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The Bosnian Genocide and the Srebrenica massacre

355.012 (497.6) “1992/1995”
341.645.2 (492)

DOI 10.47999/bos.2021.5.1.40-52
Original scholarly article

pages 38-50

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Abstract

This paper aims to place the Srebrenica massacre in its broader context, both in terms of its place in the Bosnian war, and theoretically. The Srebrenica massacre is the only war crime of the Bosnian war that has, in legal terms, been solidly confirmed to have constituted genocide. In the ICTY, 2001 convicted Radislav Krstic of complicity in genocide for his role in the Srebrenica massacre, thereby establishing the fact of the Srebrenica genocide. The ICJ, in its ruling of 2007 in Bosnia vs Serbia, explicitly stated that the Srebrenica massacre was an act of genocide. However, the ICJ in the same ruling stated that other massacres of the Bosnian war, in particular those of 1992 when Bosnian Serb military forces were formally under Belgrade’s command, were not genocide.\(^1\) The ICTY has so far failed to convict any suspect of genocide except in relation to the Srebrenica massacre. Consequently, the Srebrenica massacre has assumed the status of a crime apart in the Bosnian war.

Introduction

The term ‘Bosnian genocide’ remains controversial. Whether or not there was a Bosnian genocide is something that divides scholars,\(^2\) and the claim that there was, lack a solid legal underpinning. By contrast, the fact of the Srebrenica genocide is recognised not only by the international courts, but by almost all respectable scholarly opinion internationally, with one or two notable exceptions, in particular William Schabas and Katherine Southwick.\(^3\) This has been reflected in the memorialisation of the genocide internationally. For example, the European parliament voted in 2009 for member states to adopt 11 July as the date of commemoration for the Srebrenica massacre. The UK held its first Srebrenica memorial-day event in 2013, and in 2015, sponsored a resolution to the UN to mark the 20th anniversary. The choice to commemorate Srebrenica alone, rather than the Bosnian mass killings as a whole, may also serve to avoid making a bigger judgement as to guilt and responsibility for the war. If we were to commemorate more

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broadly than Srebrenica, would we commemorate only victims of Serb mass killings? Or of Serb and Croat crimes, which might include the Croatian shelling of Mostar? Or even victims of all three sides? Would we conflate the different sides in the conflict, or single out one side? These politically sensitive questions are avoided by picking just one crime to commemorate, which was both the biggest single massacre and the work of the side that was overall, vastly most responsible for the killings.

However, the effect of this is that the Srebrenica massacre has been allowed to overshadow the mass killings carried out by the Bosnian Serb perpetrators during the war as a whole. This is despite the fact that the Srebrenica massacre was merely the last major episode of mass killing in the Bosnian war, and far from the largest. The biggest phase of mass killing was the initial Serbian assault on Bosnia-Hercegovina in the spring and summer of 1992. In that year, in East Bosnia alone, more Bosniaks were killed than in 1995, the year of the Srebrenica massacre, according to the figures of Mirsad Tokaca’s Research and Documentation Centre. The siege of Sarajevo also killed significantly more Bosniaks than the Srebrenica massacre (if both civilian and military casualties are included – as indeed they should be, since the two categories are not fully distinct when a genocidal war is being waged against an entire population – compare, for example, the Warsaw Ghetto Uprising).

Concentration camps were established in the Prijedor region and elsewhere and were a key element in the killing process and the targeting of the civilian population, a fact that is lost when genocide commemoration focuses on the Srebrenica massacre alone. In the Prijedor region, the genocide was particularly brutal as it targeted a region with a strong anti-fascist and social democratic tradition. Instead, international commemorations focus solely on Srebrenica which occurred late in the war, and it only the annual commemoration in Srebrenica, that receives any international attention. Furthermore, the genocide in Srebrenica is, widely though inaccurately viewed as an aberration or exception to the general pattern. The idea of Srebrenica as an aberration was reinforced by the ICJ’s 2007 ruling. This found Serbia guilty of failure to prevent genocide in Srebrenica, on the grounds: ‘The FRY leadership, and President Milošević above all, were fully aware of the climate of deep-seated hatred which reigned between the Bosnian Serbs and the Muslims in the Srebrenica region.’ This formulation attributes the

