

MOTHERS of JUSTICE

Sergio Painsi



Sergio Pains
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Forewords

The response to the question why no one prevented genocide in Bosnia and Herzegovina, where the intentions of various political groups who publicly declared their plans of carrying out violence were not recognised, is not because of the ignorance of the media or the politicians, who presented genocide as a "chaotic historical drama" in which the conflict of tribes determined the dark fate of the Balkans, but because of the passiveness and indolence of world institutions, which were obliged to prevent it, not to tolerate it. For this reason in his book "Mothers of Justice"¹ Sergio Painini emphasizes that because authorized institutions and politicians did not do anything to prevent or stop genocide, they are not only responsible for making it possible, but also for recognizing and legalizing genocide politics, of which they also can become victims.

Passivness in comparison to evil and the helplessness to react to that evil, does not only express the helplessness of good against the blind mechanisms of violence; but in con-



trast, it also demonstrates the fact that only evil and violence penetrated through to those who, in the name of remaining neutral assumed a passive and highly inactive attitude, while one of the largest massacres in the history of Europe was unfolding in front of their eyes. Since inactiveness is also activeness, meaning that, in passiveness itself, in indolence and indifference lies the bud of violence which is sprouting and spreading through its underground passages.

What is more: this passiveness and indolence is evident from the postwar situation in Bosnia and Herzegovina, in which peace was more a matter of compromise which only stopped the war, freezing conflict, and not, by the principles of justice, a foundation for long-term peace and stability. The war in Bosnia, which was at one stage a world media spectacle, became a part of media archives, forgotten. The silence and abandonment legitimize another conflict, the economic and moral conflict, which is pressing and suffocating the citizens of Bosnia and Herzegovina in an invisible and deceitful way. With the Dayton peace agreement, Bosnia entered a "state of exception", the same state which in

Walter Benjamin's opinion defined the political situation following the First World War, because the Weimar agreement about the stoppage of conflict did not definitely block the war, but produced the potential for a new conflict. Subsequent research of the mythology of the Third Reich is, in a big way, conditioned by the Weimar peace agreement. In the same way, the Dayton Peace Agreement, which only stopped the war, left behind an unresolved conflict. For this reason the following questions are legitimate: how is the conflict conserved and can it explode at any time. Sergio touches on all of these questions in his study, not as an "abstract scholar" who wants to evaluate the whole Bosnian situation and categorize and place it within a priori scholarly assumptions; but in contrast he explains the war and post-war situation through his personal experience and commitment and through direct contact with people and their tragic fate.

Senadin Musabegovic

1 "Mothers of Justice" is MA work "Genocide vs. Justice - Fadila Memišević and the power of individual citizens in Bosnia-Herzegovina", done during European Regional Master in Human Rights and Democracy in South East Europe, 2002 / 2003, supervisor Janja Bec-Naumann, Universities Sarajevo and Bologna

INTRODUCTION

*"Who, after all, speaks today of the annihilation of the Armenians?"¹
Adolf Hitler, dictator (Obersalzberg, 1939)*

What is genocide? What kinds of reactions does it give rise to? How can an individual oppose it and fight for justice? These three questions point immediately to the main topic of my paper: the extraordinary work of Mrs Fadila Memisevic for chasing war criminals and keeping the memory of genocide alive during and after the latest war in Bosnia and Herzegovina (hereinafter B&H).

When no international organization or foreign State was reacting against the bloodshed in B&H, a historian from Zenica started to record the evidence of war crimes, trying to change the false perception of the world towards B&H: "it was not a civil war, but an aggression leading to genocide".²

By carefully reporting on the experience of victims and eye-witnesses, she highlighted the existence of Serb-run con-

centration camps. After the United Nations (hereinafter UN) established the ad hoc International Criminal Tribunal for the former Yugoslavia (hereinafter ICTY)³, she handed over a list of 1,350 suspects to Richard Goldstone, the first appointed prosecutor. Whilst in Germany, Fadila spotted one of them, Dusko Tadic, and had him arrested by the local police. He became the first war criminal condemned by the ICTY in The Hague. Justice had begun its difficult journey through the Balkan wars.

Memory is necessary for demanding justice and for preventing a tragedy from being repeated. The massacre of more than 7,000 Bosnian Muslims in Srebrenica cannot be forgotten.⁴ It took place in front of the UN forces and it showed the real face of the Bosnian war:

"After Srebrenica fell to besieging Serbian forces in July 1995, a truly terrible massacre of the Muslim population appears to have taken place. The evidence tendered by the Prosecutor describes scenes of unimaginable savagery: thousands of men executed and buried in mass graves, hundreds of men buried alive, men and women mutilated and slaughtered, children killed before their mothers' eyes, a grandfather forced to eat

the liver of his own grandson. These are truly scenes from hell, written on the darkest pages of human history".⁵

It was genocide. The first official recognition came from the ICTY, on 2 August 2001, with the sentence for former Bosnian Serb General Radislav Krstic, sentenced to 46 years' for genocide in Srebrenica.⁶

After the Dayton Peace Agreement, Srebrenica was integrated into Republika Srpska, the 49% of Bosnian territory under Serb control. The world tries to forget the shame and keep the refugees quiet and far away. Fadila has not allowed it. She has organized the widows into the "Mothers from Srebrenica" movement: she gives them a public voice and assists them in the organizational problems of their difficult return.

The paper is divided into six parts. Fadila's main standpoints are explicated in each of them.

In the first chapter ("Fadila's list") I go through the personal history of Mrs Fadila Memisevic, emphasizing her efforts to capture war criminals and her commitment to the survivors of Srebrenica.

In the second chapter ("The crime of crimes") I write about the legal means to define, prevent and punish genocide.

In the third chapter ("Denial of a nation") I investigate the nature of the latest conflict in B&H and the parallel rediscovery of the Bosnian Muslim national identity.

In the fourth chapter ("The banality of evil") I examine the genocide against the Bosnian Muslims and underline the complex relationship between victims and perpetrators.

In the fifth chapter ("Realpolitik") I evaluate the reaction of the international community in B&H.

In the sixth chapter ("Mothers of the disappeared") I question the moral legacy of the "Mothers from Srebrenica".

The methodology of this paper is as follows: a legal and historical background of genocide, a sociological insight into the need for justice, and finally an examination of how justice can be achieved through individual efforts.

I focus on the need for justice in the face of genocide and on the power of citizens to oppose political fallacies.

My approach is descriptive in chapters 1 and 5, analytical in chapters 2 and 3, and polemical in chapters 4 and 6.

For my bibliography, I rely mostly on direct interviews (when this happens, sources are indicated by the context), academic books about genocide in general and the genocide against the Bosniaks in particular, articles, documentation from human rights NGOs, official reports and UN Security Council resolutions.

I conducted my field research during the summer of 2003: I worked with Mrs Fadila Memisevic in Sarajevo, interviewed victims and perpetrators in Kozarac and frequently travelled to Srebrenica to meet the "Mothers".

Notes

1 STAUB, Ervin. *The Roots of Evil: the Origins of Genocide and Other Group Violence*. New York: Cambridge University Press, 1989, p. 8.

2 Interview with Mrs Fadila Memisevic, Sarajevo 30/06/2003 (hereinafter "MEMISEVIC, Fadila").

3 Resolution was accepted "in the face of the serious violations of international humanitarian law committed on the territory of the former Yugoslavia since 1991, and as a response to the threat to international peace and security posed by those serious violations".

UN Resolution S/RES/827 (1993), 25 May 1993 at <http://www.un.org/icty>, 15/10/2003.

4 From statistical statements from the International Committee of the Red Cross: in total 7,294. Figures quoted in HOLBROOKE, Richard. *To End a War*. New York: Random House, 1998, p. 70. On the contrary, according to the data of the association "Mothers from Srebrenica" 10,701 Bosniaks went missing in the exodus: 9,098 men, 1,042 infants and children, 570 women; A register of the missing persons in Srebrenica can be found at <http://www.gfbv-sa.com.ba/srebreng.html>, 15/10/2003.

5 Judge Riad statement, in the "Srebrenica Report" of the UN Secretary General of 15 November 1999 (drawn-up pursuant to § 18 of the Resolution 53/35 of the General Assembly of the Organization of United Nations dated 30 November 1998; hereinafter "UN Srebrenica Report", 1999), § 2, at <http://www.haverford.edu/relg/sells/reports/UNsrebricareport.htm>, 15/10/2003.

6 See <http://www.un.org/icty/krstic/TrialC1/judgement>, 15/10/2003.

FADILA'S List

*"Il faut avoir un esprit dur et le coeur tendre"¹
(You need to have a strong spirit and a tender heart)
Jacques Maritain, philosopher (1882-1973)*

Blond hair and green eyes, gentle ways and tough character, Fadila is a Bosnian woman, Muslim by religion.

Over the last 10 years she has been cooperating with the ICTY in order to catch war criminals and have them convicted. Nowadays she is also coordinating the first "Mothers from Srebrenica" group composed of women who have returned home to Srebrenica. Since 1997 she has been the head of the Bosnian section of the German-based Human Rights Organization "Society for Threatened Peoples" (Gesellschaft fuer bedrohte Voelker, hereinafter GfbV).² Fadila's commitment is independent of a government and political parties.

She works for the peaceful coexistence of all nationalities and religious communities in a united B&H.

Two main tasks of the GfbV-Section in B&H concern:

1. documenting war crimes and crimes of genocide and recording the testimonies of witnesses to crimes against humanity and current violations of the rights of all citizens of B&H;
2. fighting for the right of all refugees and exiles to return to their home towns and villages.

Fadila was born in Travnik on 12 December 1943, into the noble family of Rustanpasic. For her father Muharem and her mother Nisveta she was the second of their three daughters.

Travnik had been for centuries the capital of the Ottoman province of Bosnia. Fadila's great-grandfather had been a vezir (ruler), responsible for Bosnian affairs in Constantinople. Her family owned lots of fields in the area between Travnik and Bugojno. After World War II, the family lost its properties. Its castle at Bugojno was turned into a museum.

Fadila attended schools in Zenica. At the age of 21 she married a man named Hamza in Zenica, who was 10 years her

senior. She gave him two daughters: Amna and Sanja. In 1976 Fadila graduated in Medieval History from the University in Sarajevo. Her BA thesis focused on the Franciscan Order between 1209 and 1463. She won a scholarship as best student, but the Communist regime prevented her from going to the Vatican to do her research. On graduating, she returned to Zenica where first she worked in the local museum and then in a high school as a History and Latin teacher.

On 28 February 1992, the day before the referendum for the independence of B&H, Fadila was travelling to Belgrade with a group of students. Some armed people stopped the bus in Dobož and forced it to go another way. These irregulars were "Chetniks", Serbian nationalists. On 29 February and 1 March 1992, most Bosnian Muslims and Croats voted for independence³, while the majority of Serbs refused to take part in the referendum.⁴ On returning to Sarajevo, Fadila discovered Serbian check-points on the outskirts of the city.

On 5 April 1992 it was Bajram: Muslims made merry all over B&H for the end of Ramadan, the Islamic month of fasting. Fadila was in Zenica, but her two young daughters were in

Sarajevo, taking part in a massive demonstration for peace. 200,000 Bosnian citizens disregarded the barricades erected by paramilitary groups and marched through the town. They were in front of the Bosnian parliament when Serbian snipers opened fire from the Holiday Inn hotel across the street. Two young women, Suada Dilberovic and Olga Sucic, were shot dead on the Vrbanja Bridge nearby. The war had started. It was going to last for three-and-a-half years and to result in the deaths of more than 200,000 people. "The overwhelming majority of victims have been civilians, most of them killed deliberately. Moreover, other 250,000 civilians were severely injured, among them also 40,000 children".⁵ Soon after that, Amna and Sanja decided to leave Sarajevo, the new capital of the internationally recognized independent state of B&H. On 4 May 1992 Sarajevo was blocked: that date marked the beginning of the longest siege in modern history (1395 days!).⁶

Meanwhile, thousands of Muslim refugees from northern and eastern Bosnia had already fled to Zenica. "They were mostly elderly, women, and children. They were coming from

the Drina valley, the Bosnian Krajina, the region of Posavina in the north and Herzegovina in the south. They were reporting the cruellest tortures".⁷

On 25 May 1992, together with some colleagues, Fadila decided to establish a Centre for the Registration of War and Genocidal Crimes. With the assistance of 450 students and volunteers, she started interviewing people driven away from their houses. They were talking of extreme violence: executions, rapes, expulsions and concentration camps. Similar stories were being reported to Roy Gutman (winner of the Pulitzer Prize in 1993), an American journalist who managed to publish them first on 2 August 1992 in the New York "Newsday" paper. Pictures of Bosnian concentration camps were shown on TV a few days later. Those vivid images, seen by millions of viewers, made this the first case of genocide being watched as it was actually taking place.⁸ People around the world were shocked, but diplomacy was unshaken.⁹ "You could count more than 200 concentration camps on the territory of Bosnia. Around 250,000 Bosnians entered them; far fewer left. In the Serbian death camps alone, located in the

region of the Bosnian Krajina (Omarska, Keraterm, Trnopolje, Tomasica, Ljubija, Manjaca), 30,000 people were killed".¹⁰

The Centre in Zenica continued to record statements. After a war criminal had been named at least 5 times by victims not related to each other, his name was added to a long list of suspects. It was a historiography method Fadila had learnt from Simon Wiesenthal, director of the Centre against Nazi Crimes in Vienna.

On 13 February 1993 the list already contained 1,350 names. On that day Fadila left B&H for Geneva. Through the GfbV, she had received an invitation to talk to the UN about the massacres taking place in B&H. "Since the aggression of Yugoslavia (now Serbia-Montenegro) against the Republic of Bosnia-Herzegovina, I have spoken out on behalf of the Bosnian victims. By June 1992 I was already referring to the crimes being committed against the Bosnian civilian population as genocide".¹¹ She handed over the list to the GfbV and thus started to provide the German and international media with a constant supply of information concerning mass killings, expulsions, deportations, concentration camps and

absolute devastation. She provided documents and information to those UN committees of experts investigating possible war crimes and genocide.

While she was in New York with Simon Wiesenthal, the conflict between Croats and Bosniaks broke out.¹² B&H was then isolated and Fadila could not come back. She decided to stay in Goettingen, Germany, at the headquarters of the GfbV. She did not stop her research. At that time 360,000 Bosnians were living in Germany as refugees: she went on working with them, by:

- a) encouraging relief agencies, churches and private institutions to provide humanitarian assistance;
- b) organizing international conferences with experts and politicians;
- c) conducting public hearings of evidence;
- d) establishing radio contact with Bosnian towns and cities under siege;
- e) holding vigils and demonstrations for an undivided B&H.

