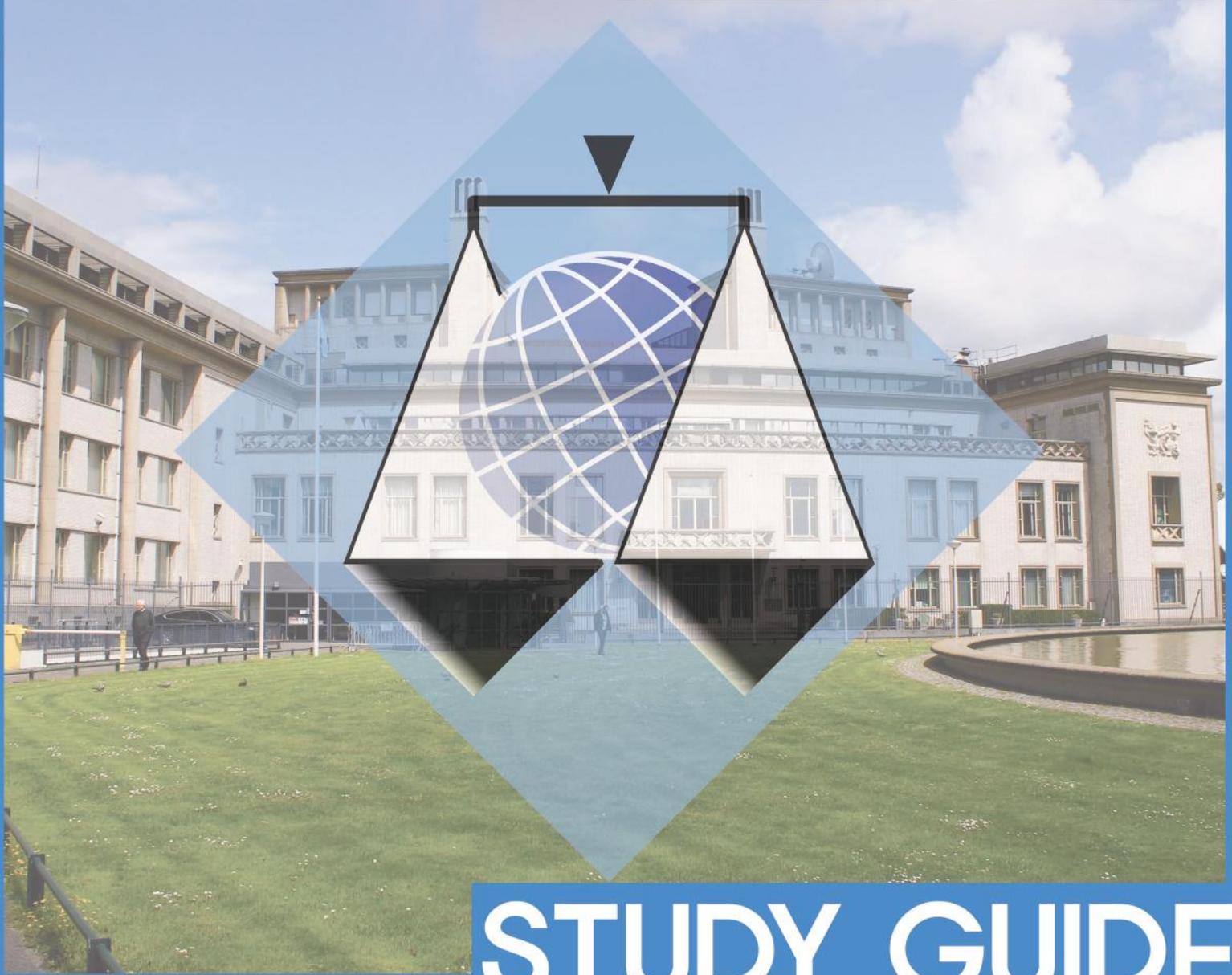


International Criminal Tribunal for the Former Yugoslavia

Case: The Prosecutor v. Radovan Karadžić



STUDY GUIDE

Under-Secretary General: Nihan Üçer
Academic Assistant: Eralp Ünver

HASMUN



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I. Letter from the Secretary-General

Esteemed Participants and Guests,

It is my greatest pleasure to welcome you all to the fourth edition of the Kadir Has University Model United Nations Conference on behalf of the Kadir Has University Model United Nations Club, Organization Team and the Secretariat. My name is Polat Yamaner, I am a junior student at Kadir Has University, Law Faculty; and I serve you as the Secretary-General of this conference. Having witnessed the last two years of the Conference as a proud participant and an academic team member, I can faithfully state that, HASMUN will, once again, host a formidable experience for you to enhance your skills on different perspectives of the global course of events.

