

VIEW FROM THE HAGUE

THE CRIME IN SREBRENICA WAS PLANNED

In July 1995, Bosnian Serb forces in Srebrenica committed genocide. The victims of this horrible crime have been saying this for quite some time, and now the International Criminal Tribunal for the former Yugoslavia in The Hague confirmed this fact. On Monday, the Tribunal's Appeals Chamber handed down the judgment against General Radislav Krstić for his involvement in the genocide committed in eastern Bosnia and sentenced him to 35 years in prison.

The first indictment against General Krstić was issued in November 1998, and the amended indictment in October 1999. The Tribunal accused General Krstić of crimes committed in July 1995 in Srebrenica; specifically, genocide, violations of the laws and customs of war and crimes against humanity. Radislav Krstić was arrested on 2 December 1993, his trial began on 13 March 2000, and on 2 August 2001, the Trial Chamber pronounced him guilty of genocide.

When the crimes in Srebrenica were committed, Radislav Krstić was a General-Major in the VRS and the commander of the Drina Corps. According to the Tribunal's indictment against him, between 11 and 18 July 1995, forces of the Army of Republika Srpska (VRS), commanded and lead by Ratko Mladić and Radislav Krstić, drove out and killed the majority of the Bosnian Muslim population in the Srebrenica enclave. After they took the enclave, Bosnian Serb forces killed between seven and eight thousand men from Srebrenica. As a result of these actions the Bosnian community in eastern Bosnia ceased to exist. The campaign of ethnic cleansing which began in the spring of 1992 was thus finished. The Appeals Chamber confirmed that General Krstić was guilty of aiding and abetting in genocide. Unfortunately, the main culprits of this crime are not included in this judgment.

Under international law and in the Tribunal's Statute, the crime of genocide includes certain acts which are committed "with the intent to destroy, in whole or in part, a national, ethnic, racial or religious group as such." These acts can include killing members of the group, causing serious bodily or mental harm to members of the group, deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part, etc.

Even though the term "genocide" is often incorrectly used to refer to various types of criminal acts, and especially those committed during a war, genocide in the legal sense is very precisely defined. Its seriousness is reflected in the fact that very strict requirements must be met for one to be convicted of this crime. These requirements - the demanding proof of specific intent and the showing that the group was targeted for destruction in its entirety or in substantial part - guard against a danger that convictions for this crime be imposed lightly. In keeping with this, deporting a population, for example, in and of itself cannot be characterized as genocide, even if accompanied by killings and terror, despite the fact that the media and politicians often call it that. Because of such incorrect use of terminology, among other reasons, criminal courts review charges of genocide very carefully.

In relation to the crimes in Srebrenica, it has been established beyond any reasonable doubt that it was genocide. In confirming the first instance judgment, the Appeals Chamber established that "[b]y seeking to eliminate a part of the Bosnian Muslims, the Bosnian Serb forces committed genocide. They targeted for extinction the forty thousand Bosnian Muslims living in Srebrenica, a group which was emblematic of the Bosnian Muslims in general. They stripped all the male Muslim prisoners, military and civilian, elderly and young, of their personal belongings and identification, and deliberately and methodically killed them solely on the basis of their identity.

The Bosnian Serb forces were aware, when they embarked on this genocidal venture, that the harm they caused would continue to plague the Bosnian Muslims."

Several cases relating to the crimes committed in Srebrenica have already been heard before the ICTY. These proceedings were concluded through the guilty pleas of the accused (Prosecutor vs. Dražen Erdemović, Prosecutor vs. Momir Nikolić, and Prosecutor vs. Dragan Obrenović). At the moment the Tribunal is conducting proceedings against Vidoje Blagojević and Dragan Jokić for their alleged role in these crimes. However, some of those who are considered most responsible for what happened at Srebrenica are still at large. Justice will not be satisfied until Radovan Karadžić and Ratko Mladić, as well as Ljubiša Beara, Vujadin Popović and others appear before the Tribunal in The Hague in order to answer the charges against them.

The ICTY Appeals Chamber concluded that, among the grievous crimes this International Tribunal has the duty to punish, the crime of genocide is singled out for special condemnation and opprobrium. The crime is horrific in its scope; its perpetrators identify entire human groups for extinction. Those who devise and implement genocide seek to deprive humanity of the manifold richness its nationalities, races, ethnicities and religions provide. This is a crime against all of humankind, its harm being felt not only by the group targeted for destruction, but by all of humanity.

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