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The Bosnian Genocide and the Srebrenica massacre to local Serb-Muslim relations in Srebrenica, rather than to the intentions of the Bosnian Serb supreme command. It also hints at victim-blaming, or at least a division of blame between victims and perpetrators. Some have claimed that the scale and ferocity of the Srebrenica massacre should be explained by reference to local Serbs seeking revenge for Naser Oric’s raids against the Serb villages surrounding Srebrenica. It is possible that individual rank-and-file Serb perpetrators may have had personal grievances against Bosniaks related to Oric’s actions – this certainly emerges from David Rohde’s investigative journalist study of Srebrenica.7 But this cannot explain the presence of the VRS commander Ratko Mladic at Srebrenica, and the supreme logistical effort of the VRS needed to organise the systematic massacre of over 8,000 people and dispose of their bodies afterwards. As scholars such as Zarko Puhovski have suggested, this reduces the Srebrenica massacre to a ‘municipal genocide’.8

Furthermore, the idea that there was some sort of particular climate of hate between Serbs and Bosniaks in the Srebrenica municipality fails to consider the fact that the massacres in other areas of East Bosnia and Bosnia as a whole, were just as vicious and brutal, even if their scale was smaller. For example, in the Zaklopcas massacre in May 1992, Serb forces surrounded the unarmed village of Zaklopcas in the Vlasenica municipality, blocked off all exits from the village and massacred 63 inhabitants – men, women and children. Or in the Bikavac Hill massacre near Visegrad in June 1992, about 70 Bosniak civilians, women, children and the elderly, were barricaded into a house which was then petrol bombed – only one woman survived, severely burned. If anything, the careful, central, top-down planning that went into organising the July 1995 massacre, suggests it may have had less to do with the hatred of ordinary rank-and-file perpetrators than some of the earlier, smaller massacres. In fact, the Srebrenica massacre cannot be understood except as an intrinsic part of the programme of mass killing that took place in Bosnia between 1992 and 1992. This was planned and set in motion by the Milosevic regime in Belgrade, then transferred to formally independent Bosnian Serb (Republika Srpska and Army of the Republika Srpska - VRS) command in May 1992.

There are strong grounds for deeming the Bosnian Serb extremist mass killings in Bosnia-Hercegovina as a whole to have been genocide. Namely, the goal of the perpetrators was to destroy the non-Serbs, above all Bosniaks, as a group or groups on the territory of the projected Republika Srpska; this involved actual destruction of the group in part. This view enjoys some support in the scholarship and judicial record. You can hardly find two genocide scholars who will

agree on the precise definition of genocide, which results in part from the fact that the international legal definition embodied in the UN declaration allows for multiple interpretations. Nevertheless, several leading genocide scholars do characterise the Bosnian Serb mass killings as genocidal, including Eric D. Weitz, Adam Jones, Norman Naimark and Martin Shaw.9 So do several experts on the Bosnian war themselves: Norman Cigar, Edina Becirevic and Smail Cekic.10 Others disagree.

So again, the question as to whether the Bosnian Serb’s mass killings across the whole of Bosnia-Hercegovina should be categorised as genocide may depend on how broadly or narrowly the term is defined. It would be a much less controversial question if, instead of using the international legal definition, which was shaped by a political and diplomatic process in the 1940s, we use the original definition favoured by Rafael Lemkin, the man who coined the term ‘genocide’. Lemkin believed genocide should be deemed to include cultural genocide.11 The Bosnian Serb authorities conducted very extensive and systematic destruction of the cultural heritage of Bosnia-Hercegovina – the destruction of mosques, graveyards, libraries and other cultural artefacts.12 The evidence of this was discounted by the ICJ judges, because cultural destruction was not included in the international definition. Had the international legal definition included cultural destruction as Lemkin had wished, there is no doubt Serbia would have been found guilty.