On 14 November 1993, 5,000 Bosnians demonstrated with her in front of the former Nazi concentration camp in Buchenwald. Among them was also Marek Edelman, the last surviving leader of the Warsaw Ghetto resistance fighters. He said on that occasion: "Europe has learned nothing since the Holocaust. Nothing has been done to stop the killing. What has happened in Bosnia is a posthumous triumph for Hitler".¹³

In December 1993 she went on a hunger strike in front of the Brandenburg Tor in Berlin. Four other women, victims of ethnic rapes in B&H, were with her. They went on for 3 weeks. They wanted to denounce the Croatian aggression against B&H. "Germany had helped Zagreb in its struggle against the Serbian aggression, but then Croats turned themselves from victims into perpetrators".¹⁴

On 6 February 1994 Fadila launched the "European Forum for Bosnia-Herzegovina", bringing together more than 100 associations and clubs of Bosnian exiles, in order to achieve a more effective dialogue with the European public.

On 13 February 1994 one of her suspects was arrested in Munich by the German Federal Criminal Police. His name is

Dusan Tadic. T. E., a survivor from the concentration camp in Omarska, had informed Fadila about his presence in Germany.

Tadic was transferred to The Hague on 24 April 1995. On 14 July 1997 he became the first war criminal convicted by the ICTY. He was sentenced to 20 years of imprisonment.

"The Indictment generally alleges that in late May 1992, Serb forces attacked Bosnian Muslim and Croat population centers in the Prijedor municipality in Bosnia and Herzegovina. Subsequently the forces unlawfully confined thousands of Muslims and Croats in the Omarska, Keraterm and Trnopolje camps. The Indictment alleges that between late May 1992 and 31 December 1992, Dusko Tadic participated in attacks on and the seizure, murder and maltreatment of Bosnian Muslims and Croats in the Prijedor municipality, both within and outside the camps".¹⁵

Dusan Tadic was found guilty on the basis of individual criminal responsibility (article 7.1 of the Statute) for:

a) crimes against humanity (article 5 of the Statute - persecution on political, racial and/or religious grounds; inhumane acts),

b) violations of the laws or customs of war (article 3 - cruel treatment).

Suddenly all German media began asking Fadila for an interview or a radio or TV appearance. She accepted the invitations, though her life was then at great risk: she was receiving a lot of threats from the Serbian side.

In April 1994 she managed to rally 50,000 people in Bonn to protest against the siege of Gorazde.

Thanks to the Washington Agreement (signed on 21 March 1994), B&H and Croatia stopped fighting against each other. On 16 June 1994 Fadila got on a bus, bound for B&H. The trip from Germany lasted for one week. Controls were exhausting. At the Herzegovinian border between Croatia and B&H she was harassed by a nationalist Croatian youngster. In the end she managed to make her way through central Bosnia and see her family again, after more than 16 months of painful separation.

She spent the summer in Zenica, but in September went back to Germany: she had to go on working as an expert with Cherif Bassiouni, head of the International Commission for War Crimes in the former Yugoslavia. They managed to get

the first prosecutor of the ICTY, Richard Goldstone, to accept "ethnic rape" as a war crime. "The Serbs had established specific camps for young women in Visegrad, Foca, Sokolac, Brcko, Vlasenica. During the war the Serbs raped more than 20,000 Bosnian women".¹⁶

Fadila stayed in Germany until the end of the conflict. On 6 July 1995 she was the last one to receive the news from a radio amateur in Srebrenica. On 12 July 1995, the day after the ignominious fall of the UN "safe area", she went to Oggersheim and, together with some other GfbV activists, dug 1,000 gravestones and 300 crosses in front of the house of the German Chancellor Helmut Kohl.

After some months she met with Tadeusz Mazowiecki, formerly a Solidarity leader and the Polish prime minister who became the United Nations' Special Rapporteur for Human Rights in former Yugoslavia. He had announced his resignation as a protest against the inaction and inconsistency of the international community. Fadila shared his disappointment about the West's fictitious defence of human rights and his bitterness about the unjust end of the conflict through the

Dayton peace agreement, which stopped the war but did not assure a real and stable peace: "Recognition of the Serb Republic does acknowledge the reality, but it is also an invalidation of the politics which was not capable of forestalling such political realities".¹⁷

Srebrenica is now in Republika Srpska. "The world tries to conceal its shame and disregard this little town where 10,000 people were slaughtered in front of the UN soldiers. Right now there are no international offices there. The closest SFOR [Stabilization Force, international military] units are in Bratunac, 10 km away, and they patrol Srebrenica only at daytime. In such an abandoned situation, it is no surprise that so far more dead people have returned than survivors!"¹⁸

To date, only 300 widows have returned, risking discrimination and threats to personal and social security. They are the "Mothers from Srebrenica" (*Srebrenicke majke*), part of an association created in 1998 and still vigorously sustained by Fadila and the GfbV.

"My basic motivation for these actions and campaigns starts from the conviction that there can be no real justice without peace. In my office I have posted on

the wall a Native American piece of wisdom: 'Peace is not only the opposite of war, it is not only the time between wars. Peace is more. Peace is the law of human life. Peace is when we do right and when there is justice between every human being and every nation'. I absolutely agree".

The current president of the "Mothers from Srebrenica / GfbV" group in Srebrenica is Mrs Hatidza Mehmedovic. She lost her husband, her two under-age sons and all her other male relatives in the massacre. However she is still very strong and does not want to give up. She affirms: "If I had not returned my dear ones would have died twice".

The GfbV, led by Fadila, assists the "Mothers" in confronting the media and tribunals. It has supported their request for the construction of a Memorial Centre in Potocari, on the site of the former UN base, and at the same time it continues to provide the association in Srebrenica with material help, for example by distributing cows to the peasants on the surrounding hills.

For years, on the 11th of each month, the "Mothers" have been marching with Fadila along the streets of Sarajevo and Tuzla. They don't want to be forgotten.

After the Jewish Holocaust, Western democracies justified their passivity by claiming they did not know. This time, in B&H, they cannot hide their responsibilities. "Every time I think about it, Karl Jasper's theory of metaphysical guilt comes back to my mind: those who are present at the murder of innocents, without risking their lives to prevent it, are guilty in a way not adequately conceived legally, politically or morally".¹⁹

The whole world knew, but it simply did not care. "The whole world, the whole world knows what happened, (...) the whole world watched".²⁰ In the rest of the paper I highlight what politics tried to ignore and how individuals reacted against barbarity, indifference and cynicism.

In the next chapter I start by considering genocide from a legal point of view.

Notes

1 NICOLETTI, Michele *Il cuore duro e lo spirito tenero* di Sophie Scholl in "Il Margine" at <http://www.il-margine.it/archivio/2003/loc3.htm>, 15/10/2003.

2 "The Society for Threatened Peoples International (GfbV) fights to safeguard the rights of threatened and persecuted minorities, nationalities and religious communities. Our human rights organization was founded in 1970 by Tilman Zuelch and today has a membership of 7,000 and approximately 25,000 supporters. We fight against genocide, expulsion and the suppression of languages and cultures. GfbV has consultative status within the Economic and Social Council of the United Nations". See <http://www.gfbv.de>

3 "A group which had been subordinated in Yugoslavia (the Bosnian Muslims) now constituted a local plurality in Bosnia, and would become dominant in the new state of Bosnia over the previously hegemonic group in Yugoslavia (the Serbs)". FEIN, Helen. "Testing Theories Brutally: Armenia (1915), Bosnia (1992) and Rwanda (1994)" in CHORBAJIAN, Levon and SHIRINIAN George, Eds. *Studies in Comparative Genocide*. Houndmills, Basingstoke, Hampshire, and London: Macmillan Press, 1999, p. 162.

4 "62.68 percent of Bosnia and Herzegovina's population voted overwhelmingly (99.7 percent of ballots cast) for independence. Many Bosnian Serbs boycotted the referendum, as urged by Radovan Karadzic [president of the SDS party] and by pamphlets dropped by the Yugoslav air force, preferring to belong to the Serb Republic proclaimed on 21 December 1991 and thence to be incorporated into the newly formed Yugoslavia". FRIEDMAN, Francine. *The Bosnian Muslims. Denial of a Nation*. Boulder, CO: Westview Press, 1996, p. 217.

5 MEMISEVIC, Fadila.

6 "10.615 persons, out of whom 1.601 children were killed in Sarajevo. More than 50.000 persons were wounded, a great number of whom remain invalids. The siege of the city lasted from May 2, 1992 to February 26, 1996 or 1.395 days, which is the longest siege

in the modern history of mankind". At <http://www.saray.net/SurvivalMap>, 15/10/2003.

7 MEMISEVIC, Fadila.

8 CIGAR, Norman. *Genocide in Bosnia: The Policy of Ethnic Cleansing*. College Station: Texas A&M University Press, 1995, p. 9.

9 "Early and widespread publicizing of genocide is key in combating it, especially at the hands of a relatively weak power like the Serbs. Perpetrators are likely to interpret passivity or [a] low-key approach by foreign bystanders as indifference, tacit approval, or proof of their own imperviousness. At the same time, the non-recognition of genocide abroad is likely to delay or undermine attempts at prevention. [...] In the case of Bosnia-Herzegovina, extensive media coverage, in particular, may have been instrumental in at least mitigating some of the worst excesses of ethnic cleansing, if not in stopping it. Even such a simple step as documenting detainees can provide some insurance against their killing, as detainees released from Serb-run concentration camps were to attest". *Ibid.*, pp. 141-42.

10 MEMISEVIC, Fadila.

11 *Ibid.*

12 The Serbian and Croatian communities, which until recently had hurled bitter mutual accusations of being engaged in genocide against each other, virtually overnight not only stopped fighting over a wide area but also actually conducted combined military operations against the Muslims (as, for example, during the offensives against Zepce and Maglaj), CIGAR, Norman. 1995, p. 52.

13 See <http://www.gfbv.de>

14 MEMISEVIC, Fadila.

15 TADIC Case (IT-94-1). See <http://www.un.org/icty/glance/tadic.htm>, 15/10/2003.

16 MEMISEVIC, Fadila.

17 MADUNIC, Branko and ZUTELJA, Zeljko, *Unprotecting The Protected in "Globus"*, No. 250, 22/09/1995.

18 MEMISEVIC, Fadila.

19 *Ibid.*

20 BEC, Janja. *The Shattering of the Soul*. Belgrade: Helsinki Committee for Human Rights in Serbia and Radio B92, 1997, p. 70 (Emira).

THE CRIME of Crimes

Pessimum facinus auderent pauci, plures vellent, omnes paterentur¹

(The worst crime was dared by a few, willed by more and tolerated by all)

Cornelius Tacitus, historian (55-117)

Definition of genocide

Since the beginning of criminal law, there has been in existence a scale of sanctions proportional to the social denunciation of the offence. Genocide is at the top: "It is, as the International Criminal Tribunal for Rwanda has stated so appropriately in its first judgments, the crime of crimes".²

Classic genocides are generally initiated by authoritarian states, premeditated, involving great cruelty, and bringing about large numbers of deaths in absolute terms and as a

percentage of the target population. The promoters of such a policy often go unpunished. As José Ayala Lasso, former UN High Commissioner for Human Rights, once put it: "A person stands a better chance of being tried and judged for killing one human being than for killing 100,000".³

The word *genocide* means "the killing of a people". It's a combination of two ancient European expressions: *genos* (race, tribe, clan, family in Greek) and *occidio* (murder, killing in Latin).⁴ The destruction of human groups has a very long history: "The fact of genocide is as old as humanity" ⁵, but the term is relatively new: the Polish-Jewish émigré jurist Raphael Lemkin (1900-1959) coined it in 1944. In his book "Axis Rule in Occupied Europe" ⁶, he explained the concept in this way:

"Genocide does not necessarily mean the immediate destruction of a nation, except when accomplished by mass killings of all members of a nation. It is intended, rather, to signify a coordinated plan of different actions aiming at the destruction of essential foundations of the life of national groups, with the aim of annihilating the groups themselves. The objective of such a plan would be the disintegration of the political

and social institutions of culture, language, national feelings, religion, and the economic existence of national groups, and the destruction of the personal security, liberty, health, dignity and even the lives of the individuals belonging to such groups".⁷

Lemkin fought for the recognition of genocide from 1933. After World War II he served on the United States (hereinafter US) staff at the Nuremberg trial. The International Military Tribunal charged the defendants with:

"Deliberate and systematic genocide, viz., the extermination of racial and national groups, against the civilian populations of certain occupied territories in order to destroy particular races and classes of people, and national, racial or religious groups, particularly Jews, Poles, and Gypsies. The United Nations War Crimes Commission later observed that 'by inclusion of this specific charge the Prosecution attempted to introduce and to establish a new type of international crime'. At the close of the Nuremberg trial, in August 1946, the French prosecutor, Champetier de Ribes, stated: 'This is a crime so monstrous, so undreamt of in history through the Christian era up to the birth of Hitlerism that the term genocide had to be coined to define it'.⁸

Lemkin won another important battle on 11 December 1946, when the General Assembly of the UN passed resolution 96 (I). It stated: "Genocide is a denial of the rights of existence of entire human groups, as homicide is the denial of the right to live of individual human beings; (...) Many instances of such crimes occurred, when racial, religious, political and other groups have been destroyed, entirely or in part".⁹

On 9 December 1948, in Paris, the UN adopted the very first human rights convention: the Convention on the Prevention and Punishment of the Crime of Genocide (resolution 260). Article 1 characterizes genocide as "a crime under international law" and article 2 defines the crime as the

"Intent to destroy in whole or in part, a national, ethnic, racial or religious group as such

- a) Killing members of the group;
- b) Causing serious bodily harm to members of the group;

- c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- d) Imposing measures intended to prevent births within the group;
- e) Forcibly transferring children of the group to other groups".¹⁰

For a long time this definition has been criticized, first of all because it did not include political groups.¹¹ Actually Lemkin's attempt to include this category was blocked by the Soviet Union, worried about the possible consequences of such a statement in its internal affairs. The reference was eventually removed in order to save the rest of the treaty.

According to article 2, genocide requires the "*intent* to destroy a group in whole or in part": this may be difficult to prove during contemporary acts of genocide and especially those stemming from conflict situations.

The official definition of genocide is actually too restrictive. "It has failed to cover, in a clear and unambiguous manner, many of the major human rights violations and mass killings perpetrated by dictators and their accomplices".¹²

Another major shortcoming of the Convention is its enforceability, since only governments can take cases to court. A contradiction is obstructing the convention: genocide is widely intended as a state crime¹³, but international legal principles like the territorial integrity of states, their sovereignty and non-intervention in their internal affairs often prevent the UN from taking effective actions against genocide. Such forceful arguments make some scholars consider the Convention an "almost complete failure".¹⁴

"The Human Rights movement aims at the eradication of impunity and the assurance of security, but it is still far from its objectives".¹⁵ Facts have shown that until the 1990s there was no effective legal protection against genocide.