Simulations coursing from historical events to the futuristic concepts, the committees of this year's HASMUN will be met under the theme "*Human Rights: From Respect of the States to the Approbation of the Imperative*". Being one of the few Model UN conferences with a certain theme; this year, we hope to enhance the viewpoint of all the participants, on the fundamental rights and freedoms and human dignity, and its close relation with the international relations, the way of diplomacy, the law, the understanding of security and certainly humanism and humanitarianism.

The Secretariat of HASMUN 2017 had created such committees to actualize our hope, and enabled its participants to have a word from the angles of both international and national institutions. I would like to express my gratitude for their intensive work to all Under-Secretaries-General and Academic Assistants who have expanded their efforts much more than me. Without their contribution to the Conference, the very formation of a Model UN conference would not be even possible.

Apart from the exacting and differentiating dimension of the Academia, as one of the Conferences distinguished for its organizational success, I would to thank to the Director-General of the Conference Mr. Alihan Eyübođlu and his Deputy Ms. Gizem Eşsizöđlu for constituting the organizational basis of the conference with their high-level knowledge and skills that they have presented. Lastly, I would like to thank to the Deputy-Secretary General of the Conference, Mr. Kerem Karaçay for not leaving me alone and enduring all of my anxieties.

Finally, as always, please do not hesitate to contact us with any questions or concerns. The entire staff of HASMUN 2017 and I are committed to create a dynamic and enhancing experience for high-school and university students from all around the world.

Sincerely,

Polat Yamaner
Secretary-General of Kadir Has University Model United Nations Conference 2017

II. Letter from the Under-Secretary-General

Esteemed participants,

With my great pleasure, I welcome you all to this year's Model United Nations of Kadir Has University. I am Nihan Üçer a junior student at Bilkent University, Faculty of Law. On behalf of the academic team, I will be serving as the Under Secretary General responsible for the International Criminal Tribunal for former Yugoslavia.

The International Criminal Tribunal for the former Yugoslavia is a United Nations based criminal court which surmounts war crimes such as genocide, crime against humanity, deportation, and torture. The court established in 1993 in response to focus on the events happened in Croatia and Bosna and Herzegovina in the 1990s. In those areas, particularly, thousands of civilians were murdered or sexually abused in detention camps and UN Security Council to act as it was the first war crimes court created and the first international war crimes tribunal and it was established by the Security Council in accordance with Chapter VII of the UN Charter. Each of the counsels and the judges in our committee will be focusing on the case of The Prosecutor v. Karadzic by addressing the issues such as crime against humanity, breaches of Geneva Convention, genocide and violations of the laws or customs of war.

Lastly, I would like to thank the Secretary-General Mr. Polat Yamaner, and the Deputy-Secretary-General Mr. Kerem Karaçay for giving me the opportunity of being a part of this marvelous Academic Team and also I would like to thank my Academic Assistant Mr. Eralp Ünver for his hard work during the preparing process. I hope that this annual session of HASMUN 2017 will be an enormous experience for all of the highly respected participants as the previous sessions. If the honorable members of the court have any questions, please do not hesitate to ask me, I would be pleased to answer it.

Kindest Regards,

Nihan Üçer

Under-Secretary-General responsible for the International Criminal Tribunal for the former Yugoslavia

III. Introduction

A. History of the International Criminal Tribunal for the former Yugoslavia

The International Criminal Tribunal for the former Yugoslavia hereinafter referred to as ICTY was established in 1993 in accordance with United Nations Security Council Resolution 827 which was passed on 25 May 1993. ICTY was established for the purpose addressing the serious violations of international humanitarian law that have been committed in the territory of the former Yugoslavia since 1991, fundamentally achieving international peace and security that this has posed.ⁱ During the Bosnian war in the early 1990s ethnic cleansing, genocide and other serious crimes were committed on all sides.

As United Nations Security Council Resolution 827 states that “*An international tribunal for (...) prosecuting persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia.*”ⁱⁱ



Image 1: Building of the ICTY

ⁱⁱⁱThe ICTY was the first special tribunal of the United Nations and came under intense scrutiny as the ICTY seemed as unfair, affected, influenced under politics. Extensive trials and disputable choices have prompted an improving loss of confidence in the Tribunal, and faultfinders address the capacity of tribunal to straightforwardness pressures and advanced compromise in the Balkans.^{iv} Despite its shortfalls, the

tribunal has however been instrumental in the creation of the first permanent the International Criminal Court hereinafter referred to as ICC. The Tribunal is composed of sixteen permanent judges who are elected by the United Nations General Assembly for a period of four years.

ICTY is working in accordance with four-fold missions as to bring persons charged with violations due to international humanitarian law to trial, as to render justice for victims, as to deter further violations of law and to contribute to the restoration of peace through promoting reconciliation in the province. ^v

Since 1993, the International Criminal Tribunal for the Former Yugoslavia has presided over trials of defendants accused of committing serious violations of international humanitarian law in present day Croatia, Bosnia and Herzegovina, Kosovo, and Macedonia.