Yet even with the existing international legal definition, there are reasonable grounds for considering the killings to have constituted genocide. This was the opinion expressed by dissenting Judge al-Khasawneh, who argued that judges should have inferred genocidal intent from the consistent pattern of atrocities.13 In Germany, the courts that prosecuted the Bosnian Serb perpetrators Nikola Jorgic and Novislav Djacic concluded that genocide occurred in Bosnia outside of Sre-

brenica, specifically in the Doboj and Foca regions. Jorgic was convicted in Germany of genocide, and appealed his case all the way to the European Court of Human Rights, which ruled that his conviction was in keeping with the international legal definition of genocide. Finally, the ICTY’s 2012 conviction of Zdravko Tolimir, Assistant Commander of Intelligence and Security of the Bosnian Serb army, determined that the group targeted for genocidal destruction was the Bosniak population of East Bosnia as a whole, not simply Srebrenica. Although the 2015 Appeals Chamber judgement in the case of Tolimir, modified his conviction and granted some minor aspects of his appeal, it confirmed the Bosniak population of East Bosnia as a whole had been targeted for destruction.

Even the ICJ verdict in the case of Bosnia vs. Serbia, which established genocide at Srebrenica but not elsewhere in Bosnia, nevertheless concluded that features of the 1992 mass violence were consistent with genocide, except that the proof of genocidal intent was lacking. The intent of the perpetrators is difficult to prove. The ICJ argued that Serb the perpetrators of the 1990s killings were motivated by the goal of destroying the Bosniaks in whole or in part, but by the goal of establishing an expanded, ethnically homogenous Serbian state. This represents a confusion between motive and intent. For any genocide, the intent to destroy the group is motivated by the pursuit of additional goals – in particular, the supposed or alleged need to save the perpetrators’ own national group from slavery or destruction, be they Turks, Germans, Serbs or Hutus.

Nevertheless, there are also respectable genocide scholars – i.e. ones who are not cranks or obvious apologists for the Serb nationalist cause - who dispute the categorisation of the mass killings across Bosnia-Hercegovina in 1992-1995 as genocide, such as Jacques Semelin and Michael Mann. Since there are reasonable arguments that can be made both for and against the categorisation of these mass killings as genocide, it is reasonable to consider the political influences that led to the situation in which Srebrenica alone has been recognised as genocide. We might have the ideal of justice as absolutely impartial, or as absolutely political, but the reality is that even respectable courts and judges may be influenced by political considerations, without being simply political courts. The US Supreme Court has both liberal and conservative judges, appointed by the President and confirmed by the Senate. So far as the ICJ ruling in the case of Bosnia-Hercegovina vs Serbia goes, it could be seen as something of a compromise, given the

14 ‘Case of Jorgić vs Germany’: Fifth Section, App no. 74613/01. (12.07.2007). European Court of Human Rights, Available at: https://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=003-2055877-2175646&filename=003-2055877-2175646.pdf&TID=thkbhnizk
multinational character of the ICJ, and the fact that its rulings to some extent represent a compromise between the national standpoints of different judges. Some of the judges did not believe the ICJ should even have jurisdiction in the case. So, there was a legal case for arguing that the ICJ had no business recognising the Srebrenica genocide in the first place. Nevertheless, not even the Russian judge disagreed with the view that genocide had occurred at Srebrenica. So, the idea that not even Srebrenica comprised genocide is clearly legally very weak.

The judicial recognition of the Srebrenica genocide was the result of a process that was not foreordained. The ICJ’s recognition followed on from the precedent established by the ICTY rulings. The ICTY’s recognition began with the Radislav Krstic ruling in 2001, but this turn owed itself to the internal politics of the ICTY Office of the Prosecutor. Not all the ICTY prosecutors wanted to prosecute suspects for genocide, if the memoirs of Florence Hartmann and Carla del Ponte are to be believed. There were those, such as Geoffrey Nice, who wanted to stick to lesser charges more likely to result in convictions. This reflected a difference of opinion, among prosecutors, as to whether the ICTY’s purpose was to put perpetrators behind bars, or to establish the correct historical record. Had Nice, rather than del Ponte, been Chief Prosecutor, the Srebrenica genocide might not have achieved the recognition that it did.

Thus, there is not just one objective legal answer to the question of whether a particular process or act of mass killing is recognised as genocide or not. There are different legal opinions, and the question of which one establishes itself is the result of political struggles among those judges and prosecutors whose job it is to decide these matters. So, there are strong intellectual grounds for not seeing the ICJ ruling as definite. Therefore, there is a reasonable case for talking of a Bosnian genocide. However, this debate over terminology is ultimately less important than understanding the place of the massacre in the overall programme of mass killings.