In order to prevent and punish this crime, "in order to liberate mankind from such an odious scourge, international co-operation is required"¹⁶. Ad hoc International Criminal Tribunals are very useful, but call for specific will, time and large expenses. A permanent Court can operate in a more consistent way and it is ready to take over when the nation-

al criminal justice institutions are unwilling (e.g. Yugoslavia) or unable to act (e.g. Rwanda).

Some positive developments in terms of prosecution for genocide, came through the new definition of "crimes against humanity" as contained in the Rome Statute of the International Criminal Court (1998). It does not require "intent to destroy" by the perpetrators, but that such atrocities as extermination and mass violence are committed as part of a "widespread or systematic attack directed against any civilian population".¹⁷

International criminal tribunals

"There can be no peace without justice, no justice without law and no meaningful law without a Court to decide what is just lawful under any given circumstance".¹⁸ Bringing war criminals to trial is a vital deterrent to would-be perpetrators and an effective way to defuse potential calls for individual retaliation. "Without justice there is no healing and reconciliation. For us, justice is arresting and punishing all

those who committed war crimes. Through the collection of evidence materials, such as statements of witnesses and other documentation, we support the work of the ICTY".¹⁹

Interest in the achievement of global justice starts with Immanuel Kant's cosmopolitanist morality. His main idea is "to heighten the sensitivity of people in one place to wrongs done in another".²⁰ In his opinion "sovereignty"²¹ and "order" should be replaced with "universalism" and "common good". If a state by its conduct outrages the conscience of mankind, outsiders are obliged to interfere: it is the bulk of the doctrine of "humanitarian intervention". This duty derives from the basic right of each individual to life²², "in the sense both of a right to security against violence and of a right to subsistence"²³ The only effective protection against genocide derives from this ethical philosophical perspective.

Following World War II, two military tribunals were established in Nuremberg and Tokyo to judge and punish the crimes of Nazi Germany and Japan. Then, for more than 40 years we had substantial impunity for the new perpetrators of genocide. The situation changed in the 1990s, when the

UN established two *ad hoc* International Criminal Tribunals: for the former Yugoslavia ²⁴ (on 25 May, 1993; based in The Hague, Netherlands) and for Rwanda ²⁵ (on 8 November 1994; based in Arusa, Tanzania).

Let us focus on the Balkan case. The International Criminal Tribunal for the former Yugoslavia (ICTY) can claim primacy over national courts.²⁶ Its legal subjects are only those individuals who have committed any of the following crimes:

- a) Grave breaches of the 1949 Geneva Conventions (article 2 of the Statute of the Tribunal).
- b) Violations of the laws or customs of war (article 3).
- c) Genocide and complicity in genocide (article 4).
- d) Crimes against humanity (article 5).

Tadeusz Mazowiecki commented:

"My position toward The International War Crimes Tribunal has been gradually changed. At first, I was warning my international colleagues that the War Crimes Court in Nuremberg had been established after, not during, the war, and so it would be difficult to bring the suspects to the Hague Tribunal during the war. It could happen that only perpetrators, and not commanders, would be punished. But, I changed my

position last year [1994], when I visited central Bosnia and witnessed the emergence of the Croatian-Bosniak Federation. I understood how it was important for those people that some institution was established where they could present evidences about crimes committed in the war. From that institution one could expect, sooner or later, some kind of justice. Without such institution, a normalization of the situation is not possible".²⁷

As already stated in the introduction, the ICTY declared the Bosnian Serb General Radislav Krstic guilty of genocide, in connection with the massacre that took place in Srebrenica. The former president of Yugoslavia, Slobodan Milosevic, has also been on trial since 12 February 2002. On the basis of individual criminal responsibility (article 7.1 of the Statute) and superior criminal responsibility (article 7.3 thereof) the indictments charge him with: genocide in Bosnia-Herzegovina and crimes against humanity in Croatia and Kosovo.

Fadila hopes that the trial will establish that B&H was a victim of external aggression. "I am looking forward to a triumph for justice, not a triumph over Milosevic. Fighting for justice is a moral obligation towards the victims, a prerequi-

site for a stable peace and the best deterrent for future war criminals. Heads of states must not be granted impunity".²⁸ Spanish judge Baltasar Garzón took this approach in two 1998 rulings, dealing with charges of genocide for the killings of political prisoners in Argentina and Chile during the 1970s and 1980s.²⁹ However, the English authorities eventually denied the extradition of the Chilean dictator Augusto Pinochet on the basis of the accusations of genocide.

"What appears singular and new today is the project of making States, or at least head of states in title (Pinochet), and even of current head of state (Milosevic), appear before universal authorities. It has to do only with projects or hypotheses, but this possibility suffices to announce a transformation: it constitutes in itself a major event. The sovereignty of the State, the immunity of the head of state are no longer, in principle, in law, untouchable".³⁰

The judgement of the Nuremberg Tribunal stated that "crimes against international law are committed by men, not by abstract entities, and only by punishing individuals who commit such crimes can the provisions of international law be enforced".³¹ Being the UN International Court of Justice

exclusively for states³² (and since it is often the same state, through the government or the army, that perpetrates or is an accomplice to genocide), it was easy to recognize the need to establish a permanent judicial organ for the trial of individuals charged with genocide.

Article 6 of the Convention³³ provides that such persons "shall be tried by a competent tribunal of the state in the territory of which the act was committed or by such international penal tribunal as may have jurisdiction..."³⁴ It took the UN 50 years, but the adoption of the Rome Statute of the International Criminal Court (ICC) on 17 July 1998 finally established the legal basis for such a tribunal. Its statute entered into force on 2 July 2002.³⁵ Kofi Annan, UN Secretary General, then stated:

"For nearly half a century - almost as long as the United Nations has been in existence - the General Assembly has recognized the need to establish such a court to prosecute and punish persons responsible for crimes such as genocide. Many thought that the horrors of the Second World War - the camps, the cruelty, the exterminations, the Holocaust - could never happen again. And yet they have. In Cambodia, in Bosnia

and Herzegovina, in Rwanda. Our time - this decade even - has shown us that man's capacity for evil knows no limits. Genocide is now a word of our time, too, a heinous reality that calls for a historic response".³⁶

Besides genocide, the statute covers "crimes against humanity": such acts include "persecution", perpetrated against "any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender (...) or other grounds that are universally recognized as impermissible under international law".³⁷ In this way many of the so-called lacunae of the Genocide Convention have been or are in the process of being filled by international law.

The problem now is that many countries are still reluctant to ratify the statute, and among them are the US, Russia and Israel.³⁸ "These examples show the priority generally given to national interests. Politics is far from achieving a cosmopolitan point of view. "Cynical realism is still the rule in international relationships. The destiny of Bosnian Muslims unfortunately seems to me as a sad metaphor of how the world works. Their right to existence was simply not of 'strategic importance'".³⁹

Notes

1 HONIG, Jan Willem and BOTH, Norbert. Srebrenica, record of a war crime. New York, Penguin Books, 1996, p. v.

2 Prosecutor v. Kambanda (Case No. ICTR-97-23-S), Judgment and Sentence, 4 September 1998, para. 16; Prosecutor v. Serashugo (Case No. ICTR-98-39-S), Sentence, 2 February 1999, para. 15. In SCHABAS, William A. Genocide in International Law. Cambridge: Cambridge University Press, 2000, p. 9.

3 Rome Statute of the International Criminal Court in <http://www.un.org/law/icc>, 15/10/2003.

4 See FREEDMAN, Warren. Genocide: A People's Will to Live. Buffalo: William S. Hein & Co., Inc., 1992, p. 11.

5 SARTRE, Jean-Paul. "On Genocide". In FALK, Richard A., KOLKO Gabriel and LIFTON Robert Jay, Eds. Crimes of War, New York: Random House, 1971, p. 534.

6 LEMKIN, Raphael. Axis Rule in Occupied Europe: Law of Occupation, Analysis of Government, Proposals for Redress. Washington: Carnegie Endowment for World Peace, 1994.

7 FREEDMAN, Warren. 1992, p. 13.

8 France et al. v. Goering et al., (1946) 22 IMT 203, pp. 45-46, 431 in SCHABAS, William A. Genocide in International Law. Cambridge: Cambridge University Press, 2002, pp. 37-38.

9 SCHABAS, William A. 2002, p. 45.

10 Art. 2 in the UN Convention on the Prevention and Punishment of the Crime of Genocide at <http://www.hrweb.org/legal/genocide.html>, 15/10/2003.

11 Actually mass murder may imply many other different reasons, including economic ones. For example, the extermination of the Indian population in the Americas was closely connected with the seizure of land. See FALK, Richard. Human Rights and State Sovereignty. New York and London: Holmes & Meier, 1981, p. 160.

12 "Groups targeted because of their political beliefs, economic or social class, or sex do not officially amount to genocide". SCHABAS, William A. 2000, p. 7.

13 Authoritarian states are the usual organizer and perpetrator of genocide, but Van den Berghe argues that such a crime can occur in democracies as well. He cites Israel, South Africa and the United States as examples and then notes that from 1945 to 1980, 75% of the violence committed by states has been directed against people within their own borders. See VAN DEN BERGHE, Pierre. *State, Violence and Ethnicity*. Niwot, Colorado: University Press of Colorado, 1990, pp. 1-4.

14 CASSESE, Antonio. *Human Rights in a Changing World*. Cambridge: Polity Press, 1994, p. 77.

15 MEMISEVIC, Fadila.

16 UN Convention on the Prevention and Punishment of the Crime of Genocide at <http://www.hrweb.org/legal/genocide.html>, 15/10/2003.

17 Rome Statute of the International Criminal Court, art. 7. At <http://www.un.org/law/icc>, 15/10/2003.

18 Benjamin Ferencz, former prosecutor at the Nuremberg trial. At <http://www.un.org/law/icc>, 15/10/2003.

19 MEMISEVIC, Fadila.

20 VINCENT, R. J. *Human Rights and International Relations*. Cambridge: Cambridge University Press, 2001, p. 118.

21 The concept of sovereignty expresses the monopoly of the state over its internal affairs (defence, taxation, law, protection of human rights etc.). "Sovereignty is the quality or authority of being independent and in charge of the conditions you live under". At <http://www.worldtrans.org/sovereignty.html>, 15/10/2003.

22 Article 3 of the Universal Declaration of Human Rights: "Everyone has the right to life, liberty and security of person". At <http://www.un.org/rights/50/decla.htm>, 15/10/2003.

23 VINCENT, R. J. 2001, p. 125.

24 The Resolution was accepted "in the face of the serious violations of international humanitarian law committed on the territory of the former Yugoslavia since 1991, and as a response to the threat to international peace and security posed by those serious violations". UN Resolution S/RES/827 (1993), 25 May 1993 at <http://www.un.org/icty>, 15/10/2003.

25 UN Resolution. S/RES/955 (1994), 8 November 1994 at <http://www.ict.r.org>, 15/10/2003.

26 "The Hague marks an innovation in international politics, particularly as it pertains to the issue of sovereignty". KUJUNDZIC, Dragan. Eichmann in Jerusalem, Milosevic in The Hague: Civility, Sovereignty, Justice. Irvine Western Humanities Alliance, UC Davis at <http://www.b92.net/feedback/misljenja/kujundzic-e.php>, 18/10/2001

27 MADUNIC, Branko and ZUTELJA. Zeljko, Unprotecting The Protected in "Globus", No. 250, 22/09/1995.

28 MEMISEVIC, Fadila.

29 It is interesting to note that in his applications alleging genocide, the destruction of a group for its non-acceptance of religion (e.g. atheists) is legally perceived as directed against a "religious group". See LACABE, Margarita. The Criminal Procedures against Chilean and Argentinean Repressors in Spain, at <http://www.derechos.net/marga/papers/spain.html>, 15/10/2003.

30 DERRIDA, Jacques. On Cosmopolitanism and Forgiveness (Thinking in Action). London: Routledge, 2001, p.77.

31 At <http://www.un.org/law/icc/>, 15/10/2003.

32 On 20 March 1993, "Bosnia-Herzegovina", invoked the Genocide Convention before the International Court of Justice in an application directed against Serbia and Montenegro [Federal Republic of Yugoslavia]" in SCHABAS, William A. 2000, pp. 7-8.

33 UN Convention on the Prevention and Punishment of the Crime of Genocide at <http://www.hrweb.org/legal/genocide.html>, 15/10/2003.

