 2008. <<http://tinyurl.com/qg6o87a> >

<sup>80</sup> *Rapport d'information, de MM. René André et François Lamy, déposé le 22 novembre 2001, en application de l'article 145 du règlement, Documents d'Information de l'Assemblée Nationale.* < <http://tinyurl.com/o6dqpw3> > For a transcript of Morillon's January 25, 2001 testimony, see "Audition du général Philippe MORILLON, commandant de la FORPRONU Janury 2(octobre 1992-juillet 1993), commandant de la Force d'action rapide (1994-1996)," *Voltairenet.org*, November 22, 2001. < <http://tinyurl.com/pghffds> >

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### Part Three

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<sup>83</sup> Elaine Sciolino, "U.S. Names Figures It Wants Charged with War Crimes," *New York Times*, December 17, 1992. < <http://tinyurl.com/q3kwsf5>>

<sup>84</sup> In Mandel, *How America Gets Away with Murder*, p. 126.

<sup>85</sup> *Ibid.*, pp. 80-84.

<sup>86</sup> *Ibid.*, pp. 125-175.

<sup>87</sup> John Laughland, *Travesty: The Trial of Slobodan Milosevic and the Corruption of International Justice* (Ann Arbor, MI: Pluto Press, 2007), p. 24.

<sup>88</sup> N.A., "Karadzic a Pariah, Says War Crimes Tribunal Chief," ANP English News Bulletin, July 27, 1995.

<sup>89</sup> "Statement by Prosecutor Louise Arbour, Prosecutor ICTY," Press Release JL/PIU/404-E, May 27, 1999. < <http://www.icty.org/sid/7764> >

<sup>90</sup> Judge Christopher G. Weeramantry *et al.*, *Federal Republic of Yugoslavia v. United States of America*, International Court of Justice, Order of June 2, 1999, para. 19-31. <<http://tinyurl.com/nghlqh9> >

<sup>91</sup> See Article IX, *Convention on the Prevention and Punishment of the Crime of Genocide*, which was adopted by the UN General Assembly on December 9, 1948, and first entered into force on January 12, 1951. < <http://tinyurl.com/looz6b2> >

<sup>92</sup> Judge Rosalyn Higgins *et al.*, *Judgment, Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide*, International Court of Justice, February 26, 2007, para. 471(1). < <http://tinyurl.com/pntxdbs> >

<sup>93</sup> See Mandel, *How America Gets Away with Murder*, Ch. 6, "America Gets Away With Murder," pp. 176-206.

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<sup>94</sup> N.A., *Final Report to the Prosecutor by the Committee Established to Review the NATO Bombing Campaign Against the Federal Republic of Yugoslavia, International Criminal Tribunal for the Former Yugoslavia*, January, 2000, para. 90-91.

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<sup>95</sup> Arbour, *The Prosecutor of the Tribunal Against Slobodan Milosevic et al.*, Schedule A through Schedule G; esp. Schedule A, “Persons Known byname Killed at Racak—15 January 1999.

<<http://tinyurl.com/nfgj699>>

<sup>96</sup> Trial Transcript, *The Prosecutor of the Tribunal Against Slobodan Milosevic*, Case No. IT-02-54-T, July 3, 2001, p. 4, lines 24-25. <<http://tinyurl.com/orthu7r>>

<sup>97</sup> Michael Scharf, “Indicted For War Crimes, Then What?” *Washington Post*, October 3, 1999.

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<sup>98</sup> David Scheffer, *All the Missing Souls: A Personal History of the War Crimes Tribunals* (Princeton, NJ: Princeton University Press, 2011), p. 252.

<sup>99</sup> Hans Köchler, “Illegal Tribunal - Illegal Indictment,” International Progress Organization, May, 1999, para. 1-5. <<http://tinyurl.com/oxe6vqs>>

<sup>100</sup> *Ibid.*, para. 12.

<sup>101</sup> See Judge Richard J. Goldstone, *The Prosecutor of the Tribunal Against Radovan Karadzic and Ratko Mladic*, Case No.IT-95-I, International Criminal Tribunal for the Former Yugoslavia, July 24, 1995. This was the first indictment ever issued by the ICTY.

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<sup>102</sup> Judge Richard J. Goldstone, *The Prosecutor of the Tribunal Against Radovan Karadzic and Ratko Mladic*, International Criminal Tribunal for the Former Yugoslavia, Case No. IT-95-18-1, November 15, 1995, para. 51. <<http://tinyurl.com/njoyxn7>>

<sup>103</sup> Rodrigues *et al.*, *Judgment, Prosecutor v. Radislav Krstic*, "Srebrenica-Drina Corps," para. 539-599; and para 688. <<http://tinyurl.com/lohd5hy>> And Judge Theodor Meron *et al.*, *Judgment on Appeals, Prosecutor v. Radislav Krstic*, Case No. IT-98-33-A, International Criminal Tribunal for the Former Yugoslavia, April 19, 2004, para. 275.