B. Key Definitions

Genocide: Willing to commit acts for the purpose of destroying as a whole or a part directed to a group in terms of national, ethnic, racial or religious by killing, causing serious bodily or mental harm, preventing births, transferring children to another groups within a compulsive intent^{vi}

Crimes against humanity: Attacks against civilian populations in terms of widespread or systematic within the knowledge of the attack such as murder, extermination, enslavement, torture, rape, sexual violence as a result of inhumane acts in accordance with the Article 7 of the Rome Statute^{vii}

War crimes: Any violation regarding the Geneva Conventions 1949 such as willful killing, torture or inhuman treatment, causing injuries in body or health, deliberately destroying cities, towns or villages. ^{viii}

Widespread and Systematic Attacks: Widespread attack refers to a quantitative element as an attack can influence an extension over a broad geographic area. On the other hand, a systematic attack refers to qualitative element as it may occur by organizing of the committed acts.^{ix}

Individual Acts: “Individual acts may be based on killing, extermination, enslavement, deportation or forcible transfer of population, imprisonment, torture, sexual violence, persecution, enforced disappearance, apartheid, or any other inhumane acts.”^x

C. Structure of the International Criminal Tribunal for the former Yugoslavia

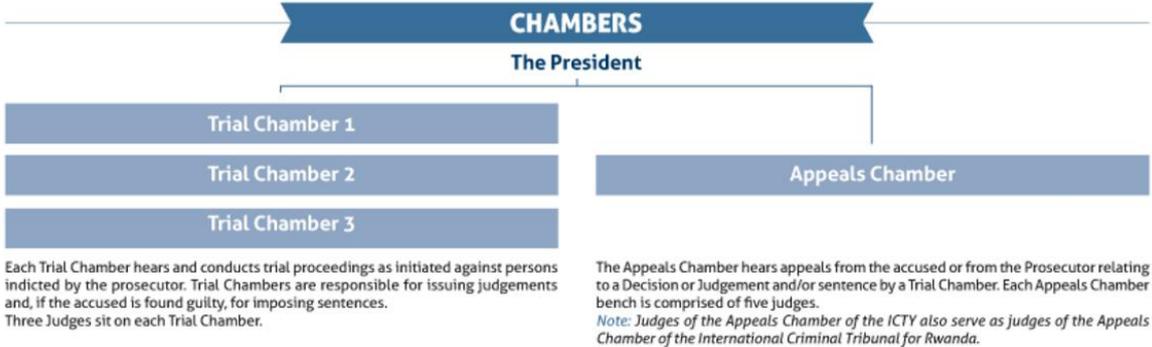
The Tribunal is consisting of approximately nine-hundred employees by Chambers, Registry and the Office of the Prosecutor.

1. Chambers

Judges of the Tribunal have the solemn responsibility for determining the guilt or innocence of accused people because of perpetrating war crimes in the former Yugoslavia. During the

process of judgement, the judges listen carefully to witnesses as well as examining the evidences which presented in the court by applying the highest international legal standards.^{xi}

The Chambers are established into three Trial Chambers and one Appeals Chamber in accordance with the help of the Chambers Legal Support teams which are consisting of a diverse number of legal staff, the persons who are employed by the Registry as well as assisting the judges for their researches on the relevant cases.^{xii}



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Image II: Organizational Chart of the Chambers

Each Trial Chamber is consisting of three permanent judges and a maximum of six ad litem judges who are appointed by the Secretary General of the United Nations. At least one judge per case must be a permanent judge in three judges. Additionally, Trial Chamber may be divided into sections of three judges each and composed of permanent and ad litem judges and the Trial Chamber must be ensure that each trial to be fair in accordance with the Rules of Procedure and Evidence of the Tribunal within a full respect for the rights of the accused and consideration given to the protection of both victims and witnesses.^{xiv}

2. Office of the Prosecutor

The Office of the Prosecutor hereinafter referred to as OTP of the ICTY has investigated for the worst actions which have taken into place in Europe since the Second World War as one the three organs of the Tribunal by investigating and prosecuting persons responsible for serious violations of international humanitarian law in the former Yugoslavia.^{xv}