34 Rome Statute of the ICC, UN Doc. A/CONF. 183/9. At <http://www.un.org/law/icc/>, 15/10/2003.

35 Ibid.

36 Ibid.

37 Rome Statute of the ICC, UN Doc. A/CONF. 183/9, art. 7.1(h) at *ibid*.

38 At <http://www.hrw.org/campaigns/icc/ratifications.htm>, 15/10/2003

39 MEMISEVIC, Fadila.

DENIAL of a Nation

„If the Bosnian Muslims had been bottle-nosed dolphins, would the world have allowed Croats and Serbs to slaughter them by the tens of thousands?“¹

Edward Luttwak, political scientist

Aggression against Bosnia-Herzegovina

“The war started as a Serbian rebellion against the legitimate government in Sarajevo, which represented all citizens of B&H, not only Muslims. The revolt and the attack of Serbian terrorists was planned and carried out with the decisive support of the political elite in Belgrade. With the war going on and with the tacit alliance between Serbian and Croatian nationalists, the conflict degenerated in 1993 into an ethnic one”.²

Nowadays B&H is no longer conceived as a civic state. It is divided and administered along ethnic lines. "I consider this a danger to the existence of Bosnia and Herzegovina. The concept of ethnic nation is going to divide the country. Only a civic state can guarantee its existence in the future".³

The war in B&H can be interpreted not only as a war between national groups but also as a war against civil society. The victors of this "second war" are nationalist extremists on all sides. "Above all, it was a war against the values of tolerance, mutual respect, and individual autonomy that were the centre-piece of the original eighteenth-century conception of civil society. The war was designed to instil fear, hate and insecurity".⁴

This statement contradicts Western prejudices, but it is a matter of fact that between 1992 and 1995 the real targets of both Serbian and Croatian aggressors were Bosnian civilians⁵: Muslims, but also all those who could not or did not want to define themselves exclusively by nationality. They would simply call themselves "Bosnians" and felt like citizens of the new independent state of B&H.⁶

"It was not a matter of 'tribal' and 'historical' hatreds among the peoples of the former Yugoslavia. The truth is that the Belgrade regime, headed by Serbian President Slobodan Milosevic planned carefully and supported completely the genocide unleashed in B&H by Radovan Karadzic. It was an aggression, not a civil war".⁷

Moral equalization was achieved by portraying all sides as inhuman savages and by ignoring atrocities.⁸ "Clear condemnation is an essential step to halting genocide. The international community's willingness to take a firm and public stand would have removed any pretext of legality on the part of the perpetrator".⁹

Indeed Yugoslavia's collapse was the result of a multi-faceted process where Milosevic played a decisive role by embracing nationalism in an attempt to maintain his position of power. The International Committee of the Red Cross (ICRC) viewed the conflict that had erupted in B&H as having elements both of an international armed conflict (i.e. the invasion of B&H country by the Federal Republic of Yugoslavia) and of an internal armed conflict.¹⁰ The

International Court of Justice is currently judging the direct involvement of Yugoslavia (now Serbia-Montenegro) in the war in B&H.¹¹

Actually Belgrade's involvement is evident and has been proven. For example, in the city of Zvornik, located on the Drina river border area near Serbia, it was the Yugoslav Army (along with Serbian militias) that mounted an attack, killing between 4,500 and 7,000 Muslims. The victims were "thrown in canyons and buried with bulldozers, the mosques were demolished, and the surviving Muslim population was robbed and then expelled".¹² Then, "even after its announced withdrawal, the Yugoslav Army remained involved in Bosnia and Herzegovina, either through its logistic support or the presence of its personnel serving there".¹³

B&H's ethnic diversity (Muslims, Serbs and Croats) was exploited¹⁴ and finally abused to start the bloodiest war in Europe since World War II. Nationalist propaganda managed to spread the false perception of Bosnian history as a long chronicle of Balkan tribalism, ancient hatred and unavoidable violence among the different communities. On the con-

trary B&H had a rich tradition of multicultural coexistence: compromise in politics and tolerance in society were its trademarks. Common sympathy among Bosnians of all three (and, if we include the Jews, four) religious backgrounds existed, particularly in the cities.¹⁵

Extreme nationalism had already undermined this example of "unity in diversity" during World War II, before eventually destroying it in the latest war (1992-1995). However, the option of partitioning B&H was and is still against its historical tradition. B&H enjoyed independence as a medieval state, and during four centuries of Ottoman rule it was a separate and legally defined regional entity. Its special status and borders were later recognized by Austria-Hungary and communist Yugoslavia as well. Despite Serb nationalist propaganda, there is nothing artificial about B&H. On historical grounds neither Serbia nor Croatia can seriously claim any territory in B&H. "As an integral territory, including Herzegovina, Bosnia has had more durable and widely recognized borders through the centuries than either Serbia or Croatia".¹⁶

Even during the conflict, the official government of B&H never ceased to represent all citizens, regardless of their nationality.¹⁷ It was not enough: in the Dayton Agreement that formally stopped the war on 14 December 1995, the territory and population of B&H were divided along ethnic lines. "As far as population distribution is concerned, the Republika Srpska and the Federation of Bosnia and Herzegovina are now ethnically homogenized 'nation states' of the respective 'constituent' peoples: the Serbs in the Republic and the Bosniaks and Croats in the Federation".¹⁸

While in 1991 the Bosnian Muslims constituted almost one third of the then non-existent territory of the Republika Srpska, in 1997 they were down to approximately 2%.¹⁹ These figures and definitions illustrate the extent of the "ethnic cleansing" and underline the new term that had been chosen to define the Bosnian Muslims: "Bosniaks".²⁰

National identity of the Bosniaks

Bosniaks are unique in Europe as indigenous Slavic Muslims. Their existence can be traced back to the 15th century, at the time of the arrival of the Turks in the Balkan Peninsula. They converted to Islam and thus enjoyed a privileged status in the Ottoman Empire.²¹ After that, they often found themselves torn between Serbian and Croatian nationalisms. In order to balance this dangerous antagonism, the Yugoslav president Josip Broz Tito granted the Bosnian Muslims the status of "nation" in 1968.²²

During the latest war in B&H (1992-1995) the process of national self-identification speeded up: being targeted by both Serbian and Croatian nationalists, the Bosnian Muslims were bound in a contradiction. Their first inclination was to support and build a pluralistic, democratic state. They asked for international intervention against the aggressors, but the world ignored them. So they were forced to realize their own identity and ensure their survival "by doing what the Serbs and Croats feared in the first place and have now driven

them toward in a counteraction - to create an Islamic enclave in the middle of Europe".²³

A sense of belonging to an ethnic community changes according to the situation. Already in 1993 the "Muslim-led" Bosnian government had abandoned its hopes and efforts for a multinational Bosnian society and began to advance exclusively Muslim aims.²⁴

"Two developments shook the traditionally dominant Muslim approach of favoring multinational polities. First was the evident reluctance of the international community and the United States (hereinafter US) to intervene militarily, or to grant an exception to the 1991 UN arms embargo, to support the preservation of a multiethnic state. The second development was the warfare that broke out between Bosnian and Croatian forces in central Bosnia and in Herzegovina, which further contributed to the political isolation of the Bosnian Muslims and threw them back solely on their own resources".²⁵

In hard times the "primordial ties" within a group attain new importance: the recent re-evaluation of Bosniaks' historical identity is a reaction against any attempt to deny it.²⁶

The term "Bosniaks" was rediscovered to better distinguish the Muslims from the rest of the Bosnian population. The ambiguity of the term "Bosnians" (bosanci, as referring to citizenship or territorial identity) had contributed to the misleading understanding of the conflict as a "civil war". Now the Bosniaks are one of the three peoples who constitute B&H and they are considered as "the survivors of a historical experience of persecution and genocide".²⁷

"I am proud to be Muslim, but this is part of my spiritual heritage. It has nothing to do with my national definition. Once I felt at ease just by saying 'I am Bosnian, I come from Bosnia'. Now everything has changed. The very existence of my people was threatened and denied. This is the main reason why we had to adapt to the nation-state model. 'Bosniaks' is a term we were forced to rediscover through the extreme experience of genocide".²⁸

Notes

1 LUTTWAK, Edward. If Bosnians Were Dolphins... in "Commentary" 96 (October 1993), p. 27. In FRIEDMAN, Francine. 1996, p. 235.

2 MEMISEVIC, Fadila.

3 Ibid.

4 KALDOR, Mary in DUNNE, Tim and WHEELER, Nicholas J., Eds. 1999, p. 204.

5 "There were almost no battles and very little fighting between the warring factions except at certain key strategic points such as Brcko; rather the violence was mainly directed against the villages and besieged towns. The vast majority of educated young people, who represented the future hopes of civil society, left the country. Many of those who remained were killed. In the towns and villages that were ethnically cleansed, the 'intellectuals' were the first targets, slated for execution and not merely detention or rape". Ibid., p. 204.

6 A municipality in Bosnia that has succeeded in sustaining a civil society is Tuzla, an industrial town which, during the war, was constantly being shelled by Serbs. Both the political forces in power (a "civic" coalition of multiethnic parties) and the citizens chose democracy as the best answer to nationalism. "In Tuzla the concept also acquired the character of a forward-looking project that could offer hope for a better future, in contrast to the backward-looking nostalgic projects of the nationalists who had no answers to individual or social problems". Ibid., p. 206.

7 "If one examines the rhetoric of the Western press, a very clear pattern emerges. The conflict is seen as a situation in which all sides are equally guilty and are getting what they deserve: these nations are acting in a way which is tribal, irrational, and uncivilized".

CUSHMAN, Thomas. "Collective Punishment and Forgiveness. Judgments of Post-Communist National Identities by the 'Civilized' West" in MESTROVIC, Stjepan. *Genocide after Emotion*. London: Routledge, 1996, p. 185.

8 In the international community the lack of national interest was compatible with the old stereotype of Balkan tribalism: "Balkanism is the distorted depiction of the people of south-eastern Europe as barbaric with the implication that violence, even genocide, is inevitable there and part of the local culture". SELLS, Michael A. *The Bridge Betrayed. Religion and Genocide in Bosnia*. Berkeley: University of California Press, 1998, p. 125.

9 MEMISEVIC, Fadila.

10 "In its international aspect, the conflict represented a war between the JNA (later known as the Army of Yugoslavia, or VJ) on one side, against both the Army of the Republic of Bosnia and Herzegovina (ARBiH) and the Croatian Defense Council (HVO) on the other. Later in the conflict, another foreign force, the Croatian Army (HV), was involved in the fighting. In its internal aspect, the war represented a conflict between armed forces associated with the major nationalities of Bosnia and Herzegovina". UN Srebrenica Report, 1999, § 16.

11 While the war was still in progress, in March 1993, the Bosnian government brought a case for damages against the Federal Republic of Yugoslavia, FRY, at the International Court of Justice (also in The Hague). See <http://www.icj-cij.org>, 15/10/2003.

12 LANDAY, Jonathan S. *Belgrade Regime Tied to Alleged War Crimes in "Christian Science Monitor"*, 26/11/1993, p. 6.

13 MEMISEVIC, Fadila.

14 "Distinctive minority religious groups in modern times have often developed into ethnically self-conscious communities, but it has also happened, particularly in Eastern Europe and in South Asia, that religious differences have been used or even created to establish or emphasize between peoples barriers that have non-religious origins". BRASS, Paul R. "Ethnic Groups and Ethnic Identity Formation" in HUTCHINSON, John and SMITH, Anthony D., Eds. *Ethnicity*. Oxford: Oxford University Press, 1996, p. 88.

15 "In fact, since World War II, 30% to 40% of urban marriages in Bosnia have been mixed". DONIA, Robert J. and FINE, John V. A. jr.

Bosnia and Herzegovina: A Tradition Betrayed. London: Hurst and Company, 1994, p. 9.

16 Ibid., p. 7.

17 "The government of Bosnia, though often called in the press the Muslim government, has been representing those who want to keep Bosnia the entity it was as a republic within Yugoslavia. Promising equal rights to all nationalities and religions, it has been supported by much of the urban population of all ethnic groups". Ibid., p. 6.

18 MARKO, Joseph. Bosnia and Herzegovina - Multi-ethnic or multinational? p.5 at

<http://www.jus.unitn.it/users/toniatti/accl/reading/Marko.pdf>, 15/10/2003.

19 See *ibid.*, p. 4.

20 "The relationship between the terms Bosnian, Bosniak and Muslim is, however, by no means clear and unambiguous, although it appears that with the Washington and Dayton Agreements the word 'Muslim' has simply been replaced by 'Bosniak'". Ibid., pp. 10-11.

21 During the war the Serbian Orthodox Church claimed that Bosniaks were defective human beings, specifically Serbs who had betrayed their roots. See CIGAR, Norman. 1995, p. 71.

22 "Despite the ostensibly Marxist basis of Yugoslavia, class was nothing and national status was everything for the South Slavs". FRIEDMAN, Francine. 1996, p. 238.

23 Ibid., p. 248.

24 "Bosnian Muslim religious leaders have largely refrained from religious militancy, but some foreign missionary groups, including those from Saudi Arabia and Kuwait, have manipulated humanitarian aid to pressure Bosnian Muslims toward another view of society and of Islam - an effort that so far has failed". SELLS, Michael A. 1998, p. XVI.

25 DONIA, Robert J. and FINE, John V. A. jr. 1994, p. 266.

26 "The safeguarding or revival of declining traditional ties may offer new channels of solidarity and identification". MELUCCI, Alberto.

"The Post-Modern Revival of Ethnicity" in HUTCHINSON, John and SMITH Anthony D., Eds. 1996, p. 368.

27 MAHMUTCEHAJIC, Rusmir. Bosnia the Good. Tolerance and Tradition. Budapest: Central European Press, 2000, p. 139.

28 MEMISEVIC, Fadila.

THE BANALITY of Evil

*"So you found the camps! Took a long time, didn't it? All that happening so near Venice!"*¹

Nikola Koljevic, former vice-president of the self-declared "Serbian Republic of Bosnia-Herzegovina" (Belgrade, 06/08/1992)

Genocide against the Bosniaks

"The organized persecution in Bosnia from 1992 to 1995 was an effort to destroy both Bosnian Muslim culture and Bosnian multireligious culture and to destroy the Bosnian Muslims as a people".² It was genocide, since the key criterion for genocide is that it is "directed against the national group as an entity"; violence against individuals is directed against them "not in their individual capacity, but as members of the national group".³

Specific aspects of the genocide against the Bosniaks included:⁴

1. The construction of over one hundred concentration and internment camps and the detention of over 200,000 civilians.
2. The murder of approximately 30,000 detainees in camps at Omarska, Manjaca, Keraterm, Trnopolje, Luka (Brcko), Susica, Foca, etc.
3. The rape of approximately 30,000 women and the construction of "rape camps".
4. The systematic detention and killing of members of the academic and political elite.
5. The flight and expulsion of approximately 2.5 million Bosnians and their dispersal to the four corners of the earth.
6. The siege, starvation and bombardment of approximately 500,000 Bosnians, including those in safe havens under United Nations protection, over a period of four years.
7. The killing of more than 11,000 residents of the city of Sarajevo, among them 1,500 children.

8. Massacres and mass executions in numerous areas of Northern, Western and Eastern Bosnia (Posovina, Prijedor and the Drina Valley).

9. The massacre of approximately 8,000 men and youths in Srebrenica.

10. Burial of the dead in mass graves without concern for their identification in all areas under occupation.

11. The systematic destruction of hundreds of villages and urban areas.

12. The total destruction of the physical evidence of Islamic culture and the widespread destruction of the physical evidence of Catholic culture, including the destruction of approximately 1,300 mosques and approximately 500 Catholic churches.

13. Approximately 30,000 individuals still missing and unaccounted for and approximately 7,000 exhumed bodies awaiting identification.

"Genocide in B&H was a conscious, cost-efficient way for the Serb leadership to achieve concrete political objectives".⁵ On 14 October 1991, during a speech before the Bosnian Assembly, the Bosnian Serb nationalist leader Radovan Karadzic had threatened the Muslim population: "Do

not think that you will not lead Bosnia and Herzegovina into hell, and do not think that you will not perhaps make the Muslim people disappear, because Muslims cannot defend themselves if there is war".⁶ The gates of hell had been opened.

On 5-7 April 1992, when the independence of B&H was officially recognized by the European Community and the US, approximately 200,000 people stood before the Bosnian Parliament building to demand peace, new elections, the dismantling of paramilitary units, and the Yugoslav Army's defence of the country as a whole and not just of Bosnian Serbs. The demonstration turned into tragedy when snipers started shooting into the crowd, killing and wounding indiscriminately.⁷ The war had started.

