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Genocide Theories vs. Genocide Realities: The Case of Bosnia and Herzegovina

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I am very grateful for the opportunity to speak at this conference because the situation in Bosnia and Herzegovina demands the urgent attention of the international community. Bosnia is an example of failed genocide prevention, in 1992, but it is also an example of a muddled transitional justice process. It has been almost twenty years since the end of the genocide in Bosnia, and despite a continuous presence of the international community, the risk that genocide could occur there again is not altogether unlikely.

The primary transitional justice mechanisms for Bosnia are the International Criminal Tribunal for the former Yugoslavia in The Hague and the War crimes Chamber of the State Court. The trials and judgments of the ICTY represent a very important historical archive; and one that could have been used to deconstruct genocide denial. But, given the political context in which trials have been taking place, they sometimes have unintended effects – indeed, some verdicts have actually fueled denial instead of inspiring reconciliation.

Today I will talk about the period of genocide in Bosnia, from 1992-1995, as well as painting a picture for you of the atmosphere of denial that is palpable in present day Bosnia and the rhetoric that accompanies it. This conference is about genocide

prevention, and recognizing early signs that a genocidal process may be underway plays a very important role in preventing genocide. This is where theory plays its part, offering us frameworks within which to analyze potential signs and trajectories of social processes. But theory can move us only so far toward responsiveness; and Bosnia is a potent reminder that we cannot simply analyze away very powerful manifestations of denial in the real world.

Srebrenica, July 1995: The only internationally recognized case of genocide in the 1992-1995 war in Bosnia

The notion that the mass murder of Bosnian Muslim men and boys in Srebrenica in July 1995 is the only case of genocide that occurred during the conflict is problematic for a number of reasons. In a way, it has helped fuel genocide denial in present day Bosnia. But genocide against Bosnian Muslims – as genocide *always* is – was a process that took time, preparation, planning, and the organization of forces to implement. Long before events in Srebrenica, in a killing spree that began in 1992, mass murders in majority Muslims towns were a routine part of the Serbian and Bosnian Serb plan to exterminate Bosnian Muslims. Yet NATO intervened only after the Srebrenica genocide in 1995, and it was only after this intervention that the word genocide even entered “legitimate” use in connection with Bosnia.

There was proof of genocide before Srebrenica, though, and it was in fact broadcast live across the world. But even when very disturbing images of concentration camps, massacres, sieges, and the bombing of cities found their way into nightly newscasts, the world failed to call what they saw “genocide.” The public statements of Serbian

political military leaders about their genocidal intentions were still not enough to convince a world that insisted on calling the conflict a “civil war” and “ethnic cleansing.”

In international law and policy making, terminology and semantics matter. For, the term “ethnic cleansing” allowed for a relativization of guilt, an accommodation to the idea that all sides were equally guilty. And this was ideal for the non-interventionist politics of the UN; for, if everybody is guilty there is nobody to punish, there is nothing to prevent, and no one has to get their hands dirty. After all, ethnic cleansing, unlike genocide, does not call world governments to honor the mandate imposed on them by the Genocide Convention of 1948, to prevent and end it by any means necessary.

Slow-motion genocide

In 1993, the term “slow-motion genocide” was introduced by Ambassador Arria of Venezuela, who led a Security Council delegation to Srebrenica at the end of April of that year. Arria observed thousands of refugees living on the streets, witnessed Serbs denying them access to food, and saw that they were exposed to sniper fire and shelling on a daily basis. At the time, forensic evidence from mass graves in eastern and northwestern Bosnia had not yet been discovered.

Arria’s impression in the spring of 1993 was that Bosnian Muslims in Srebrenica were being prepared for mass slaughter. And, unfortunately, he was right; the “slow-motion genocide” escalated in July 1995. But what Arria did not know was that the whole of eastern Bosnia, as well as northwestern Bosnia, was already covered with

mass graves when he visited Srebrenica. The mass executions that took place in Srebrenica in July 1995 had already been carried out in other towns in eastern and northwestern Bosnia in 1992.