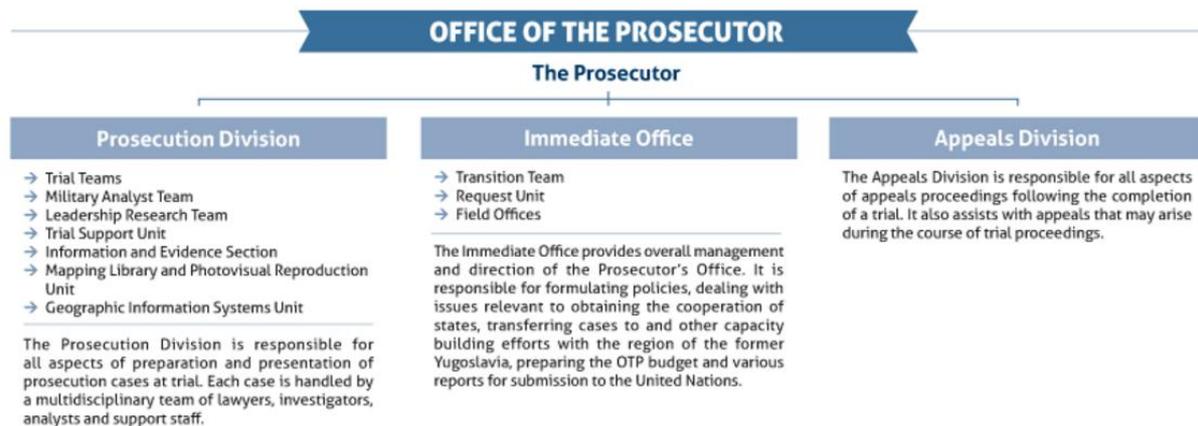


Image III: Organizational Charter of the OTP

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3. Registry

In order to run the Tribunal, Registry is important as it is put in the center of the complex responsibilities by dividing into four namely as Division of Judicial Support Services, Immediate Office, Chambers Legal Support Section and Administration Division.

^{xvii}Firstly, the Division of Judicial Support Services is responsible for the management of the operations regarding court room as well as supporting other functions which consists victims and witnesses. Secondly, Immediate Office is responsible for providing advice on legal and policy issues, enforcement of the sentences, relocation of witnesses and assistance to national jurisdictions as well as the external relations. Thirdly, The Chambers Legal Support Section is responsible for assisting the judges by researching, managing the cases and drafting orders, decisions, judgements and legal opinions.

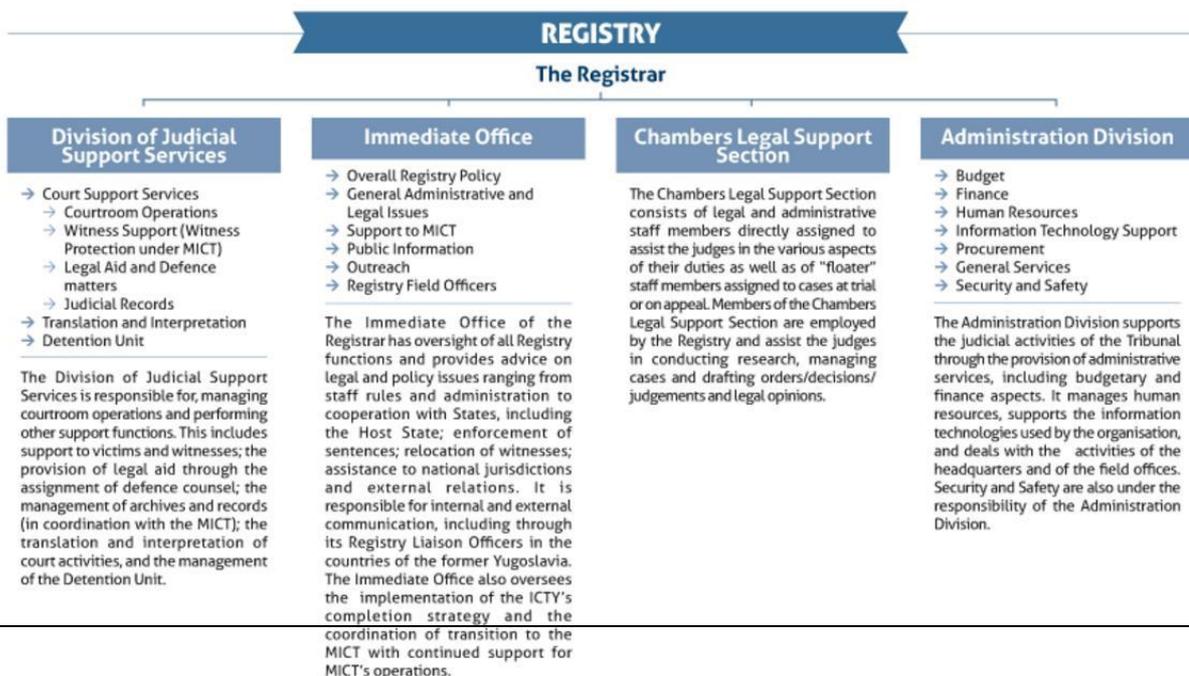


Image IV: Organizational Chart of the Registry

C. Mandate and Crimes under ICTY Jurisdiction

ICTY has jurisdiction on over four clusters of crimes committed in the former Yugoslavia since 1991 namely, violations of the laws or customs of war, genocide, grave breaches of the Geneva Conventions and crimes against humanity in accordance with the Statute of the ICTY. Besides, the mandate of the Tribunal is to contribute to the restoration and maintenance of peace and to bring justice to persons that responsible for violations of international law committed in the former Yugoslavia since 1991. ^{xviii}