About the same time, Serbian paramilitary units began terror attacks in many towns of northern and eastern Bosnia, killing, raping or driving out most of its Muslim inhabitants.⁸ Serbia-based roving militias were often the key implementers of ethnic cleansing. Reportedly, these groups are

responsible for some of the worst large-scale killings and atrocities.⁹

Libraries, museums, graveyards, birth records and other traces of the Bosnian Muslim culture were destroyed.¹⁰ "Serb militias have dynamited all the mosques in the areas they have occupied, some of them masterworks of European architecture such as the sixteenth-century Ferhadija Mosque in Banja Luka and the Coloured Mosque in Foca built in 1551".¹¹

Concentration camps for Muslim prisoners and civilians were set up all over Serb-controlled areas. Their presence came to light in the summer of 1992 as a result of a series of articles written by the reporter Roy Gutman.

Initially, the very existence of concentration camps was forcefully denied at all levels by the Serbian authorities. The occurrence of rapes was also rejected.¹² According to the Serbs, the Muslim population was demanding to leave the towns voluntarily! The Serbian power structure boldly and cynically dismissed any report of atrocities or genocide against the Muslims and actively and systematically sought to

conceal such acts at almost every step. Serbian spokesmen also tried to trivialize the term genocide, in order to void it of its meaning and impact and to confuse the issue. Serbian representatives even applied the expression to diplomatic measures taken by the international community against Serbia.¹³

Indeed there were no gas chambers, but the killings were "personalized, entailing prolonged beating and torture, frequently by former associates of the victim".¹⁴ Women were systematically raped.¹⁵

"Men between 16 and 60 years old were mostly led to concentration camps, tortured and - at least some of them - shot dead. Rape was encouraged. According to the UN Commission led by Professor Cherif Bassiouni, at least 20,000 Bosnian women faced this destiny. Through educational activities and lobbying, the assistance of the GfbV is fully focused on women who were detained in the female concentration camps during the war and were exposed to systematic rape. These women are not only victims of war, but also victims of peace since they live neglected and forgotten by all. Heavily traumatised, with no possibility for medical treatment and without jobs, these women live in Serb apartments that they have to leave, thus moving out

onto the streets. The majority of them are originally from towns and villages of eastern Bosnia where they cannot return because those who kept them in concentration camps are still free. With our activities we are helping these women not only to survive, but also to regain and rebuild their self-esteem".¹⁶

Although to a far lesser extent than the Serbian actions, serious war crimes against the Bosniaks were also committed by the Croatian authorities.¹⁷ The Vance-Owen plan (1993), which allocated to the Croatian community far more land than either its population or existing control warranted, apparently encouraged the Croats to adopt the same strategy successfully pioneered by the Serbs. Zagreb realized that more could be gained by partition or by cooperating with Belgrade than with a weak Bosnian government. Croat nationalists revolted against the Muslims in the Spring of 1993. Intense fighting took place in central Bosnia and in Herzegovina. US diplomatic pressure on the Tudjman regime and the threat of UN economic sanctions against Croatia forced the Croatian-Bosniak hostilities to abruptly end in February 1994.

Atrocities occurred not only in the notorious concentration camps but across the country.

"Genocide was a means to an end - the end being Greater Serbia. The campaign aimed at the removal of Muslims, together with Croats, from the parts of Bosnia that were destined to become a part of Greater Serbia. This process of elimination required that all links holding Bosnia together should be previously weakened or severed, and that Croatia should be attracted to the feast by the lure of Greater Croatia. The offer of a 'Muslim mini-state', butchered from the dismembered carcass of Bosnia, was to serve the same purpose".¹⁸

"Lust for power turned a peaceful country into hell. First propaganda and then terror paved the way. Before the war, ordinary people did not think of it. When hostilities broke out, Bosnians were forced to take sides".¹⁹

Victims and perpetrators

Most Bosnian Serbs either joined in or at least passively acquiesced to genocide. Although in some instances outside Serbian agitators and gunmen controlled events, in others locals took the lead and often operated in the concentration camps. In almost all cases, at least some local Serbs provided information and identified Muslims even when they did not lead the campaign. "But what would induce ordinary Serbs to turn on those who until recently they had treated as good neighbours? Key factors seem to have been the sanction of authority and the acceptance by society of such extreme actions as legitimate".²⁰

"Around 1,5 million people were forced to leave. Deportations were organized with cattle-wagons and trucks. Execution was an option. I made public a tragic example. Around 250 prisoners from Omarska, who had survived all kinds of torture, were told to leave on 21 August 1992. Serbs promised to drive them to the area under the control of the Bosnian army. Chetniks stopped the convoy before its final destination, on the Vlasic mountain. The Bosniaks were taken out of the buses, lined up, executed en masse and finally dumped into a 350-meters deep cave. Six people managed to

survive, by hiding under their inmates' dead bodies. Thanks to their testimony, we know now who is responsible for that massacre: Slobodan Kuruzovic. At the moment he is the director of a school in Prijedor!"²¹

The lure of material gain also played an important role. The prospect of easy loot from the targeted Muslims - in the form of land, livestock, houses or apartments, cars, cash, farm machinery, or appliances, or women to be raped - actually was a powerful inducement for many Serbs.²² That criminal activities were officially condoned is suggested by the fact that, at times, the Bosnian Serb police officers themselves participated in the looting.

"They kept coming, looting, taking everything from the house, how do I know who they were, child, they all wore outfits, we didn't know them, but the children recognized most of them, they said they were all their teachers, from the area, not far from us. They'd come and take everything away and there was nothing you could do except watch, nothing, they'd come into the house and take what they wanted, if they liked it, they took it, shoved it into the car and drove off, that's it. Nothing you could do. They came for the tractor, took away our tractor, and the car, everything. And you're left with nothing".²³

Finally, coercion was also a factor in inducing Serbs to cooperate in the process of ethnic cleansing.²⁴ Those Serbs who were in favour of the anti-Muslim strategy were not only a majority, at least eventually, but also controlled the guns, the government apparatus, and the sources of legitimacy, and had the support of Belgrade. However, those Serbs who were unwilling to go along with the Serb leadership's ethnic policies were viewed as a special threat, as they embodied an embarrassing challenge to the basic legitimacy of the nationalist ideology. They were labelled as traitors and often suffered the same fate as that of their non-Serb neighbours.

"But there was only one good man in our village. He'd come to us in secret, if he got a pack of cigarettes he'd sneak over, he didn't dare visit us that summer because of the other Serbs, they weren't allowed to come, he'd come in secret and divide up the cigarettes (...). When the army came to our village, he said don't do anything to them over there, they're good kids, they're nice, good-looking boys, but they said get back in the house or we'll slit your throat like a lamb. Of all our Serbs around, he really stood by us. Kojo Toljagic. I don't know where he is now. If I went back to Bosnia tomorrow, I'd protect him, he did so much for all of us. As

long as the person is good, it doesn't matter whether he's one of theirs or one of ours".²⁵

Perpetrators are normal people²⁶: genocide is not madness, but commonplace in human history. Great evil is neither banal nor incomprehensible: it comes "out of ordinary psychological processes that evolve, usually with a progression along the continuum of destruction".²⁷

Last summer, in the village of Kozarac, 12 km eastern of Prijedor, I managed to interview Mladen Tadic, the older brother of Dusan, the first war criminal arrested and sentenced by the ICTY. Kozarac is an exception in Republika Srpska: the Bosniak majority (10,000 people) returned after the war. As Osman Mujagic, former prisoner at Trnopolje, told me: "It was a matter of courage: it was all destroyed, but we did not wait for any permission to come back and rebuild houses, schools and mosques".

Blue eyes and a calm manner, Mladen used to be an international karate champion. His brothers are also good at this sport. Former-internees accused Dusan of having beaten and even killed prisoners in this way.

Mladen complains about the "subtle hostility" of his Muslim neighbours. He feels outcast, he would like to emigrate overseas. Some Bosniaks call him "weekend Chetnik": he used to live in Munich and during the war - they say - he was regularly travelling from Germany to B&H to participate in the looting. He came back in June 1994, to stay. He opened a café, then a baker's shop and eventually a Chinese store. Lately, business is not going well: he feels boycotted.

Mladen defends his brother: "Dusko is the only innocent Serb sent to prison by the ICTY! Muslims were just looking for a scapegoat. He had nothing to hide; otherwise he would not have come to Germany to visit me. I had warned him, but he was not afraid". Mladen does not trust the witnesses that testified in the process against his brother: according to him, some made up everything out of insanity or for money, while some others might have confused his brother's name or appearance. He does not believe in a Greater Serbia, but acknowledges that his brother is now considered as a hero in nationalist circles. Dusan was secretary of the SDS (Serbian Democratic Party) when the war broke out. "He had

denounced corruption: this might have been a good reason for his enemies to betray him". The other possible explanation can be traced back to World War II: his family was famous for being a nest of Partisan fighters. "Many Muslims did not like it, because their families were on the Nazi side".

Dusan Tadic is now serving his time in the German prison of Straubing. "He likes learning karate, painting, cooking. He is mentally and physically in good shape. Of course the prison in The Hague was better: he could even invite his wife for the night!" Mladen smiles. If his brother continues having a good time, he knows that the penalty could be reduced by 1/3. With good conduct, Dusan Tadic, the "slave driver in Omarska", could be released as soon as 2007!

Of course Fadila is not happy about it, but... "at least he was found guilty. At least the world now knows who was on the wrong side".²⁸

Fadila is worried for the safety of the witnesses: "It is a very delicate matter. They are often in danger. Even remaining anonymous is not a guarantee, because perpetrators

sometimes know or remember and can easily recognize their victims".²⁹

Fear is still the best perpetrators' weapon. Terror against civilians, both random and organized, was a favourite tactic designed to spread panic in order to weaken resistance. "At five-thirty the next morning they banged on our door, get up, I unlocked the door and opened it, soldiers were swarming all over our village. They were all our neighbours, I knew each and everyone of them".³⁰ The Serbs invariably proceeded to pressure Muslims to leave the area by harassing and frightening them. For example, as soon as the town of Kozarac fell, Serbian vehicles with loudspeakers, accompanied by tanks, roamed the streets, blaring: "Muslims get out! Muslims get out! Surrender and everyone will be safe!" Despite these assurances, according to reports, between 2,500 and 3,000 Muslims were killed.³¹

The elimination of community leaders was an essential component of the process designed to destroy the Bosniaks' will. Typically, in the Kozarac area, prominent local Muslims were identified, separated, arrested, and earmarked for

elimination according to prepared lists.³² A local eyewitness reported, "They were pulling out private entrepreneurs and educated people, anyone who could ever organize any Muslim life in Kozarac again".³³

The role of bystanders is crucial for halting the degeneration of democracy into totalitarianism. By definition, bystanders are passive and silent: "Individuals and groups, preoccupied by their own immediate needs and pressing goals are inclined to ignore others' need and pain".³⁴ Bystanders (individuals, groups, other governments) can strongly influence the behaviour of perpetrators, but by ignoring the reality they confirm them in the rightness of their cause.³⁵ From this perspective, the reluctance of the international community to act decisively and effectively in B&H can be considered as compliance with genocide.

Notes

- 1 VULLIAMY, Ed. Bosnia's Secret War: Hard Truths Swept under Red Carpets in "The Guardian", 22/06/1996
- 2 SELLS, Michael A. 1998, p. 24-25.
- 3 LEMKIN, Rafael. 1973, p. 79.
- 4 See <http://www.gfbv.de>
- 5 MEMISEVIC, Fadila.
- 6 SILBER, Laura and LITTLE, Allan. The Death of Yugoslavia. London: Penguin, 1997, p. 215.
- 7 "Many people in Bosnia-Herzegovina sought a nation based not on exclusive religious affiliation but on constitutional rule and respect for differing religions". SELLS, Michael A.1998, p. 8.
- 8 "The methodology of ethnic cleansing is terror practiced openly and ostentatiously, calculated to drive from their homes those longtime inhabitants belonging to the 'wrong' ethnic group. Ethnic cleansing thus differs from the systematic, quiet extermination procedures used by the Germans against Jews, Gypsies, and others during World War II. The Germans set out to kill people without creating public furor, the ethnic cleansers of Bosnia used killings and other atrocities to sow fear and panic and to induce flight". FRIEDMAN, Francine. 1996, p. 247.
- 9 See CIGAR, Norman. 1995, p. 54.
- 10 "The term ethnic cleansing stands for the policy of ridding an area of an undesirable national group to create a homogeneous region". FRIEDMAN, Francine. 1996, p. 220.
- 11 SELLS, Michael A. 1998, p. 3.
- 12 See CIGAR, Norman. 1995, pp. 89-91.
- 13 Yugoslavia's minister of sports even claimed that "banning our athletes from taking part in international competition is genocide committed against the youth". BINGULAC, Zoran. Ljudi i Vreme in "Vreme", 29/11/1993, p. 56.

14 SELLS, Michael A. 1998, p. 13.

15 "In Bosnia, rape was used instrumentally to humiliate and shame women and families in an unprecedented way". FEIN, Helen. "Testing Theories Brutally: Armenia (1915), Bosnia (1992) and Rwanda (1994)" in CHORBAJIAN, Levon and SHIRINIAN George, Eds. 1999, p. 162.

16 MEMISEVIC, Fadila.

17 "Mazowiecki stated that 80% of the war crimes were committed by Serbs. In a CIA secret document (made public by the 'New York Times') you can read that Serbs are responsible for 90% of the murders". KAPIDZIC, Mustafa and MEMISEVIC, Fadila, *Suche nach Gerechtigkeit*. Sarajevo: Kult B, 2000, p. 11

18 MAHMUTCEHAJIC, Rusmir. 2000, p. 187.

19 MEMISEVIC, Fadila.

20 CIGAR, Norman. 1995, p. 64.

21 MEMISEVIC, Fadila.

22 See Helsinki Watch, *War Crimes in Bosnia-Herzegovina*, vol. 1. New York: August, 1992, pp. 132-134.

23 BEC, Janja. 1997, p. 78 (Fadila).

24 "Logically, a procedure with such a name [...] could only be viewed as positive and desirable, the implicit antithesis and correction of an assumed impure, unnatural, and demeaning state. When the commander of a Serbian militia unit was able to report that 'this region is ethnically clean', for example, he was clearly proud of what he viewed as an achievement". CIGAR, Norman. 1995, p. 71.

25 BEC, Janja. 1997, pp. 36-37 (Rubija)

26 People who participated in mass murders were normal by conventional standards of mental health: "interviews and psychological testing found no evidence of mental illness or psychological dysfunction in the Nuremberg defendants and SS criminals". STAUB, Ervin. 1989, p. 91.

