



INSTITUTE FOR THE RESEARCH OF GENOCIDE
CANADA

July 09, 2012

H.E. Theodor Meron, President of the International Criminal Tribunal for the Former Yugoslavia

Dear Mr. Meron,

On 28 June 2012, to considerable public surprise, the Trial Chamber of the International Criminal Tribunal for the Former Yugoslavia, presided by Judge O-Gon Kwon, acquitted the Bosnian Serb President Radovan Karadzic on the charge against him of genocide in seven Bosnia and Herzegovina municipalities during the Bosnian War of 1992-1995.

The Trial Chamber found in favour of Karadzic's Motion for Acquittal under the Tribunal's Rule 98bis procedure on the grounds that the evidence submitted that Serb forces under Karadzic's leadership had committed genocide in the municipalities of Bratunac, Foca, Kljuc, Prijedor, Sanski Most, Vlasenica and Zvornik was insufficient for it to try that charge, despite the fact that on 16 June 2004, at the same stage of proceedings in the trial of the former President of Yugoslavia/Serbia and Montenegro Slobodan Milosevic, the Tribunal had found that sufficient evidence of acts of genocide in the listed Bosnian municipalities for the trial of Milosevic on a similar charge to go forward.

In dismissing Milosevic's Rule 98bis Motion for Acquittal, the Trial Chamber determined that there was sufficient evidence that "there existed a joint criminal enterprise, which included members of the Bosnian Serb leadership, the aim and intention of which was to destroy a part of the Bosnian Muslims as a group, and that its participants committed genocide in Brcko, Prijedor, Sanski Most, Srebrenica, Bijeljina, Kljuc and Bosanski Novi" and that Slobodan Milosevic was a participant in that joint criminal enterprise (Judge Kwon, also a member of that panel, dissenting).

We find it extraordinary that the evidence of genocide in Prijedor, Sanski Most and Kljuc which was sufficient basis to proceed with Milosevic's trial in 2004 has now, along with all the prosecution's evidence relating to Bratunac, Foca, Vlasenica and Zvornik, been deemed insufficient to try Karadzic in 2012. We are aware that the Karadzic Chamber in its 98bis decision argues that it cannot be bound by the Court's previous decisions in another case, but in a matter of this gravity we are at a loss to understand how jurisprudential findings can be overturned without any meaningful effort at explanation or justification.

Without transparency, administration of the law becomes nothing more than yet another arbitrary exercise of power. We urge you to consider whether the Court's apparent

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disregard for consistency in its jurisprudence is compatible with respect for the basic principles of law, commitment to the objects of the Convention on Genocide and the need to maintain public confidence in its proceedings.

As organizations which have on many occasions cooperated enthusiastically with the Court in the hope of ultimately seeing justice achieved, we are disappointed with yet another manifestation of the Court's apparent disregard for the way in which its actions have tended to compound the injuries suffered by the victims of genocide in Bosnia

We are particularly mindful that the reason for the Tribunal's very existence was the force of public concern that in 1992/1993 the destruction of non-Serb ethnic groups by Bosnian Serb nationalists under the leadership of Ratko Mladic and Radovan Karadzic was taking place in the territory of Bosnia and Herzegovina - less than fifty years after the Holocaust and the subsequent enactment of the United Nations Convention on the Prevention and Punishment of Genocide. The terrible culmination of this campaign in July 1995 at Srebrenica lay still in the future. The Tribunal was set up in response to the perception that what had been happening in 1992 in the many municipalities of Bosnia under Serb nationalist control was genocide, as Elie Wiesel, survivor of Auschwitz, so clearly recognized at the time and as the evidence considered by the Court in dismissing the motion for Milosevic's acquittal had apparently confirmed.

The project to establish a greater Serbia involved a widespread and systematic attack on the Bosnian Muslims and the Bosnian Croats in strategically-located areas under the control of the Bosnian Serb military and political leadership. It involved the widespread and systematic commission of war crimes that were directed at the Bosnian Muslim and the Bosnian Croat communities as such - the torture and murder of civilians in concentration camps, the rape of women as a means of terrorising and destroying the social cohesion of the group, the destruction of the political, social and economic leadership of the non-Serb communities - that were the underlying acts of genocide aimed at eliminating the presence of the non-Serb groups on Serb-controlled territory.

Since the Krstic case confirmed the genocide at Srebrenica in July 1995 the Tribunal has given the impression of gradually - atrocity by atrocity, municipality by municipality - relinquishing its task of prosecuting genocide in the municipalities of Bosnia. In so doing it has offered little in the way of convincing argument, appearing impelled primarily by the need to wind up the business of the Tribunal before funding is withdrawn. The notion that victims might feel in some way compensated or even empowered by the justice process may be little more than a comforting fiction but it has been impossible for them to experience the Court's progressive abandonment of what they understood to be the rationale of its existence as anything other than the ultimate betrayal.