Pursuant to Article 1 of the Statute of the Tribunal, the ICTY has jurisdiction over individual persons not organizations, political parties, army units, administrative entities or any other legal subjects. In addition, the Statute of the Tribunal also states that the official position of an accused as Head of Government or State and as a responsible Government official can not relieve from criminal responsibility or any mitigate punishment since Article 7 of the Statute of the Tribunal states that *“A person who planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of a crime referred to in articles 2 to 5 of the present Statute, shall be individually responsible for the crime”*.^{xix}

D. History of the Case

1. The Breakup of Yugoslavia

Yugoslavia was first formed as a kingdom. Afterwards, it was created as a Socialist State during 1945. According to the constitution of Yugoslavia, six constituent republics as federations were established namely Bosnia Herzegovina, Croatia, Macedonia, Montenegro, Serbia as Kosovo ad Vojvodina and Slovenia. The largest number of the population in the Yugoslavia was belong to Serbs approximately forty per cent, second largest population was Croats approximately having twenty per cent, Bosnian has the third largest population by having 18.8 of the population. ^{xx}

During 1992, the number of the supporters of nationalism replaced with communism supporters. As a result, Yugoslav Federation was falling apart since Slovenia and Croatia

were broke away. In the same year, in Bosnia, there was a conflict happened by this conflict Bosnia declared independence. ^{xxi}



Image V: Ethnic map of former Yugoslavia

2. Timeline of the Important Events

June 19 1945- Radovan Karadzic was born in Savnik on 19 June 1945.

July 12 1990- Karadzic was a founding member of the Serbian Democratic Party in Bosnia-Herzegovina.

July 1 1991 - November 30, 1995- Karadzic was targeting to control over the parts related to Bosnia Herzegovina by participating in war crimes as well as using a campaign of ethnic cleansing in accordance with the UN indictment.

March 27 1992- Becomes president of Serbia's National Security Council.

February 29, 1992- March 1, 1992- Muslims and Croats of Bosnia voted for the independence of the Yugoslav Republic of Bosnia Herzegovina by a referendum which boycotted by the Serbs

April 1 1992 - November 30 1995 Bosnian Serb forces engaged in a 44-month siege of Sarajevo, the Bosnian capital.

April 6, 1992- European Union recognized the independence of the Bosnia. Under the leadership of Radovan Karadzic, Serbs laid siege to Sarajevo.

May, 1992- Sanctions were imposed on Serbia by the United Nations for backing rebel Serbs in Croatia and Bosnia.

January, 1993- The failure was occurred by Bosnia peace efforts, a war broke out between Muslims and Croats, previously allied against the Serbs.

April, 1993- The United Nations declared six safe areas for Muslims, namely Sarajevo, Tuzla, Bihac, Srebrenica, Zepa and Gorazde.

March, 1995- Radovan Karadzic who is the Bosnian Serb President ordered that Srebrenica and Zepa was entirely cut off and aid convoys be stopped from reaching the towns.

3. The Prosecutor v. Radovan Karadzic Case before the ICTY

a. Attacks to Srebrenica as a safe area

During the war in the Republic of Bosnia Herzegovina, Bosnian Muslim villages were occupied by the Bosnian Serb military forces, particularly in the eastern part of the state which includes Gorazde, Tuzla and Srebrenica, after the Security Council of the United Nations declared Srebrenica as a safe area which has to be free from any armed or hostile attack under the Resolution 819 on 4 June 1993.^{xxiii}

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Image VI: Map of the Bosnia Herzegovina

In 1995, the Bosnian Serb army attacked to Srebrenica as the Bosnian Muslim men, women and children fled to the United Nations compound in Potocari by evacuated through buses and trucks under the control of the Bosnian Serb military personnel. Therefore, many of the women and girls suffered from raping and sexual abuse in terms of other forms of torture. As one of the witnesses namely Zumra Sehomeric states that: *“The Serbs began at a certain point to take girls and young women out of the group of refugees. They were raped. The rapes often took place under the eyes of others and sometimes even under the eyes of the children of the mother.”*^{xxiv}

In July 1995, the massacre occurred in Srebrenica which is described as the worst atrocity in the former Yugoslavia as well as the worst massacre occurred in Europe since Second World War. In accordance with the Tribunal, it has determined that approximately eight thousand Bosnian elderly men and boys were killed, more than twenty-thousand people were displaced, the women and girls were raped and sexual abused.^{xxv}

b. Radovan Karadzic

Radovan Karadžić is a Bosnian Serb former politician was born on 19 June 1945 and convicted war criminal who served as the President of Republika Srpska during the Bosnian War and sought the direct unification of that entity with Serbia.^{xxvi}