27 *Ibid.*, p. 126.

28 MEMISEVIC, Fadila.

29 *Ibid.*

30 BEC, Janja. 1997, p. 32 (Rubija)

31 CIGAR, Norman. 1995, p. 56.

32 Ibid., p. 59.

33 GUTMAN Roy. A witness to genocide. The first inside account of the horrors of ethnic cleansing in Bosnia. Shaftesbury: Element Books, 1993p. 109

34 STAUB, Ervin. 1989, p. 157.

35 "The assumption here is that the human wrong of genocide needs to be addressed, to the greatest extent possible, by preventive modes, including education, and through the inclusion of tolerance as an integral element of democratic theory and practice". FALK, Richard in DUNNE, Tim and WHEELER, Nicholas J., Eds. 1999, p. 188.

REALPOLITIK

*"The Balkans are not worth the bones of a Pomeranian grenadier"*¹

Otto von Bismarck, statesman (1815-1898)

Diplomatic compliance with genocide

"First we expected the West to solve our problems. Then we hoped the East could help us. In the end we stayed alone".²

Indeed, the world passively stood by. Asked whether he had been naïve in believing that massacres would not occur, Haris Silajdzic, who went on to become foreign minister and prime minister of B&H, acknowledged: "Yes, that is our own fault, and a big one. We believed in an international order which would not accept that genocide could occur in Europe".³

The promise, made by the Big Powers right after World War II, never to tolerate another holocaust, was soon forgotten.

"Despite the relative resistance of Western democracies to policies based on mass hatred, many scholars have accused democratic countries of complicity in genocidal, quasi-genocidal, or terrorist behavior. For example, America has been blamed for its refusal to take in refugees fleeing Hitler and for its failure to bomb the Nazi death camps. More recently, the US has been accused of callous neglect for its failure to intervene strategically at an early stage in the dissolution of Yugoslavia and for its lack of concern about Rwanda and other parts of Africa".⁴

This statement immediately leads us into the ongoing debate between two opposite conceptions of international relations and democracy. The progressive view emphasizes a cosmopolitan view and a serious concern for human rights. The conservative view begins with acceptance of state sovereignty and focuses on national interests.⁵

History as well the current situation in world politics demonstrates that governments are generally indifferent to moral questions. They do not want to interfere in the "internal affairs" of other countries. They restrict themselves to the so-called Realpolitik: they rely on force to defend or promote national goals, and only if their self-interest is endan-

gered do they decide to protest or act against a mistreatment.⁶ This orientation has been reinforced by two strategic geopolitical results of the 20th century: the failure of appeasement and idealism before the outbreak of World War II and the success of deterrence and containment in the Cold War.

Human rights activists do not agree and argue that not only is this a self-centred view, but it is also a short-sighted one. The past has often proven that governments committed to genocidal politics end up involving outsiders as well, by creating conflicts that involve formerly passive or even friendly bystander nations.⁷ There are different examples that show how the West was eventually forced to wage war against governments previously involved in mass crimes: World War II (Nazi Germany was persecuting Jews even before it attacked Poland), the Gulf War (Iraq had gassed Kurds before it invaded Kuwait), the bombing campaign in Kosovo (Serbia was already responsible for genocide in Bosnia).

This lesson is yet to be learnt and Realpolitik remains the main trend in international affairs.⁸ Although the Genocide

Convention has been widely ratified, states do not usually make any specific commitment to take action in response to genocide.⁹ The reluctance of the US to support the establishment of an International Criminal Court is another effect of this traditionally sceptical foreign policy.

However, in order to give a higher priority to the moral dimensions of foreign policy, human rights activists cannot help but look towards "establishing a stronger power under a financially independent UN, activating an international criminal court with competence to address genocide, increasing transnational civic society, public reaction and media concern".¹⁰ Without these conditions, even humanitarian interventions may evoke recent memories of colonial abuse and they are often, effectively the result of a generally geopolitically motivated undertaking.¹¹

Unfortunately the list of serious human rights failures is very long. There are states that are sufficiently powerful and therefore immune to external pressure (Russia in Chechnya, but also China in Tibet). There are dictatorships that are able to turn international sanctions into an excuse for disregard-

ing human rights (Cuba). There are, finally, "powerful states which have undertaken a surrogate UN role of policing human rights performance through so-called aid conditionality (US, UK), where the conditions are dropped as soon as they conflict with significant trading or strategic interests (in China, Nigeria)".¹² The impartiality of the UN is then compromised by acting as a fig-leaf for particular interests.

UN failure in Bosnia-Herzegovina

In Bosnia the UN, the EU and the US expressed humanitarian concern, but were not willing to stop the Serbian operations and to prevent the genocide against the Bosniaks.¹³

By claiming an impossible impartiality between the contending parties, they imposed an arms embargo that essentially victimised the legitimate government in Sarajevo.¹⁴ On 25 September 1991 the Security Council decided that "all states shall, for purposes of establishing peace and stability in Yugoslavia, immediately implement a general and complete embargo on all deliveries of weapons and military

equipment to Yugoslavia until the Security Council decides otherwise".¹⁵ Subsequent endeavours of the Non-Aligned Caucus and the Islamic Conference Organization to enable B&H to exercise its inherent right to self-defence (according to article 51 of the UN Charter)¹⁶, and to lift the arms embargo for the Bosnian Muslims, yielded no results.¹⁷

Then "a series of marginal initiatives were taken with the objective of disguising the extent of strategic indifference: sanctions, medical and humanitarian assistance, food drops by air to beleaguered communities, pin-prick NATO bombing, ill-defended safe havens, and an under funded war crimes tribunal".¹⁸ Only after the mass executions in Srebrenica and Zepa in July 1995, US president Bill Clinton felt pressured to look for a solution and succeeded in imposing "peace" in the form of the 1995 Dayton Agreement, which essentially ratified the results of genocidal politics.¹⁹ There were no longer Bosnians, but only Bosniaks, Serbs and Croats.²⁰ Another goal of genocide had thus been achieved: the denial of a civic state and the consequent radicalization of the Muslim population would justify the Serbs and Croats of Bosnia in their

creation of their own national territories in B&H, which could then be added to their respective neighbouring states.

"I am sad to admit that I must consider the Dayton Agreement more as a ceasefire than as a real peace. What kind of peace is this? The country is split and major war criminals are still at large. Almost 80% of the Bosniak population that used to live in the now-called Republika Srpska left home and has not come back yet. Most of them would like to return, but in reality they can't, because the people that expelled them are still in power. Eight years after the signing of the Dayton Agreement, more than 800,000 people are still living like displaced persons in their own country. Our strong belief is that without full implementation of Annex 7 (i.e. the refugee's right to return) there is no multiethnic Bosnia and Herzegovina. That is the reason why we are advocating for projects which aim to stimulate joint efforts or different organizations from Republika Srpska and Federation on the issues of return. Our standpoint is that every return should happen in dignity and safety: every returnee should have a place to live, the right to work, health and social protection, the right to education and the right to practice religion".²¹

Although after Dayton B&H was de facto left ethnically divided, the American diplomatic initiative had accomplished its mission: put an end to the fighting in the dangerous Balkan region and stemmed the flow of refugees towards Western countries. Realpolitik had succeeded once again²², having previously preferred to turn a blind eye to the massacres in order to have a straighter frontline on the ground.

"During the war, many governments (especially those in London, Paris and Moscow) were very active in denying the ongoing genocide against the Bosniaks. They did not want to react against it. Thus, they preferred using the term suggested by the Serbian propaganda: civil war".²³ National interests paralysed mechanisms set up to prevent genocide (from the UN Charter to the NATO mandate). "All they did, was to send 'peacekeepers' where there was only war!"²⁴

The UN had a mandate to "deter attacks" on Srebrenica²⁵ and five other "safe areas" in B&H (Bihac, Gorazde, Sarajevo, Tuzla, Zepa).²⁶ Though demanding that "all parties and others treat Srebrenica and its surroundings as a safe area which should be free from any armed attack or any other hostile

attack"²⁷, the resolution was dangerously inconsistent. In the rushed decision making necessitated by the town's imminent fall, the Council agreed on creating a safe area without specifying what the "area" was and how its safety could be ensured.²⁸

Despite that mandate, "up to 20,000 people, overwhelmingly from the Bosnian Muslim community, were killed in and around the safe areas. In addition, a majority of the 117 members of UNPROFOR (United Nations Protection Force) who lost their lives in B&H died in or around the safe areas".²⁹

The Serbs captured most of the territory within the first 60 days of the war, before the UN troops had a significant presence in B&H. "During those 60 days, approximately one million people were displaced from their homes. Several tens of thousands of people, most of them Bosnian Muslims, were killed".³⁰ After that, the UN mainly attempted to contain the conflict and provide humanitarian aid, but negotiations and humanitarian aid also limited the possibilities for actual intervention: armed action could prevent peace talks and could result in a suspension of aid. The UN became hostages

of their own mandate and ended up simply "muddling through". "The UN's impossible attempts at impartiality meant that the peacekeeping troops ended up being hated by all sides in the conflict".³¹

The UN Secretary General complained that the inherent contradictions between traditional "peace-keeping" and the newer concept of "peace enforcement" could undermine the viability of peace-keeping operations and endanger its personnel, but the Security Council continued to support the "safe areas" concept, even though there was never any intention of providing the means to render them genuinely safe.³²

There are actually two types of UN mandates that involve the deployment of military forces. They are distinguished from each other by adjacent chapters of the UN Charter: Chapter 6, for "peacekeeping" missions, and Chapter 7, for "peacemaking" missions. Chapter 6 of the UN Charter allows the Security Council to assist parties in reaching a peaceful settlement in a dispute based on their mutual consent. Most of the UN's previous missions have fallen under this category and are known as "classical" peacekeeping operations.

Typically, following the establishment of a ceasefire, UN forces will interpose themselves between the parties, monitoring and maintaining the separation of forces until political negotiations can foster a settlement. Chapter 7 of the UN Charter, on the other hand, relates to acts of aggression and threats to international peace and security and allows the Security Council to authorize member states to take appropriate military action by air, land, and sea.³³ Chapter 7 initiatives do not require the consent of the parties and permit the affirmative use of force to realize the objectives of the mandate.

There has been some debate as to whether the UN mandate in the former Yugoslavia was legally a Chapter 6 or Chapter 7 mandate.³⁴ In considering nearly 100 resolutions passed by the Security Council since 1991, Paul Williams and Michael Scharf write that it was "clearly a Chapter 7 [peacemaking] mandate" that permitted "the affirmative use of force to promote the delivery of humanitarian aid and the prevention of ethnic cleansing". They remark that "the fact that the Security Council has specifically invoked the use of

force provisions of Chapter 7 is particularly important, as in all other 'peacekeeping' mandates prior to 1990, the UN had not chosen to base the UN mandate on any particular Charter provisions, let alone Chapter 7".³⁵ The real problem with the UN mission in B&H was that for national interests, mainly British and French ones, it was interpreted by the UN Secretariat and in the Department of Peacekeeping Operations as exclusively a Chapter 6 classical peacekeeping mandate. As noted above, such a mandate requires the consent of the parties to the dispute, which in the context of the Bosnian war meant Serbian consent.³⁶

This misunderstanding proved to be tragically decisive for all the Bosniaks who sought UNPROFOR military protection in the six UN safe areas established during the war in B&H.

On 6 July 1995, Bosnian Serb forces begun a five-day assault on Srebrenica. Senior UN commanders repeatedly rejected appeals for NATO air support from the Dutch battalion stationed there³⁷, while the UN's local officer refused to release weapons to the Bosniaks to defend themselves. Finally taking control of the town on 11 July, Serb forces fer-

ried women and children on Serb buses to Muslim territory and on 13 July began to systematically execute Muslim male prisoners, including teenagers, mostly by shooting them.

The Dutch (NIVO) Srebrenica report states that the UN forces (i.e. the 400-soldier Dutch military contingent that had replaced the Canadian one in January 1994) had been placed in an impossible position.

"Dutchbat was dispatched

On a mission with a very unclear mandate;

To a zone described as a 'safe area' although there was no clear definition of what that meant;

To keep the peace where there was no peace;

Without obtaining in-depth information from the Canadian predecessors in the enclave;

Without adequate training for this specific task in those specific circumstances;

Virtually without military and political intelligence work to gauge the political and military intentions of the warring parties;

With misplaced confidence in the readiness to deploy air strikes if problems arose; and

Without any clear strategy for leaving".³⁸

Therefore, the Dutch were treated as hostages and they could do nothing but assist the deportation of all Bosniak men from the base in Potocari. The "blue helmets" played the infamous role of "bystanders to genocide".

Even the UN Srebrenica report says NATO air strikes should have been authorized much earlier to stop the Serb assault and suggests that the arms embargo against B&H should have been lifted, because it undermined the country's ability and legitimate right to defend itself. Current Secretary General Kofi Annan, who was in charge of UN peacekeeping during much of the 1992-1995 Bosnian war, also shared the blame³⁹: "We will never forget that Bosnia was as much a moral cause as a military conflict. The tragedy of Srebrenica will haunt our history forever".⁴⁰

No Bosniak prisoner was left alive: mass graves in the area are still being discovered.⁴¹ "The concept of 'safe area' turned out to represent in the end the opposite of what it should

mean".⁴² In the final chapter I recall the tragic fate of Srebrenica through the silent but tireless protest of the women who survived the massacre.

Notes

1 MORAN, Daniel. Preventive War and the Crisis of July, 1914. In "Strategic Insight. Center for Contemporary Conflict" at <http://www.ccc.nps.navy.mil/rsepResources/si/nov02/strategy.asp>, 15/10/2003.

2 MEMISEVIC, Fadila.

3 SORENSEN, Soren Ostergaard. "Berlingske Tidende". 31/01/1993.

4 KRESSEL, Neil Jeffrey. Mass Hate. The Global Rise of Genocide and Terror. New York: Westview Press, 2002, p. 221.

5 "A sense of responsibility for human wrongs was weakened by two widely shared features of the Westphalian orientation as it evolved. First, the exclusion of religion from the affairs of state. This opened the way for political conceptions of community which were exclusivist, based on race, nation, civilisation, secular ideology, but which did not relate to humanity as a whole (...) Secondly, the impact of the Enlightenment, especially in the aftermath of the Industrial Revolution, gave rise to a civilisational consensus that modernity was synonymous with human material progress". FALK, Richard in DUNNE, Tim and WHEELER, Nicholas J., Eds. 1999, p. 180.