The idea of the Srebrenica massacre as a local aberration in the Bosnian war has been challenged by Edina Becirevic, in her 2014 work Genocide on the Drina River – the most serious academic study of the genocide in East Bosnia to date. Becirevic places the Srebrenica massacre as the culmination of a genocidal process that began in the spring of 1992, when the assault on the Bosniak population of East Bosnia began with the launch of coordinated and systematic massacres and expulsions across the region, and indeed the rest of Bosnia-Hercegovina. Even if the massacres in no individual region assumed the scale of the 1995 massacre, in total more people were killed that year. Although it is often ignored that

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women and children were also killed in the Srebrenica massacre of 1995, that massacre was above all, directed at combat-age males. Whereas women, children and civilians generally with no possible combat potential, were targeted more extensively in 1992.

In terms of killing of members of the victim group as an end in itself, many of these massacres were not less genocidal than the Srebrenica massacre. Certainly, they were deemed by the ICJ to be on a scale to resemble genocide, if you leave aside the question of genocidal intent. As Becirevic relates, Srebrenica was one of the few towns in East Bosnia not to fall to Serb forces in 1992. Along with Zepa and Gorazde, it held out, and was filled with refugees pouring in from surrounding localities. The population of Srebrenica, both locals and refugees, therefore comprised survivors of the first genocidal assault. The Bosnian Serb forces then continued their war against this population, attempting to make their survival impossible by siege and starvation – group destruction continued by other means. The genocidal process then reached its culmination with the Serb conquest of the enclave in July 1995 and the massacre that followed. This can be compared to the Holocaust, in which there were successive stages to the genocide.

This begs the question as to why Srebrenica was different from other massacres in the war, both in terms of the much larger number killed, and the particular focus on combat-age males. This can only be answered by looking at how the war had evolved since 1992. The genocidal goal of the Serb perpetrators was to destroy the Bosniaks and non-Serbs generally as a group or group on Serb-held territory. This destruction was to be accomplished by killings, torture, expulsions, cultural destruction and other means. The means shifted during the course of the war, but the goal remained the same. The continuity of Serb-extremist war-aims is indicated among other things by the siege of Sarajevo, which was established in the spring of 1992 and remained constant throughout the war. In the spring of 1992, the Serb rebel forces were waging war against a population that was largely incapable of serious military resistance. They had every reason to believe that their victory would be relatively quick and easy, given the massive discrepancy in terms of armaments and preparation between the sides. This confidence was certainly shared by Western policy-makers, and helps explain the readiness of the West to recognise what appeared to be a fait accompli.

However, the war then dragged on for three years without a clear Serb victory over the Bosnian army. Against all expectations, the latter succeeded in organising itself, and by mid-1995 was beginning to gain the upper hand. By this time, mid-1995, the Bosnian army significantly outnumbered the Army of the Serb Republic, and its morale was superior, whereas Serb morale was in steep decline. The international situation was turning against the Serb rebel side. The

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US had shifted away from outright appeasement and had begun to work to swing the military balance against the Serb side. Hence, the Washington Agreement of March 1994 had ended the Croat-Bosniak conflict and established the Federation of Bosnia-Hercegovina. Arms from Iran, Turkey and elsewhere were reaching the Bosnian army with US connivance. Retired US officers were training the Federation army.19

In Bihac, the Bosnian forces won a spectacular, if short-lived, series of victories in the autumn of 1994 that revealed the extent of Serb military decay.20 Croat forces recaptured Kupres in November 1994. Between mid-1994 and mid-1995 the Bosnian army expanded the area in Sarajevo under its control and recaptured key areas there and (Mt Vlasic) in Central Bosnia, culminating in the ambitious but unsuccessful attempt to break the siege of Sarajevo in June 1995. Croatia’s Operation Flash in May 1995 revealed Serb weakness more starkly than ever, and presaged a general Croatian war-effort against the RSK. By mid-1995, the Bosnian army was capable of, for example, launching offensives on multiple fronts, and the Army of the Serb Republic would only have sufficient manpower to repel some of them.