Karadzic was a founding member of the Serbian Democratic Party hereinafter referred to as SDS, President of the SDS until his resignation on 19 July 1996; Chairman of the National Security Council of the Serbian Republic of Bosnia and Herzegovina (later Republika Srpska referred to as “RS”); President of the three-member Presidency of RS from its creation until 17 December 1992, sole President of Republika Srpska and Supreme Commander of its armed forces until July 1996.^{xxvii}

Radovan Karadzic who is the highest civilian and military authority in the Republika Srpska, participated in a joint criminal enterprise with other members of the Bosnian Serb leadership to permanently remove Bosnian Muslims and Bosnian Croats from the Municipalities by a campaign of persecutions. The genocidal acts were committed against Bosnian Muslims and Bosnian Croats.

Karadžić was accused by the ICTY due to war crimes committed in the Yugoslavia by a response of the Karadzic as he was the Supreme Commander of the Bosnian Serb armed forces as well as being the President of the National Security Council of the Republika Srpska

as he was responsible for the deaths of more than 7,500 Bosniaks as a result of his direction and command, Bosnian Serb forces initiated the Siege of Sarajevo and because of ordering the Srebrenica genocide in 1995 after Srebrenica was declared as a safe area by the United Nations in 1995.^{xxviii}

Karadzic was facing charges on eleven counts for genocide, crimes against humanity, severe breaches of the Geneva Convention owing to his responses and acts during the Bosnian War particularly for the Srebrenica massacre.^{xxix}

i. Counts 1 and 2: Genocide, crime against humanity^{xxx}

Karadzic was planned, instigated, ordered, committed and/or aided and abetted genocide against Bosnian Muslims and/or Bosnian Croats between the years of 1992 and 1995. In regards to genocide, he committed acts in terms of physical, psychological, sexual, inhumane for the ethnic groups by killing, torturing, changing the living conditions of the citizens, and forcibly replacing them within inadequate provisions within the intent to destroy.

ii. Count 3: Persecutions, crime against humanity and violation of the laws or customs of war^{xxxi}

Karadzic was planned, instigated, ordered, committed and/or aided and abetted persecutions on political and/or religious grounds against Bosniaks and/or Bosnian Croats in twenty municipalities between the years of 1992 and 1995. He imposed methods regarding arbitrary searches, arrest and detention, forcible transfer, forced labor which includes digging graves, torture, rape, killing, and destruction of houses and sacred sites. As a result, Bosniaks and Bosnian Croats were used as human shields who are removed from employment and the right to judicial process was denied in regards to systematic attacks.

i. Counts 4, 5 and 6: Extermination, a crime against humanity, Murder as crime against humanity and a violation of the laws or customs of war in relation the Municipalities, Sarajevo and Srebrenica^{xxxii}

Karadzic was planned, instigated, ordered, committed and/or aided and abetted the extermination and murder of Bosniaks and Bosnian Croats in the municipalities, the extermination of Bosniaks from Srebrenica, and the mass killing of civilians in Sarajevo by shelling or snipers as ten thousand people died during the forty-four month siege of the city as

he was capable to know, that extermination and murder were about to be or had been committed by his subordinates, and failed to stop them or punish the perpetrators within widespread and systematic attacks.

iv. Counts 7 and 8: Deportation and Inhumane Acts, crime against humanity and a violation of the laws or customs of war^{xxxiii}

Karadzic was planned, instigated, ordered, committed and/or aided and abetted the forcible transfer and deportation of Bosniaks and Bosnian Croats from the municipalities between the years of 1992 and 1995. He knew, or had reason to know, forcible transfer and deportation were about to be or had been committed by his subordinates and failed to stop them or punish the perpetrators in regards to crime against humanity through the following acts of widespread and systematic attacks.

v. Counts 9 and 10: Terror and Unlawful Actions, crime against humanity and a violation of the laws or customs of war^{xxxiv}

Karadzic planned, instigated, ordered, committed and/or aided and abetted the crimes of terror and unlawful attacks on civilians between the years of 1992 and 1995. He knew, or had reason to know, such crimes were about to be or had been committed by his subordinates and failed to stop them or punish the perpetrators in accordance with individual criminal responsibility. He was establishing and implementing a military strategy that used sniping and shelling to kill within using the forces of the Sarajevo, maim, wound and terrorize the civilian inhabitants of Sarajevo in regards to widespread and systematic attacks. Thousands of the civilians were wounded and killed as a result of intent to destroy of Karadzic.

vi. Count 11: Taking of Hostages, a violation of the laws or customs of war^{xxxv}

He planned, instigated, ordered, committed and/or aided and abetted the taking of UN military observers and peacekeepers as hostages during 1995. He knew or had reason to know such crimes were about to be or had been committed by his subordinates and failed to stop them or punish the perpetrators in regards to his individual criminal responsibility.