Those early events were presented by the European media as uncontrolled violence perpetrated by “rogue” paramilitaries. Yet, transcripts of the Republika Srpska Assembly (the para-state body essentially legitimized by Dayton at the war’s end) show that genocidal rhetoric was a norm. Talk of the extermination of Muslims was everyday discourse for Bosnian Serb leaders, such as the delegate from Prijedor, Srdo Srdić, who boasted in 1993 that he had wiped Prijedor clean, that it was no longer a green (Muslim) municipality. Before the war, the population of Prijedor was majority Muslim, but as Srdić said, the Serbs, “fixed them and sent them packing.”

Where exactly Serbs from Prijedor sent Bosnian Muslims was known all along to Muslims and to those who were willing to see the truth; but when exhumations began after the war, it became obvious to everyone else. Still, what occurred in Prijedor was not considered genocide among international decision makers, judges in The Hague, or international media. The exhumations were of a significant number of smaller mass graves, apparently not shocking enough to warrant that label. But a few months ago, Tomašica with estimated 700 or so bodies, was discovered. That is largest mass grave – not only in Prijedor but in the whole of Bosnia. And it answered with certainty where Bosnian Muslims from the area of Prijedor were “sent packing” in the summer of 1992.

For this reason, events in Prijedor are part of the battle the ICTY prosecutor is fighting to prove genocide occurred in 1992, not just in 1995. Notably, the trial Chamber in the Karadžić case refused to admit evidence from Tomašica because exhumations were incomplete.

Despite some variations, genocide scholars highlight the role of the state in the planning, organization, and execution of genocide. It makes sense that there must be a plan to commit genocide, though it is kept behind closed doors while authorities present mass murder as uncontrolled violence and generally blame it on paramilitaries or non-state actors. Ton Zwaan is among those scholars who argues that genocide cannot be an isolated event or a single act, but that “it is more adequately conceptualized as a process in space and time: an interconnected series of many different acts by a considerable number of interdependent people, acting individually and in organized, collective forms.”ⁱ

If we also take the 10 stages of genocide developed by Gregory Stanton into consideration, as well as those of many other theoreticians, it is easy to see that genocide is a process that takes time to organize – to dehumanize victims, to prepare executions. It is a process that cannot develop locked deeply in the minds of only a few people; for it requires public action. There was evidence of such action and even overtly publicized intentions expressed in many towns in Bosnia and Herzegovina from 1992 on, but many people chose to ignore these signs. And, having ignored the signs then, these same people deny now what those signs portended. Denial of this nature relies on revisionist narratives of recent events and long-held myths that serve

to relativize those events against the past, and these are among the reasons that Stanton identifies denial as the tenth stage of genocide, calling it one of the “surest indicators” that genocide can occur again in a society.

Genocide denial

Out of journalistic, academic, and international political discourse, the euphemism of “ethnic cleansing” has helped pave the way for denial in the international legal arena. In judgments of the ICTY, a legal precedent is yet to be set that defines any crimes except those committed in July of 1995 in Srebrenica as genocide. Yet, during the trial of former Serbian President Slobodan Milošević, a great deal of evidence was presented establishing that genocide in Bosnia and Herzegovina had in fact commenced in the spring of 1992, and this was confirmed by an interim verdict reached in the case on June 16, 2004. This interim verdict named seven Bosnian towns in which genocide had occurred: Brčko, Prijedor, Sanski Most, Srebrenica, Bijeljina, Ključ, and Bosanski Novi.ⁱⁱ Radovan Karadžić and Ratko Mladić have also been arrested and are standing trial in The Hague for genocide. But, in a historic move, the Convention on Genocide was applied for the first time in a state versus state proceeding in the case of Bosnia and Herzegovina versus Serbia.

While the February 26, 2007 verdict in the case, tried at the International Court of Justice in The Hague, did confirm the Tribunal’s position that genocide occurred in Srebrenica in July 1995, it released the Serbian state from full responsibility. Serbia was held accountable only for failing to *prevent* genocide. Judges openly admitted in their ruling that they had decided the case with insufficient evidence, yet they refused the request of Bosnian applicants to compel Serbia to disclose a version of the

minutes of the Serbian Supreme Defense Council – the body in charge of the then-Yugoslav army – that had been submitted as evidence in the Milošević case. Why? Because in submitting the document to the ICTY, Serbia explicitly demanded guarantees that it would not be released to the ICJ, under the guise of national security.