6 "Nations remain passive because they define national interest in terms of wealth, power and influence and do not see themselves as moral agents responsible for the welfare of those outside their borders". STAUB, Ervin "Preventing Genocide: Activating Bystanders, Helping Victims Heal, Helping Groups Overcome Hostility" in CHORBIAN, Levon and SHIRINIAN George, Eds. 1999, p. 252.

7 "The fundamental ordering arrangements of international society and prevailing realist mentality seem unable and unwilling to protect vulnerable people. Of course, the root cause of such abusive behaviour is often local or national, with deep historical roots, and the responsibility of international society is primarily associated with the failure to provide an effective, mitigating response". FALK, Richard in DUNNE, Tim and WHEELER, Nicholas J., Eds. 1999, p. 182.

8 "The best, and only hope, is the deepening and expansion of democratising tendencies, making leaders more consistently receptive to the constraints embedded in international law, and spelt out in the main human rights instruments". *Ibid.*, p. 188.

9 See art. 4 and 9 in the UN Convention on the Prevention and Punishment of the Crime of Genocide at <http://www.hrweb.org/legal/genocide.html>, 15/10/2003.

10 FALK, Richard in DUNNE, Tim and WHEELER, Nicholas J., Eds. 1999, p. 187.

11 "To call it 'geopolitical' is not necessarily to condemn it for making evaluations depending on a mix of circumstances and effects. But such a labeling at least discourages 'false advertising', and the tendency of politicians to exaggerate the strength of genuine humanitarian concerns". *Ibid.*, p. 188.

12 BEETHAM, David. *Democracy and Human Rights*. Cambridge: Polity Press, 1999, p. 142.

13 "The principal victims in Bosnia were Muslim, and even if unacknowledged, this factor undoubtedly eroded the moral and political response to the evidence of massive ethnic cleansing" FALK Richard in DUNNE, Tim and WHEELER, Nicholas J., Eds. 1999, p. 184.

14 MEMISEVIC, Fadila: "Preventing Bosnia and Herzegovina from buying weapons was a denial of the right of any independent State to its own self-defence".

15 UN Resolution S/RES/713 (1991), 25 September 1991

16 See chronology at

<http://www.haverford.edu/relg/sells/silk2.html>, 15/10/2003.

17 The President of B&H Alija Izetbegovic addressed the audience at the Muslim Foreign Minister's Conference held in Jeddah on 1-2 December 1992 in the following way: "Utilise your influence so that the international community fulfils its responsibility towards a small country, an internationally recognised republic, a member of the

United Nations, a victim of aggression. Our case morally and legally, is abundantly clear. Under the United Nations Charter, a victim of aggression has the right to two forms of self-defence: collectively (with the help of other United Nations States) and unilateral. We have been deprived of both, while the aggression against our country, and the murder of our people continues. That is why we exclaim, Please choose! Either defend us or allow us to defend ourselves. (...) Those that bind our hands while we are being beaten or murdered become accomplices of the guilty". At <http://www.alislam.org/library/links/defence.html>, 15/10/2003.

18 FALK Richard in DUNNE, Tim and WHEELER, Nicholas J., Eds. 1999, p. 184.

19 "The US position hardened after the shift to the right of the US Congress following the November 1994 elections, resulting in the June 1995 statement that the US would lift its embargo on arms sales to the Bosnian Muslims. This also helps to explain the start of the NATO bombing campaign against the Bosnian Serbs (Operation Deliberate Force) at the end of August 1995". HOLMES, Leslie. Post-communism. Durham, NC: Duke University Press, 1997, p. 313.

20 "In the words of the preamble to the Constitution of Bosnia and Herzegovina, which constitutes Annex 4 to the Dayton Agreement, 'Bosniaks, Croats and Serbs, as constituent peoples (along with Others), and citizens of Bosnia and Herzegovina' determine the Constitution". In MARKO, Joseph. Bosnia and Herzegovina - Multi-ethnic or multinational?, p. 5, at <http://www.jus.unitn.it/users/toniatti/accl/reading/Marko.pdf>, 15/10/2003.

21 MEMISEVIC, Fadila.

22 "One reason why the West (...) was for so long indecisive about the Bosnian issue was that it preferred not to antagonize the Russians, who often claim to be traditionally close to the Serbs. Several Western experts advised policy-makers that isolating the Russians by actively countering the Serbs in Bosnia would only play into the hands of Russian extremists". HOLMES, Leslie. 1997, pp. 313-314.

23 MEMISEVIC, Fadila.

24 Ibid.

25 UN Resolution S/RES/819 (1993), 16 April 1993

26 UN Resolution S/RES/824 (1993), 6 May 1993

27 UN Resolution S/RES/819 (1993), 16 April 1993

28 "The crucial moment was that the International Court of Justice in The Hague just in this aim, only eight days earlier, unanimously indicated temporary measure that the Government of the Federal Republic of Yugoslavia should immediately undertake, referring to the Convention on Prevention and Punishment of the Crime of Genocide of 9 December 1948, any measure for preventing the crime of genocide". CEKIC, Smail. Genocide in Srebrenica, United Nations "Safe Area", in July 1995. Book 3. Sarajevo: CPU, 2001, p. 314.

29 UN Srebrenica Report, 1999, § 3.

30 UN Srebrenica Report, 1999, § 6.

31 MEMISEVIC, Fadila.

32 "The term 'safe area' (like 'protection force') quickly became a cruel misnomer. The safe areas were among the most profoundly unsafe places in the world". In SILBER Laura and LITTLE, Alan. 1997, p. 303.

33 See UN Charter, Chapter 7: action with respect to threats to the peace, breaches of the peace, and acts of aggression. At <http://www.un.org/aboutun/charter/chapter7.htm>, 15/10/2003.

34 John Clarke, a specialist in peace operations and a professor at the US George C. Marshall Center for Security Studies at Garmisch-Partenkirchen, Germany, points to a lack of clarity and misleading political judgment as the biggest mistakes at the root of the UN's failure in B&H: "I would like to say that all of this goes back to the problem that the UN confronted in engaging in what was by any definition - any modern definition - a peace-enforcement undertaking, using the rules that apply to peacekeeping operations. And there's an important distinction between peacekeeping and peace enforcement". In HILL, Don. Bosnia: Report On Massacre At Srebrenica Condemns Dutch Military 'Errors'. Radio Free Europe - Radio Liberty at <http://www.rferl.org/nca/features/2002/04/10042002091646.asp>, 15/10/2003.

35 WILLIAMS, Paul and SCHARF, Michael "The Letter of the Law" in COHEN, B. and STAMKOSKI, G., Eds, With No Peace to Keep: United Nations Peacekeeping and the War in the Former Yugoslavia. London: Grainpress Limited, 1995, p. 35.

36 It was made sure that Srebrenica was turned into a "safe area", as opposed to a "safe haven", the latter being what was created for the Kurds in Iraq. The difference under international law was that safe havens need not depend on the consent of the warring parties and could be enforced, while safe areas were based on consent. Safe areas established in B&H by the UN did not fall into line with protected zones under international humanitarian law, since they were "based on forced demand to the involved parties to cease the attacks against the area". See Final report of the UN Special Rapporteur for Human Rights (22 August 1995). In CEKIC, Smail. Genocide in Srebrenica, United Nations "Safe Area", in July 1995. Book 2, Sarajevo: CPU, 2001, p. 226.

37 "Their requests for air support were rejected on five occasions until 11 July". In Croatian International Relations Review. Zagreb: Institute for International Relations, vol. VIII, No. 28/29, 2002, p. 176.

38 NIVO Srebrenica Report, Nederlands Instituut voor Oorlogsdocumentatie (Netherlands Institute for War Documentation) at <http://www.srebrenica.nl>, 15/10/2003.

39 Annan is quoted as saying: "Rather than attempting to mobilize the international community to support the enclave's defence we gave the Security Council the impression that the situation was under control, and many of us believed that to be the case. The day before Srebrenica fell we reported that the Serbs were not attacking when they were. We reported that the Bosniacs had fired on an UNPROFOR blocking position when it was the Serbs. We failed to mention urgent requests for air power". UN Srebrenica Report, 1999, § 496.

40 "Annan Apologizes for UN Failure to Stop Bosnian Massacre" in UN Wire, 12 October, 1999 at <http://www.globalpolicy.org/security/peacekpg/lessons/bosnia.htm>, 15/10/2003.

41 "The massacre that followed the Serb take-over of Srebrenica must count as the largest single war crime in Europe since the Second World War. Between 6 and 16 July 1995 the Serbs seized the Srebrenica safe area, expelled 23,000 Bosnian Muslim women and children and captured and executed thousands of Muslim men". HONIG, Jan Willem & BOTH, Norbert. 1996, p. XIX.

42 MEMISEVIC, Fadila.

MOTHERS of the Disappeared

*“What is civility? It is not the most expensive dress, the newest mobile phone, the fastest car. It is a woman that lost everything, her husband and her son, but still rejects hate”
Emsuda Mujagic, teacher (Kozarac, 09/07/2003)*

The Serbs overran Srebrenica and Zepa, two besieged towns under the "protection" of UN forces, in July 1995. In Srebrenica at least 7,500 Bosniaks were executed in a few days. Entire families were virtually wiped out by Serbian soldiers who separated the men and boys from the women and girls, hauled them away, forced them to strip and shot them one by one. It was the worst atrocity in a conflict marked by exceptional cruelty.

After that massacre, Tadeusz Mazowiecki was the only UN official to resign.¹ It was both a moral act and a political

protest against the inaction and inconsistency of the international community in the former Yugoslavia.²

Fadila agrees:

"Our only trust is in the work of the ICTY. If you read the UN report about Srebrenica, individual responsibilities are left out. The same hypocritical example has been followed by the Dutch. I am disgusted at it and this is the main reason why I support the Mothers in their quest for justice. Quite aside from the report prepared by the Republika Srpska government committee, which goes as far as denying the massacre. According to them, all that happened was just some 2,000 Muslim soldiers dying while fighting Serbian troops!"³

Mazowiecki was disgusted and defined the Serbian attack against civilians as "a terrible violation of human rights".⁴

The "Movement of Mothers from the Enclaves of Srebrenica and Zepa" was established in 1998 as a response to this slaughter. The organization, with its headquarters in Sarajevo, has gathered more than 10,000 women together. Many of them are still severely traumatized. Most of them have lost all their male relatives.⁵

The primary goal of the Mothers' movement, under Chairwoman Munira Subasic and her representative Kada Hotic, is the clarification of the fate of their relatives.

On 7 March 2003 the Human Rights Chamber of Bosnia and Herzegovina issued its decision in a case brought by 49 relatives of missing men and boys from Srebrenica.

"The Chamber ordered the Republika Srpska (RS) to disclose immediately all information relevant to establishing the fate and whereabouts of the missing and the location of mass graves containing the bodies of Srebrenica victims. Furthermore the RS was ordered to conduct an investigation into the events at Srebrenica and to publish its findings by the beginning of September this year. The RS was also ordered to pay compensation for the collective benefit of all applicants and families of Srebrenica victims, in the form of a lump sum of two million Konvertible Marks (approximately one million Euros) to the Foundation of the Srebrenica-Potocari Memorial and Cemetery. The RS must then make four additional payments of 500,000 Konvertible Marks each in the next four years to the same Foundation. To this date no payments have been made".⁶

The Mothers collect information about the missing and advocate for the survivors to get adequate assistance,

because many of the women are completely on their own. Some of them have been allocated to group shelters in the Bosniak-controlled part of the country. Others are experiencing great difficulties because they must move from the houses they now occupy that Serbian families abandoned after the war.

In the face of resistance from the international community, as well as from the Bosnian government, the Mothers persistently organize new human rights actions, to speed up the exhumation and identification of the missing, to enforce the punishment of war criminals and to hasten the return of survivors to Srebrenica. In recent years, together with Fadila and the GfbV, they have collectively remembered the collapse of Srebrenica with silent demonstrations on the 11th of every month in Sarajevo and other Bosnian cities. They have also held protest pickets in front of UN contingents and on state visits.

According to the movement, 10,701 Bosniaks disappeared after the entry of Serbian troops into Srebrenica.⁷ The majority of the disappeared were, in all probability, killed in mass-

executions in the days immediately after the capture of the town. Mass graves with the remains of their bodies are now scattered all over eastern Bosnia.

Fadila visited these appalling places:

"The majority of the exhumed in so-called secondary graves were in such horrible condition that it would be impossible to reconstruct the skeletons or to identify them. All through 1996 the perpetrators, with the logistic support of Bosnian Serb authorities, opened the primary graves with bulldozers and dug new, secret secondary graves. However they have been discovered nonetheless".⁸

An American forensics team ("Physicians for Human Rights") after three years could identify only 53 of the dead and suspended work in November 1999.⁹ Former US Presidential candidate Bob Dole, chairman of the "International Commission for Missing Persons in the Balkans," working together with the GfbV, put forward four million dollars for the establishment of a genetics institute in Sarajevo so that victims from Srebrenica, and others, could be more easily identified through DNA testing.¹⁰

On 1 October 2003 the International Commission on Missing Persons (ICMP) announced that it had completed its 5,000th DNA report since making the first in-country match almost two years previously in Tuzla (on 16 November 2001, for a 15-year-old victim from Srebrenica). Moreover, "during September 2003 new daily, weekly and monthly records were achieved when 42 reports were made in one day, 134 in one week and 445 during the whole month".¹¹

Thanks to this pioneering method, memories can be preserved. "Dignified burials for the victims of Srebrenica are a vital precondition for just peace and reconciliation".¹²

On July 11, 2001 the "Mothers" laid the foundations for a huge community grave and a Memorial Centre displaying the names of the 10,701 murdered or missing persons of the worst organised slaughter since World War Two. The victims' final resting place and the site for their commemoration is in Potocari, 5 km north of Srebrenica, near the compound (a former battery factory converted into a UN base) from where Dutch troops watched as Bosnian Serb soldiers separated Muslim boys and men (from 10 to 80 years of age!) from

women. Some 40,000 Muslim residents of the community had fled to the factory to seek refuge. They found death. "They are martyrs of the indifference of the world".¹³

On 20 September 2003, former US president Bill Clinton officially inaugurated the Srebrenica Memorial in Potocari.¹⁴ He called for the arrest of the fugitive leaders behind the atrocity, most notably the Bosnian Serb wartime leader Radovan Karadzic and his former military chief Ratko Mladic. They have been indicted by the UN war crimes tribunal in The Hague for genocide in Srebrenica and the siege of Sarajevo. Both men remain at large eight years after the war ended. They are believed to be hiding under the protection of Bosnian Serb and Serbian authorities. In front of 20,000 people Clinton affirmed: "They sought power through genocide".