In these circumstances, the Bosnian Serb leadership had every reason to believe that they were gradually losing a war of attrition in which above all, the enemy’s superior numbers would prove decisive. Consequently, it was no longer militarily wise to release captured Bosniak males, who would only return to fight as soldiers in the Bosnian army. It became a military necessity to destroy the enemy’s superior manpower by systematically killing prisoners. Rather than seeing the Srebrenica massacre as an act of revenge resulting from hatred, it should be seen also as a response to the reality that Bosnian army forces had shown themselves capable of inflicting losses on Serb forces, around Srebrenica and elsewhere. On the other hand, the increased global media attention on Serb crimes in 1995, as opposed to 1992 probably spared the women and children of Srebrenica, just as it had brought the closure of concentration camps in summer and autumn 1992. Had the Serb forces made additional conquests in the weeks following Srebrenica, the pattern of massacres would in all likelihood have been repeated. Zepa’s population was spared at the price of a negotiated surrender of the town, while Gorazde came under NATO air protection following the outcry over Srebrenica. But as regards Bihac, which came under sustained Serb rebel attack after Srebrenica, there was no negotiated surrender and no NATO protection. Had it not been for

the Split Agreement and the launch of Operation Storm, there might have been a Bihac massacre in the pattern of Srebrenica.

The successive peace plans of the international community largely recognised the realities of military conquest. Thus, the Vance Owen Plan of January 1993, which at least on paper looked reasonably fair, insofar as it broadly divided Bosnia on the basis of pre-war ethnic local majorities, was followed by the Owen-Stoltenberg Plan of August 1993, which was a more naked recognition of Serb and Croat conquests. Following the Bosniak rejection of the Owen-Stoltenberg Plan, the Contact Group Plan of July 1994 then scaled back Serb gains. The Serb side’s declining military fortunes would then likely have been reflected in successively less generous territorial offers to them. There was therefore a strong incentive to secure a total victory in the battle for the strategically sensitive spot of Srebrenica, close to the border with Serbia and in the heart of VRS-occupied East Bosnia. As the investigative journalism of Ed Vulliamy and Florence Hartmann has shown, the US and its allies had already accepted that the existence of the East Bosnian enclaves was an obstacle to a peace agreement, and their conquest by the Serb forces was accepted in order to ‘tidy up the map’. The US was prepared to accept this conquest even at the price of large-scale war crimes. John Shattuck, the US assistant secretary for human rights, said ‘We had the Omarska model in mind’. So, the Bosnian Serb leadership acted in the correct belief that their conquest would not be opposed militarily by the West or the international community, and that they enjoyed a certain leeway to carry out atrocities in the process. However, they miscalculated over just how much leeway they did have, and the outrage over Srebrenica paved the way for the NATO bombing of VRS forces in August and September. Nevertheless, the Serb conquest was successful and was legitimised by the Dayton Accords – even though the rebel Serb side paid a considerable price for it.

The fact that genocide is generally accompanied by war, and that the form and intensity of a genocidal process is influenced by the events and balance of forces in the war, is hardly controversial for genocide scholars. Without wishing to suggest equivalency between the Bosnian genocide and the incomparably larger-scale Nazi Holocaust, the latter can be used to illustrate this. If World War II had ended with a Nazi victory over Britain in 1940, the genocide of the Jews might have followed the Madagascar Plan, with the deportation of Europe’s Jewish population to Madagascar. The genocide would have taken longer to carry out and been less absolute in claiming its victims. Likewise, if the Nazis had defeated the Soviet Union in 1941, the genocide might have involved the deportation of the Jews to Siberia, in which case, once again, it would have been slower and less absolute


*MARKO A. HOARE
The Bosnian Genocide and the Srebrenica massacre
in form. It was the inability of the Nazis to defeat their enemies, Britain and the Soviet Union, and their lack of a suitable location for mass deportation, that led to their adoption of the policy of total, immediate genocide of the European Jews. We could say something similar about the Rwandan Genocide, which was driven by the military advances of the Rwandan Patriotic Front during 1992 against the Hutu regime’s forces, followed by the Arusha Accords, which faced the Hutu supremacists both with a perceived deadly threat, and a window of opportunity, to solve finally the Tutsi ‘problem’ in the manner that they wished. Again, in the case of the Armenian Genocide, the genocide was driven in intensity by the deadly military threat faced by the Turkish nationalist regime during World War I, and the scale of its defeat by the Russians in late 1914 and early 1915 (at the Battle of Sarikamish). In each of these cases – the Jews, Armenians, Tutsis and Srebrenica Bosniaks – the intensity of the genocide was catalysed by the intensity of the military threat facing the perpetrating regime.

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