Let's apply this standard to another, more well-known case. What if, after World War Two, Israel brought genocide charges against Germany in the ICJ? Let us imagine that the Nuremberg Tribunal held key evidence that it had used to prosecute individual Nazis, but that it refused to give this evidence to the ICJ because in order to get it, the Tribunal had promised to protect the national interest of Germany. Imagine, too, that the ICJ refused to order Germany to disclose these key documents and, based on incomplete evidence, the ICJ ruled that Germany was not responsible for the Holocaust. This sounds like a far-fetched scenario, but that's exactly what happened in the case of Bosnia and Herzegovina versus Serbia and Montenegro.ⁱⁱⁱ And this case will, most certainly, have serious and long-term consequences with regard to both the prevention and the prosecution of genocide.^{iv}

Part of that documentation that ICTY did not disclose to ICJ during the ICJ proceedings was made public in the meantime. Those are all Supreme Defence Council minutes that ICTY received from Serbia. However, that was not a complete documentation.

And I suggest that this Conference can be used to sign some sort of communiqué to ask from Serbia the disclosure of all Supreme Defence Council documents, as well as some other documents that are still kept secret in the Tribunal.

A chance to utilize the international legal system to compel Serbia to confront the truth about its past was missed with the ICJ verdict, and much of the Serbian public readily interpreted it as proof that Serbia had not been involved in the war against Bosnia. And so, denial in Serbia acquired a new dimension following the verdict; and it is now pervasive – in political discourse, the media, the educational system, and the sphere of law. It is also pervasive in the majority Serb entity in Bosnia and Herzegovina, the Republika Srpska, where entity president Milorad Dodik openly denies genocide. He uses every opportunity to engage in the rhetoric of denial, mocking the verdicts of both international courts.

The American Embassy in Sarajevo has stopped meeting Dodik, and the same goes for all officials from the US State Department who come to Bosnia. Yet, Europeans still treat him as a legitimate political partner.

I stand here in front of you to warn you that the final stage of genocide – genocide denial – is very much alive in Bosnia. If you do not believe me, we can Google it together and I will show you Milorad Dodik denying genocide, which he does openly, and after that we can watch coverage of European officials visiting him in Banjaluka. It is as if he has not made a habit of hate speech; and this tacit acceptance of such dangerous rhetoric empowers Dodik and men like him with a frightening sense of impunity. I am not the only one to claim that hate speech is dominant in Republika Srpska, which now sees its hopes for secession enhanced by recent event in Crimea. If the entity decides to move ahead with attempts to secede, a new war will begin.

International representatives in Bosnia do not seem to take this as a serious threat, but

I do. They did not see war and genocide coming in 1992 either. And when they did see, when they could not ignore it, they dressed it up in moral relativism and bought much of the propaganda themselves. They disconnected themselves, as many are doing today with events in Syria, from the fact that *individual people* die in genocides. And at the end of the day, theories of genocide, no matter how complete and how nuanced, can help us prevent and respond to genocide only if we are willing to admit it is occurring.

ⁱ Ton Zwaan, “On the Aetiology and Genesis of Genocides and Other Mass Crimes Targeting Specific Groups,” Expert Report, Exhibit P639, Prosecutor v. Milošević, No. IT-02-54 (January 20, 2004), 21.

ⁱⁱ Decision on Motion for Judgement of Acquittal, Prosecutor v. Milosevic, No. IT-02-54 (June 16, 2004), 115.

ⁱⁱⁱ Edina Becirevic, “ICJ Judgement Significant Despite Flaws,” IWPR Tribunal Update 491 (March 3, 2007).

^{iv} See: “Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide,” Judgement, Bosnia and Herzegovina v. Serbia and Montenegro (February 26, 2007). The judgement is available online at: <http://www.icj-cij.org/docket/files/91/13685.pdf> (accessed August 30, 2012)