***With Šešelj's Release from the Hague, Can There be Justice on the Ground in Bosnia?***

The recent release of ultranationalist demagogue Vojislav Šešelj1 from his detention at the Hague, for "compelling humanitarian reasons,"2 raises new questions about the legacy of the International Criminal Tribunal for the Former Yugoslavia (ICTY). Šešelj is charged, for example, with having "made inflammatory speeches in the media" and with having "espoused and encouraged the creation of a homogeneous 'Greater Serbia,' by violence, and thereby participated in war propaganda and incitement of hatred towards non-Serb people."3 Upon his arrival in Belgrade following his release, Šešelj re-affirmed his commitment to pursuing a "Greater Serbia," and brazenly asserted that he would never return voluntarily to the Hague. In addition to his "extreme ethnic rhetoric," Šešelj is charged with "Persecutions" as a Crime Against Humanity, including murder, torture, and deportation.4

There is no doubt that the work of the ICTY is profoundly important, but Šešelj's release indicates the troubling limits of the judgments of the Court. For example, even if Radovan Karadžić would be convicted on both counts of Genocide, the entity of Republika Sprska, with its political and cultural policies of genocide denial and the glorification of war criminals, would continue to exist, thereby circumscribing the limits of judicial processes in matters of justice and human rights.

In addition to the difficulties of achieving meaningful justice at the ICTY, there are frustrating obstacles to achieving "justice on the ground" in Republika Srpska. For example, the authorities in Republika Srpska have declared their intention to demolish the Pionirska Street house. The destruction of the house would erase all traces of the crimes that were perpetrated in 1992 when innocent women and children were burned alive both in the Bikavac neighborhood and in the Pionirska Street house. These were crimes, it must be said, that were described by the ICTY as "the worst acts of inhumanity that a person may inflict upon others."5

Nonetheless, the authorities in Republika Srpska have designated the Pionirska Street house for demolition as part of a municipal road construction project, even though the foundation of the house is quite obviously far removed from the adjacent roadbed. A "red tape" was placed around the house by the authorities, announcing the condemnation of the property and prohibiting access.

In response to the plans to destroy the house and erase any evidence of the crimes, Mrs. Bakira Hasečić, President of the Association of Women Victims of War, organized an effort to restore the Pionirska Street house, a restoration that was to include a memorial museum for the victims in the basement where they were viciously murdered. Mrs. Hasečić's efforts, however, led to her being the target of criminal investigations for "illegal construction," and for crossing the "red tape," or, what could be termed the "red line."

At this point the final appeal to prevent the destruction of the house has been exhausted and Mrs. Hasečić is still being targeted for investigation and prosecution. Thus, Mrs. Hasečić is being targeted and persecuted a second time: she was first targeted and persecuted in 1992 as a result of the genocidal policies of Mr. Šešelj and Mr. Karadžić, and now she is targeted and persecuted once again as part of the apartheid politics of Republika Srpska; apartheid politics masquerading as the "rule of law."

On March 18, 2014, I crossed the "red line" of the "red tape" at the Pionirska Street house in solidarity with Mrs. Hasečić, in order to respect and honor the memory of the victims of the crime, one of two crimes that the International Criminal Court insisted, stand out "for the viciousness of the incendiary attack, for the obvious premeditation and calculation that defined it, for the sheer callousness and brutality of herding, trapping and locking the victims in the two houses, thereby rendering them helpless in the ensuing inferno, and for the degree of pain and suffering inflicted on the victims as they were burnt alive."6 The question now, is whether, as Vojislav Šešelj is receiving a hero's welcome in Belgrade and is affirming the ideology of a "Greater Serbia," the international community will find the resolve to support Mrs. Hasečić and to save the Pionirska Street house from demolition.

In his comments in Prague on October 30, 2014, the High Representative Valentin Inzko stated that "the international community needs to change" and that it must be "much more united," and "more prescriptive" in Bosnia and Herzegovina. The High Representative insisted that Republika Srpska would not be allowed to secede and that Srebrenica would never be situated in a separate country.7 The High Representative also described genocide denial as "unbelievable," and the glorification of war criminals in Republika Srpska as simply "unacceptable." Such a glorification of war criminals is equivalent, in his opinion, to "hate speech." He emphasized that Bosnia and Herzegovina needs to enact laws against genocide denial and hate speech.8

In response to Šešelj's release from the Hague, and to his avowal of ultranationalism and hate speech, let us seek justice on the ground in Republika Srpska. If the right to the freedom of cultural expression guaranteed by the core International Human Rights documents does not include the right to memorialize and mourn the victims of a genocide, and to be protected against discrimination in this regard, then the documents would have no meaning.9 Survivors have also been prohibited from installing memorials to the victims of atrocities in Foča and Prijedor.