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<sup>104</sup> Rodrigues *et al.*, *Judgment, Prosecutor v. Radislav Krstic*, para. 84.

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<sup>105</sup> *Ibid.*, para. 73; para. 71.

<sup>106</sup> *Ibid.*, para. 75.

<sup>107</sup> See Simic, “An Analysis of the Srebrenica Forensic Reports Prepared by ICTY Prosecution Experts,” in Karganovic and Simic, *Rethinking Srebrenica*, pp. 130-167.

<sup>108</sup> Rodrigues *et al.*, *Judgment, Prosecutor v. Radislav Krstic*, para. 77.

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<sup>109</sup> *Ibid.*, para. 75.

<sup>110</sup> *Ibid.*, para. 81-82.

<sup>111</sup> Michael Mandel, “The ICTY Calls It ‘Genocide’,” in Herman, Ed., *The Srebrenica Massacre*, pp. 213-225; here p. 213. <<http://tinyurl.com/kyrfw2b>>

<sup>112</sup> Rodrigues *et al.*, *Judgment, Prosecutor v. Radislav Krstic*, para. 592; and para. 595.

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<sup>113</sup> William A. Schabas, “Was Genocide Committed in Bosnia and Herzegovina? First Judgments of the International Criminal Tribunal for the Former Yugoslavia,” *Fordham Journal of International Law*, Vol. 25, No. 23, 2001-2002, p. 46.

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- <sup>114</sup> Meron *et al.*, *Judgment on Appeals, Prosecutor v. Radislav Krstic*, para. 2. <<http://tinyurl.com/lm7mpv2>>
- <sup>115</sup> *Ibid.*, para. 28.
- <sup>116</sup> *Ibid.*, para. 15-16, and n. 27.
- <sup>117</sup> See George Bogdanich, “Prelude to the Capture of Srebrenica,” in Herman, Ed., *The Srebrenica Massacre*, pp. 39-67; esp. pp. 57-58. <<http://tinyurl.com/kyrfw2b>>
- <sup>118</sup> Meron *et al.*, *Judgment on Appeals, Prosecutor v. Radislav Krstic*, para. 15. <<http://tinyurl.com/lm7mpv2>>
- <sup>119</sup> Bogdanich, “Prelude to the Capture of Srebrenica,” in Herman, Ed., *The Srebrenica Massacre*, p. 44ff. <<http://tinyurl.com/kyrfw2b>>
- <sup>120</sup> See Updated Statute of the International Criminal Tribunal for the Former Yugoslavia, Article 4, “Genocide,” pp. 5-6. <<http://tinyurl.com/pd7uctd>>
- <sup>121</sup> Meron *et al.*, *Judgment on Appeals, Prosecutor v. Radislav Krstic*, para. 61. <<http://tinyurl.com/lm7mpv2>>
- <sup>122</sup> Momir Nikolic, at the time the Bratunac Brigade’s Chief of Security and Intelligence, has claimed since the trial of Vidoje Blagojevic and Dragan Jokic in 2003 that on the morning of July 12, 1995, prior to the third and final meeting between Ratko Mladic and Bosnian Muslim representatives at the Hotel Fontana in Bratunac, he had a conversation with Blagojevic and Jokic: “I know what Mr. Popovic and Kosoric told me. Quite simply, the position was that all civilians would be evacuated, that the men would be detained—separated, detained, and killed.” See Nikolic’s testimony in *Prosecutor v. Vidoje Blagojevic and Dragan Jokic*, Case No. IT-02-60-T, International Criminal Tribunal for the Former Yugoslavia, September 22, 2003, p. 1683, lines 8-10. <<http://tinyurl.com/nvwlmhf>>
- <sup>123</sup> See, e.g. Tim Fenton, “The Military Context of the Fall of Srebrenica,” in Herman, Ed., *The Srebrenica Massacre*, pp. 68-102. <<http://tinyurl.com/kyrfw2b>>
- <sup>124</sup> Laughland, *Travesty*, Ch. 6, “‘Just convict everyone’,” pp. 110-124; here p. 117.
- <sup>125</sup> Judge Mohamed Shahabuddeen *et al.*, *Judgment on Appeal, Prosecutor v. Dusko Tadic*, Case No. IT-94-1-A, July 15, 1999, para. 220-229; here para. 228. <<http://tinyurl.com/6zn3mbp>>
- <sup>126</sup> Trial Transcript, *The Prosecution of the Tribunal Against Slobodan Milosevic et al.*, Case Nos. 11-99-37-PT, IT-01-50-PT, and IT-01-51-I, International Criminal Tribunal for the Former Yugoslavia, December 11, 2001, p. 68, lines 6-7; and lines 14-15. <<http://tinyurl.com/ne37vjw>>
- <sup>127</sup> *Ibid.*, p. 69, lines 9-11.
- <sup>128</sup> *Ibid.*, p. 70, lines 12-13.
- <sup>129</sup> *Ibid.*, p. 71, lines 5-6; line 11.
- <sup>130</sup> *Ibid.*, p. 72, lines 1-8.
- <sup>131</sup> Judge Richard May, *Decision on Prosecution’s Motion for Joinder, Prosecutor v. Slobodan Milosevic*, Case Nos. 11-99-37-PT, IT-01-50-PT, and IT-01-51-I, International Criminal Tribunal for the Former Yugoslavia, December 13, 2001, para. 53. <<http://tinyurl.com/pc4k817>>
- <sup>132</sup> Trial Transcript, *The Prosecution of the Tribunal Against Slobodan Milosevic et al.*, August 25, 2005, p. 43227, lines 15-23, emphases added. <<http://tinyurl.com/pqj69qz>> Also see Herman and Peterson, “The Dismantling of Yugoslavia,” Section 2, “The Role of the Serbs, Milosevic, and ‘Greater Serbia’,” pp. 9-14. <<http://tinyurl.com/o29mrdx>>
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*Times on the Yugoslavia Tribunal: A Study in Total Propaganda Service,*” *Cold Type*, 2004. <<http://tinyurl.com/mxcaxj>>