3. The Trial

a. Submissions and Analysis

The trial commenced on 26 October 2009. The Trial Chamber issued a decision which is regarding significantly and persistently discouraged the correct and speedy direct of the trial of Karadzic on 5 November 2009. Afterwards, the Registrar was ordered to designate for ordering the interests of the Karadzic for the trial by resuming the trial to 1 March 2010. It has been stated that Karadzic would continue to represent himself by the Trial Chamber considering through dealing with day-to-day circumstances and preparing for trial yet in any case that “should the Accused keep on absenting himself from the continued trial procedures in March, or should he participate in some other direct that discourages the most proper possible and quick lead of the trial, he will relinquish his entitlement to self-portrayal, never again be qualified for help from his relegated defense group, and the selected insight will assume control as a doled out guidance to speak to him.^{xxxvi}

Karadzic claimed that the Prosecution failed to discuss the applicable standard of review for the appeal as the Prosecution appeals against acquittal. Besides, Karadzic claimed that in the context of an appeal of a Rule 98 *bis* judgement of acquittal, the standard of review is *"whether no reasonable Trial Chamber could have concluded that there was no evidence upon which a reasonable trier of fact could be satisfied beyond reasonable doubt of the guilt of the accused"*

4. Applicable Law

The jurisdiction of the Court concern to the international community as a whole. The Court shall exercise jurisdiction over the crime of aggression once a provision is adopted in accordance with articles 121 and 123 defining the crime and setting out the conditions under which the Court shall exercise jurisdiction with respect to this crime. Such a provision shall be consistent with the relevant provisions of the Charter of the United Nations. It should have been considering the defendant part is a human being and as everyone person in the world, although he is accused by war crimes, he has rights to fair trials and defense.

a. ICTY Statute Article 21- Rights of the Accused

Article 21 of the ICTY Statute states that the equality of all persons before the trial. Besides, the accused person would be innocent until the guilty has proved. Article 21 reads as follow:

“All persons shall be equal before the International Tribunal.

The accused shall be presumed innocent until proved guilty according to the provisions of the present Statute.”

b. Rome Statute Article 6 includes and explains “Genocide”

Genocide is willing to commit acts for the purpose of destroying as a whole or a part directed to a group in terms of national, ethnic, racial or religious by killing, causing serious bodily or mental harm, preventing births, transferring children to another groups within a compulsive intent in accordance with the Article 6 of the Rome Statute. Rome Statute Article 6 reads as follow:

“For the purpose of this Statute, ‘genocide’ means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group”^{xxxvii}

In addition, following acts can be used in this case by the reason of they include the provisions that is about war crimes and in-humanitarian interventions.

c. Article 4 of the Statute- Genocide

The Tribunal explains the definition of the genocide almost similarly as:

“Genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

(a) killing members of the group;

(b) causing serious bodily or mental 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 another group.”

d. Article 7 (1) of the Statute

Karadzic committed these crimes pursuant to Article 7 (1) not physically, as his liability under this Article refers to his participation in a joint criminal enterprise. Karadzic and Mladic objective was to remove Bosnian Muslims and Bosnian Croats from Bosnian Serb-claimed territory by aiming to spread terror among the civilian population of Sarajevo through sniping and shelling, to eliminate the Bosnian Muslims in Srebrenica. ^{xxxviii}

“Article 7- Individual criminal responsibility

1. A person who planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of a crime referred to in articles 2 to 5 of the present Statute, shall be individually responsible for the crime.”^{xxxix}

e. Article 3 of the Statute of the Tribunal- Violations of the laws or customs of war

War crimes are the violations of the laws of the war as well as the international humanitarian law. Besides, Any violation regarding the Geneva Conventions 1949 such as willful killing, torture or inhuman treatment, causing injuries in body or health, deliberately destroying cities, towns or villages. Article 3 of the Statute reads as follow:

“The International Tribunal shall have the power to prosecute persons violating the laws or customs of war. Such violations shall include, but not be limited to:

(a) employment of poisonous weapons or other weapons calculated to cause unnecessary suffering;

(b) wanton destruction of cities, towns or villages, or devastation not justified by military necessity;

(c) attack, or bombardment, by whatever means, of undefended towns, villages, dwellings, or buildings;

(d) seizure of, destruction or wilful damage done to institutions dedicated to religion, charity and education, the arts and sciences, historic monuments and works of art and science;

(e) plunder of public or private property”

f. Article 5 of the Statute of the Tribunal

Crime against humanity can be defined as attacks against civilian populations in terms of widespread or systematic within the knowledge of the attack such as murder, extermination, enslavement, torture, rape, sexual violence as a result of inhumane acts. The forms of the crimes against humanity was mentioned in the Article 5 of the Statute as reads as follow:

Article 5 - Crimes against humanity

“The International Tribunal shall have the power to prosecute persons responsible for the following crimes when committed in armed conflict, whether international or internal in character, and directed against any civilian population:

- (a) murder;*
- (b) extermination;*
- (c) enslavement;*
- (d) deportation;*
- (e) imprisonment;*
- (f) torture;*
- (g) rape;*
- (h) persecutions on political, racial and religious grounds;*
- (i) other inhumane acts.”*

5. Arguments of the Parties

Prosecutor:

- Radovan Karadžić and Ratko Mladić, participated in a joint criminal enterprise since each of them planned, instigated, ordered, committed or aided and abetted the planning, preparation or execution of persecutions
- Radovan Karadžic is individually criminally responsible in accordance with the Article 7(1) of the Statute.
- Karadžic organized widespread and systematic attacks
- During the 1995, Karadžic participated in a joint criminal enterprise to eliminate Bosnian Muslims in Srebrenica by killing men and boys and forcibly removing women, young children and the elderly from the area as a result of his intent to destroy

- He was accused because of knowing or having reason to know that crimes were about to be committed or had been committed
- Karadzic failed to prevent the crimes or punish the perpetrators

Defense:

- All of the charges against Karadzic can not able to prove
- Karadzic was not intended to destroy while doing those acts
- The attacks were not widespread or systematic
- Command chain responsibility could not be imposed

6. Conclusion

Karadžić has been indicted for genocide and complicity in genocide committed in numerous areas of Bosnia and Herzegovina and the Srebrenica enclave. Karadžić is further charged with various counts of crimes against humanity and violations of the laws or customs of war. According to the Amended Indictment of 28 April 2000, Karadžić was responsible for the killing of thousands of Bosnian Muslims after their captivity in several different locations in and around Srebrenica in 1995. Other alleged crimes include inhumane treatment, torture and humiliation and degradation, including physical and sexual violence committed against Bosnian Muslims, Bosnian Croats and other non-Serbs.

In the indictment, it is alleged that Radovan Karadžić is individually criminally responsible pursuant to Article 7(1) of the Tribunal’s Statute for the counts set out above, inter alia, through his participation in a number of Joint Criminal Enterprises (JCEs).^{x1}

It is alleged that, from at least October 1991 until 30 November 1995, Karadžić participated in a JCE to permanently remove Bosnian Muslim and Bosnian Croat inhabitants from the areas of Bosnia and Herzegovina, which were claimed as Bosnian Serb territory.

These case will be seemed in the Trial Chamber of the ICTY in the year of “1999”. All of the members of the court are required to have intensive research on this case. Lastly, the Statute of the Tribunal is an important resource for the members of the court to have intensive claims and deliberations, it is expected for all of the members to have a look at documents that have mentioned in the Study Guide.

ⁱ Haag, D. (n.d.). International Criminal Tribunal for the former Yugoslavia, ICTY. Retrieved April 09, 2017, from <https://www.denhaag.nl/en/residents/to/International-Criminal-Tribunal-for-the-former-Yugoslavia-ICTY.htm>

ⁱⁱ Security Council Resolution 827, 25 May 1993

ⁱⁱⁱ United Nations International Criminal Tribunal for the former Yugoslavia. (n.d.). Retrieved April 09, 2017, from <http://www.icty.org/en/content/20-years-international-justice>

^{iv} Ibid.

^v Haag, D. (n.d.). International Criminal Tribunal for the former Yugoslavia, ICTY. Retrieved April 09, 2017, from <https://www.denhaag.nl/en/residents/to/International-Criminal-Tribunal-for-the-former-Yugoslavia-ICTY.htm>

^{vi} EUR-Lex Access to European Union law. (n.d.). Retrieved April 09, 2017, from <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV%3A116005>

^{vii} Ibid

^{viii} Ibid.

^{ix} Customary IHL - Rule 156. Definition of War Crimes. (n.d.). Retrieved April 09, 2017, from https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule156

^x Ibid.

^{xi} United Nations International Criminal Tribunal for the former Yugoslavia. (n.d.). Retrieved April 09, 2017, from <http://www.icty.org/en/about/chambers>

^{xii} Ibid.

^{xiii} United Nations International Criminal Tribunal for the former Yugoslavia. (n.d.). Retrieved April 09, 2017, from <http://www.icty.org/en/about/tribunal/organisational-chart>

^{xiv} United Nations International Criminal Tribunal for the former Yugoslavia. (n.d.). Retrieved April 09, 2017, from <http://www.icty.org/en/about/chambers>

^{xv} United Nations International Criminal Tribunal for the former Yugoslavia. (n.d.). Retrieved April 09, 2017, from <http://www.icty.org/en/about/office-of-the-prosecutor>

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