Accordingly, in the spirit of Mr. Inzko's recent comments in Prague, I invite the High Representative and representatives of the international community to join me in crossing and defyingthe "red tape" at the Pionirska Street house in Republika Sprska, in the sense that this "red line" is the line of genocide denial, hate speech, discrimination, persecution, psychological intimidation and dehumanizing exclusion. Let us cross the red line together in remembrance of the victims, in solidarity with the survivors, and in support of human rights. When efforts to achieve justice are frustrated at the Hague, let us support human rights and justice on the ground in Republika Srpska.

Vojislav Šešelj is charged, among other crimes, with the "deliberate destruction of homes...cultural institutions, historic monuments and sacred sites."10 Tragically, without some form of unified action, the anticipated demolition of the Pionirska Street house will be nothing less than the cruel re-enactment, in 2014, of the genocide that occurred between 1992-1995. The destruction of the Pionirska Street house will re-enact the Bosnian Serb Army's practice of destroying homes, mosques and cultural institutions in civilian towns and villages, such as occurred from Kozarac (Prijedor Municipality) to Klotjevac (Srebrenica Municipality), and in many other locations. The international community was unable to stop the murder of civilians and the destruction of their homes from 1992 - 1995. The question is whether the international community will unite and act now to protect Mrs. Hasečić from further criminal investigation and prevent the destruction of the Pionirska Street house.

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NOTES:

1. *International Criminal Tribunal for the former Yugoslavia*, *Third Amended Indictment*, *Šešelj* (IT-03-67-T), December 7, 2007, accessed November 28, 2014,
http://www.icty.org/x/cases/seselj/ind/en/seslj3rdind071207e.pdf

2. *International Criminal Tribunal for the former Yugoslavia*, ORDER ON THE PROVISIONAL RELEASE OF THE ACCUSED *PROPRIO MOTU* (IT-03-67-T), Trial Chamber III, November 6, 2014, accessed November 28, 2014, http://www.icty.org/x/cases/seselj/tord/en/141106.pdf

3. *International Criminal Tribunal for the former Yugoslavia*, *Third Amended Indictment*, *Šešelj* (IT-03-67-T), §10, b and c, December 7, 2007, accessed November 28, 2014.

4. *International Criminal Tribunal for the former Yugoslavia*, *Third Amended Indictment*, *Šešelj* (IT-03-67-T), §22, 24, 26, 27, 28-33, December 7, 2007, accessed November 28, 2014,

5. *International Criminal Tribunal for the former Yugoslavia, Judgement,* *§1061*, *Trial Chamber III, July 20, 2009,* accessed November 28, 2014, http://www.icty.org/x/cases/milan\_lukic\_sredoje\_lukic/tjug/en/090720\_j.pdf

6. *International Criminal Tribunal for the former Yugoslavia, Judgement, Milan Lukić-Sredoje Lukić* (IT-98-32/1-T)*, Judgement, §740, Trial Chamber III, July 20, 2009,* http://www.icty.org/x/cases/milan\_lukic\_sredoje\_lukic/tjug/en/090720\_j.pdf

7. Inzko, Valentin. "Panel Presentation and Discussion." "Conference on "European Integration of the Western Balkans" Council for International Relations in Cooperation with Ministry of Foreign Affairs Czech Republic, Prague. 30 Oct. 2014. Speech. <http://www.rmv.cz/cz/detail-clanku/integrace-balkanu-do-evropske-unie-mezinarodni-konference/#.VFkrmUv0gTN>

8. Ibid.

9. The International Covenant on Economic, Social and Cultural Rights affirms that "the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights." http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx

The*International Convention on the Elimination of all Forms of Racial Discrimination, Part I, Article 2 (*2.) states that "Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms." Article 5, (e) specifies Economic, social and cultural rights, including "(vi) The right to equal participation in cultural activities." While the Pionirska Street house faces demolition in Višegrad, a statue that honors the perpetrators of the genocide has been installed in the middle of town, clearly indicating a discriminatory policy with regard to the cultural practice of memorialization. http://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx

10. *International Criminal Tribunal for the former Yugoslavia*, *Third Amended Indictment*, *Šešelj* (IT-03-67-T), §17 j, December 7, 2007, accessed November 28, 2014,
http://www.icty.org/x/cases/seselj/ind/en/seslj3rdind071207e.pdf