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Judge President Meron, at the commemoration of Srebrenica at Potocari in 2004, chose to read out the words of the judgment in the Krstic case that described the gravity and the horrific nature of the crime of genocide, along with the unhesitant statement that its perpetrators would unfailingly face justice.

"The crime of genocide is singled out for special condemnation and opprobrium," you said. "... It is a crime against all of humankind, its harm being felt not only by the group targeted for destruction, but by all of humanity." You reaffirmed that "the gravity of genocide is reflected in the stringent requirements which must be satisfied before this conviction is imposed," but confirmed, as we trust you still remember, "... Where these requirements are satisfied, however, the law must not shy away from referring to the crime committed by its proper name."

The Trial Chamber's dismissal of the Motion for Slobodan Milosevic's acquittal established that by seeking to eliminate a part of the Bosnian Muslims in named municipalities, the Bosnian Serbs' joint criminal enterprise had committed genocide. The Court's acquittal of Radovan Karadzic on the charge of genocide in some of the very same named municipalities suggests that the Tribunal does now shy away from referring to the crime by its proper name. On behalf of the victims we demand, in the name of justice, that the Court explain its incomprehensible decision.

This letter was also sent to: Mr. Serge Brammertz, Prosecutor of the International Criminal Tribunal for the Former Yugoslavia, Madame Louise Arbour Former Prosecutor of the International Criminal Tribunal for the Former Yugoslavia and Mr. Richard Goldstone Former Prosecutor of the International Criminal Tribunal for the Former Yugoslavia.

Sincerely,

On behalf of the Governing Board of the Institute for Research of Genocide, Canada
Professor Emir Ramic, Director

On behalf of the Society for Threatened Peoples
Tilman Zülch President of the STP

On behalf of Congress of North American Bosniaks (CNAB)
Haris Alibasic, MPA, President



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On behalf of Advisory Council for Bosnia and Herzegovina, Washington, USA

Ajla Delkic, M.A., Executive Director

On behalf of the International Expert Team of the Institute for Research of Genocide, Canada

Professor Francis Anthony Boyle, Professor of international law and internationally recognized expert who serves as counsel to Bosnia and Herzegovina

Professor David Pettigrew, Professor of Philosophy, Southern Connecticut State University, USA

Professor Marko Attila Hoare, Kingston University, London – a world renowned British historian of the Former Yugoslavia

Professor Christian Schwarz-Schilling, Schwarz-Schilling, Federal Minister ret. High Representative and Special Representative of the European Union for Bosnia and Herzegovina ret.

On behalf of The Dag Hammarskjöld Foundation, Sweden

Henning Melber, Executive Director

On behalf of the Education builds Bosnia and Herzegovina

General Jovan Divjak a Bosnian general in the Bosnian army during the 1992-1995 Bosnian War, the deputy commander of the Main Staff until 1994. The executive director of the association of the Education builds Bosnia and Herzegovina

On behalf of Institute for Research of Crimes Against Humanity and International Law, University of Sarajevo

Professor Smail Cekic, Director

On behalf of the Bosnak Academy of Science and Arts

Profesor Ferid Muhic, President

On behalf of of the Research Institute of crimes and genocide, University of Novi Pazar, Sandzak, Serbia

Professor Admir Muratovic, Director

On behalf of Bosniak Cultural Association, Preporod, Sarajevo, Bosna i Hercegovina

Professor Senadin Lavic, President

On behalf of the Associations of victims and witnesses of genocide in Bosnia and Herzegovina

Murat Tahirovic, President

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On behalf of the Association of Detainees "Prijedor 92"

Mirsad Duratovic, President

On behalf of Bosniak Cultural Association, Preporod for North America
Professor Abdullah Kapic, President

On behalf of World Alliance of the Diaspora of Bosnia and Herzegovina
Zaim Pasic, President

On behalf of Bosnian American Genocide Institute and Education Center
Sanja Seferovic-Drnovsek J.D, ME, Director

On behalf of the Australian Council of Bosnia and Herzegovina Organizations
Elvis Ibisevic, President

On behalf of Association Women Victims of War, Sarajevo, Bosnia and Herzegovina
Bakira Hasecic, President

On behalf of Center of contemporary initiatives Austria
Damir Saracevic, B.A., President

On behalf of Community Platform of the citizens of Bosnia and Herzegovina in the Netherlands
Ervin Sendijarevic, President