<sup>134</sup> See Dusan Janc, *Update to the Summary of Forensic Evidence—Exhumation of the Graves and Surface Remains Recoveries Related to Srebrenica—January 2012*, Exhibit No. X0197186, January 13, 2012, p. 3; and Annex A, “Mass Grave Sites,” p. 4. <<http://tinyurl.com/onh4wwt>>

<sup>135</sup> Civikov, *Srebrenica: The Star Witness*. <<http://tinyurl.com/o22mn7e>>

<sup>136</sup> See Ivanisevic, *Srebrenica July 1995*, p. 4. <<http://tinyurl.com/opzdpyk>>

## **Concluding Note: The “Reconciliation” Gambit**

<sup>137</sup> We write “prejudicial,” in the sense that what was at the time being contested among the republics, the constituent nations, and the federal authorities were the interrelated questions of whom was the subject of international law, in whom did the right to self-determination reside, and who possessed the right to secede. By ruling in effect that the SFRY no longer existed, and that the right to self-determination as well as secession belonged to a “federal unit” (i.e., the republics) rather than a “nation,” not only did the Badinter Arbitration Committee overthrow the SFRY’s 1974 Constitution, it openly took the side of the republican secessionist factions. See Alain Pellet, “The Opinions of the Badinter Arbitration Committee: A Second Breath for the Self-Determination of Peoples,” *European Journal of International Law*, Vol. 3, No. 1, 1992, pp. 178-185. <<http://tinyurl.com/pol6hco>>

<sup>138</sup> See, e.g., Robert M. Hayden, *Blueprints for a House Divided: The Constitutional Logic of the Yugoslav Conflicts* (Ann Arbor, MI: University of Michigan Press, 1999), Ch. 5, “Wishful Legality: The Badinter Committee and the Dissolution of the Bosnian State, 1990-1992,” pp. 87-98.

<sup>139</sup> UN Security Council Draft Resolution S/2015/508, July 8, 2015, para. 2-3. <<http://tinyurl.com/pzx73ko>>

<sup>140</sup> “The situation in Bosnia and Herzegovina” (S/PV.7481), UN Security Council, July 8, 2015, p. 6. <<http://tinyurl.com/opveu6v>>

<sup>141</sup> We doubt whether an estimate such as this exists, but we’d like to learn the number of Western celebrities who have taken the “Srebrenica tour.” See, e.g., “Hague, Jolie visit Srebrenica: actress leaves in tears,” *Daljje.com*, March 30, 2014. <<http://tinyurl.com/nkw2we6>>

<sup>142</sup> See David Chandler, *Bosnia: Faking Democracy After Dayton* (Sterling, VA: Pluto Press, 1999); and David Chandler, *Empire in Denial: The Politics of State-building* (Ann Arbor, MI: Pluto Press, 2006).

<sup>143</sup> “Text of Clinton Remarks to the American Society of Newspaper Editors,” Associated Press, April 15, 1999. <<http://tinyurl.com/nb2clcg>>

<sup>144</sup> Michael P. Scharf, “Making a Spectacle of Himself; Milosevic Wants a Stage, Not the Right to Provide His Own Defense,” *Washington Post*, August 29, 2004. <<http://tinyurl.com/oeqmlny>>

<sup>145</sup> See Herman and Peterson, “The Dismantling of Yugoslavia.” <<http://tinyurl.com/o29mr dx>>