Clinton also met with Hatidza Mehmedovic, the leader of those "Mothers" who have found enough strength and courage to go back to Srebrenica. She emphasised the difficult situation the returnees are in, who have abandoned by all governments. Only about 300 of the 27,000 Muslims who lived there

before the war have returned. Srebrenica is now mainly inhabited and controlled by Serb refugees from other parts of the country.

Once when I met Hatidza with a group of Italian youngsters, she felt the need to warn them: "We don't trust politicians any more. Please don't ever believe that someone else is coming to solve your problems. Do not expect anything good from them". A bitter statement reflecting all the political and bureaucratic difficulties the Memorial has had to face so far.

On 20 September 2003, another 107 newly identified bodies were laid to rest, after the first 600 victims were buried on 31 March 2003 and another 282 dead were put underground on the occasion of the eighth anniversary of the massacre: 11 July 2003.

I was in Potocari that day. Fed up with politicians who have often promised that refugees will be able to return to Srebrenica, on this special occasion the mourners insisted that memorial organizers do not make their speeches. Only the head of the Muslim community in Bosnia, Mustafa Ceric,

led a prayer and offered a few words. He told the 12,000-strong audience that the Srebrenica massacre was "one of the great historic shames of humanity". He lamented that Karadzic and Mladic "are still laughing in the face of the whole world while thousands of mothers are still screaming in hope that their sons might hear them".

I met Fatima, another woman who had the courage to return. She wants justice, not revenge. Though she lost all her beloved ones, she tries to look forward. She started crying when she showed me the photo of one of her sons. He was my age, 20 at that time. He used to hang around with Dutch soldiers and invite them home for dinner. On 11 July 1995 he was fleeing advancing Serbian forces through the forest when he decided to take an injured companion to the UN base in Potocari. His Dutch "friends" delivered both of them to the Serbian soldiers. Since then, he has officially "disappeared".

The burials caskets are lined up in long rows and draped in Islamic green. Jasmina Dozic, a 23-year-old girl, still does not have one to cry on. Her father Sefket has not yet been iden-

tified. "The grave in Srebrenica will be the only thing I have left of him".

She offered prayers and laid flowers, while the men of the community were digging and lowering the coffins into the graves. Ambassadors and politicians had already left. The loudspeaker went through the long list of the victims. There seemed to be no end to the grief, because Srebrenica remains alone, abandoned to its destiny.

The "Mothers" go back to tents or ruins (most of their houses are half-destroyed and without water, gas and electricity) at their own expense and danger. "The return of the refugees, a key-point in understanding the contemporary situation in B&H, is stuck: personal security and social assistance are everything but guaranteed, discrimination is the rule".¹⁵ Only Serbian refugees from other areas (most notably Croatian Krajina) have repopulated the town.

"Serbs built monuments to their soldiers in front of concentration camps, like at Trnopolje; they celebrate anniversaries of conquests and deportations as 'days of liberation'! The scandal is that all of this is substantially tolerated by the

international community. This is the reason why I officially suggested that Srebrenica should become an independent district administrated no longer by Bosnian Serb authorities, but directly by the Bosnian central government. It was done in Brcko for mostly economic reasons, they could do it in Srebrenica for much more important political ones".

With the creation of Republika Srpska (the Serbian-majority "entity" that together with the Croat-Muslim Federation constitutes B&H) the "Dayton agreement has undermined the basis for a united country, ratified the conquests of the aggressors and legitimised ethnic 'cleansing'. Today, both the region around Kozarac [tragically famous for its concentration of death camps] and the Drina valley [the zone that comprised the UN-safe areas of Srebrenica and Zepa] are part of that half [49%] of the territory under the control of the Bosnian Serbs. Official authorities there continue to disregard official ceremonies held in memory of the victims of a genocide they continue to deny. Only on 11 July 2003, a Serbian official [Dragan Mikerevic, prime minister of

Republika Srpska] felt pressured by the international community to be present for the first time".¹⁶

"Top-down peace making and bottom up peace building have to be well orchestrated, if one wants to achieve social psychosocial reconciliation. In some of the recent examples of intractable conflicts (Bosnia, Kosovo), peace agreements have been imposed by a third party. This does not mean that reconciliation has taken place. Without the simultaneous beginning of bottom-up reconciliatory efforts, the imposed top-down agreement is doomed to fail".¹⁷

In the town of Srebrenica itself, Bosnian Serb citizens paid little attention to the ceremony.¹⁸ On the bus that was taking her back to her new house in Sarajevo, Jasmina looked out of the window. Her expression turned to one of sadness. In her mind tragic images from the past, in front of her eyes cruel nationalist symbols of the present: a police car with the double-headed white eagles and Serbian kids waving at her with provocative smiles and the three-fingered Chetnik salute. Jasmina started crying, for her father and for B&H, a country that "being as it is now, it has no future".

Notes

1 Mazowiecki Reports (Periodic Reports on the human rights situation on the territory of the former Yugoslavia submitted by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights) at <http://www.haverford.edu/relg/sells/reports/mazowiecki.html>, 15/10/2003.

2 "Shortly before the resignation, I was in Tuzla and spoke to refugees from Srebrenica. They felt betrayed rightfully. I thought that somebody finally had to speak up, in a sharp tone, and demonstrate with a personal, radical, example that such politics should not continue infinitely". MADUNIC, Branko and ZUTELJA. Zeljko, Unprotecting The Protected in "Globus", No. 250, 22/09/1995.

3 Jim Landale, spokesman for UN war crimes tribunal: "Any claim that the number of victims after the fall of the Srebrenica enclave was around the 2,000 mark, and most of those killed in battle, is an absolutely outrageous claim, it is utterly false, and it flies in the face of all of the evidence painstakingly collected in the investigation into the tragedy". At <http://www.balkanpeace.org/hed/archive/sept02/hed5187.shtml>, 15/10/2003.

4 MALCOLM, Noel. *Storia della Bosnia. Dalle origini ai giorni nostri*. Milano: Bompiani, 1996, p. 339.

5 MEMISEVIC, Fadila: "With the help of the GfV the association of Mothers from Srebrenica and Zepa Enclave has been found. This association has now over 10,000 members. For six years we have been helping Mothers from Srebrenica in finding the truth about the fate of over 10,000 missing sons, husbands, fathers and relatives. We are especially active in the long, slow process of exhumation and identification of killed people through DNA analysis. We advocate and support initiative to bury killed people from Srebrenica in Potocari as well as building of the Memorial Center. We are leading the campaign 'Truth and Justice for Srebrenica' which is supported and joined by many international organizations. We encourage return to Srebrenica under the conditions of guaranteed personal safety and reconstruction of destroyed homes".

6 Amnesty International. Public Statement, 30/08/2003. AI Index: EUR 63/017/2003 (Public) at <http://web.amnesty.org/library>, 15/10/2003.

7 OHR BiH TV News Summary at http://www.ohr.int/ohr-dept/presso/bh-media-rep/summaries-tv/bhtv/default.asp?content_id=1587, 19/11/1999.

8 MEMISEVIC, Fadila.

9 See "Human Rights Databank", Spring 2003, Vol 9, No. 3,. Reports from the Field at <http://www.hri.ca/tribune/viewArticle.asp?ID=2712>, 15/10/2003.

10 DNA samples were compared with the blood of Srebrenica survivors. See US Embassy in the Netherlands web site at <http://the Hague.usembassy.gov/032699.htm> (15/10/2003).

11 "ICMP has made 5,000th DNA Match Report", International Commission on Missing Persons, at http://www.ic-mp.org/icmp/home.php?act=news&n_id=56&, 15/10/2003.

12 MEMISEVIC, Fadila.

13 Ibid.

14 "It was President Clinton, who first put the idea to the international community of an International Commission on Missing Persons at the G7 Summit in Lyon, France in 1996. The Commission was set up in June 1996 and since then has worked with families all over the region to find and identify their missing loved ones. Official Opening of Srebrenica-Potocari Memorial and Cemetery, at http://www.ic-mp.org/icmp/home.php?act=news&n_id=54&, 15/10/2003.

15 MEMISEVIC, Fadila.

16 Ibid.

17 BAR-ON, Dan. Reconciliation Revisited. At <http://www.stiftung-sozialgeschichte.de/naherosten/danbaron.htm>, 15/10/2003.

18 "They come, do what they want to do and leave. Maybe it means something to them, to us it means nothing". 25-year-old Milan said, in Srebrenica, where all the bars remained open.

19 MEMISEVIC, Fadila.

CONCLUSIONS

"Any man's death diminishes me, because I am involved in mankind. And therefore never send to know for whom the bell tolls; it tolls for thee".¹

John Donne, poet (1572-1631)

In this paper I followed the personal experience of a Bosnian woman through all the open questions that still cast doubt over whether the same B&H still exists. I have shown the reactions of states and citizens to extreme evil, how genocide develops and how it is either fought or accepted.

In the first chapter Fadila's example demonstrated how an individual's efforts (a bottom-up approach) can come closer to meeting the real needs of the sufferers than the intervention of politics can (a top-down approach). "Peace does not only mean silence of the weapons. In my opinion, peace requires much more. It refers to security and freedom from fear. B&H is far from being a normalized country. Violence took peace away. Only justice can bring it back". This is why she chose to devote her life to pursuing justice and assisting the victims.

In the second chapter I demonstrated that the legal definition of genocide is a relatively new concept that still does not completely fit with the reality of the crime. Despite the criticism from Lemkin and his successors that the enumeration of protected groups is limited, the definition of genocide within the UN Convention is coherent with its etymology: it aims to protect groups that before World War Two were defined as "national minorities", "races" and "religious groups". Although the ad hoc tribunals for the former Yugoslavia and Rwanda have broadened the scope of "crimes against humanity" in customary law, the official definition of genocide is actually too restrictive.

However, until the establishment of the international tribunals in the 1990s the taboo of state sovereignty had prevented any effective penal punishment. The threat to impunity (even for heads of states) is the best guarantee for avoiding repetition of the crime. In the words of Richard Goldstone, former Chief Prosecutor for the International Criminal Tribunals for the former Yugoslavia and Rwanda: "Without establishing a culture of law and order and without

satisfying the very deep need of victims for acknowledgment and retribution, there is little hope of escaping future cyclic outbreaks of violence".²

In the third chapter I established that the war in B&H began as an act of aggression, which betrayed the multicultural tradition of the country and destroyed the political idea of a civic state. The genocide that befell the Bosnian Muslims was not simply the unintentional and unfortunate by-product of combat or civil war. Rather, it was the direct and intended outcome of policies decided upon by the Serbian establishment in Serbia and B&H.³ In seeking to develop a vehicle for its own acquisition and consolidation of power, the Serbian leadership inflamed nationalistic tendencies.

The ambiguous term "Muslim" was manipulated by Serbian and Croatian propaganda. In the beginning, the Bosnian Muslims "hesitated to identify themselves as Bosniak, in the sense of an ethno-national category, since they would appear to be excluding the members of different religions from sharing the same rights to the country of Bosnia. (...) However, when the Bosnian Muslims found themselves more and more

isolated in the defence of Bosnia, they ceased to hesitate over adopting the name of Bosniak. The decision was made in the thick of the war, when siege, expulsion and genocide - and diplomatic pressure at international negotiating tables - were all being deployed to force Bosnia's Muslims to accept the ethno national division of Bosnia".⁴

At that time, Bosnian Muslims needed to identify their ethnicity in a more precise way, because their human rights had been threatened and violated.

In the fourth chapter I explained in detail the practice of "ethnic cleansing" that between 1992 and 1995 eliminated the Muslim population and culture from large parts of B&H. Terror and extreme cruelty, both in the villages and in concentration camps, were means to an end: the impossibility of coexistence. I analysed the psychological and sociological drives that turned normal people into perpetrators: fanaticism, coercion, and the lure for power and material gain.

In my interview with Mladen Tadic, the brother of Dusan, the first convicted war criminal, I showed the disturbing process through which a sense of guilt is removed. Beside

this, I placed special emphasis on the crucial role of bystanders, torn between active involvement (for good or bad) and passive acquiescence.

In the fifth chapter I underlined the fact that genocide in B&H has been continuing for years with the indirect complicity of democratic states. I have argued that genocide is both a test and a challenge for the morality of world politics and the health of established democracies. A genuine concern for human rights seems to be a prerogative only for civil society. Realpolitik is still the common rule in international relations.

I then analysed the activities of the UN during the war in B&H. It is clear now that its mandate covered an impossible mission: keeping the peace in a situation of open warfare! Indeed, the half-hearted UNPROFOR military intervention failed to ease the process of ethnic cleansing. The ill-conceived constitution of "safe areas" did not protect civilians, but on the contrary aided and abetted the colossal violation of human rights that occurred.

In the sixth chapter I highlighted the activities and the protests of the "Mothers from Srebrenica" movement. They

want to go back to Srebrenica together with their dead. "The collective burials in Potocari, the establishment of a Memorial Centre and the return of the expelled residents to their town are closely interlinked. Truth is our strength. We do not want the world either to forget or to accept what has happened".⁵

There are two key principles in their work:

the importance of memory and justice for the survivors

the need for an active network of citizens in order to protect their rights

In the end I gave evidence and agreed with the statement that "yes, people's lives are much more important than any ideology".⁶

B&H is an extraordinary microcosm. Diversity is its trademark: its blessing and its curse. In hard times masks fall off and people like Fadila Memisevic can really make a difference: "May grief become hope, may revenge become justice, may mothers' tears become prayers, that Srebrenica never happens again, to anyone, anywhere".⁷

Notes

1 At <http://www.luminarium.org/sevenlit/donne/donnebib.htm>, 15/10/2003.

2 GOLDSTONE, Richard. "War crimes: a question of will". In MIALI, Hugh, RAMSBOTHOM Oliver and WOODHOUSE Tom. *Contemporary Conflict Resolution*. Cambridge: Polity Press, 1999, pp. 208.

3 "An ethnic cleansing has been the goal of that war, not only 'side effect'. It was launched by the Serbs and they have been indicted for some of the worst atrocities. However, I was reminding from the beginning that other warring factions would use the same methods, and that was confirmed during the Croat-Muslim conflict which also reached tragic dimensions. Cruelties occurred, committed without hesitation by both sides, but I don't believe it was a pre-planned and politically led campaign by the Bosnian government. The lack of control at that time is an explanation". MADUNIC, Branko and ZUTELJA. Zeljko, *Unprotecting The Protected in "Globus"*, No. 250, 22/09/1995.

4 MAHMUTCEHAJIC, Rusmir. 2000, p. 31.

5 MEMISEVIC, Fadila.

6 Ibid.

7 CERIC, Mustafa. *Srebrenica Prayer*. 11/07/2003.

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