

FORMER YUGOSLAVIA THE WAR CRIMES TRIBUNAL: ONE YEAR LATER

A year ago — on February 22, 1993 — the United Nations Security Council promised to create an international tribunal to try accused war criminals in the former Yugoslavia.¹ Today, with not a single case open, the tribunal appears to be becoming part of the general picture in the former Yugoslavia — a pattern of empty threats and broken promises. With justice still at best a distant prospect, the pledge to pursue war criminals before the tribunal has been little deterrent to continuing atrocities. So far, it has utterly failed to build the rule of law in the region, a necessary foundation for any lasting peace.

Since the tribunal's inception, the U.N. has delayed and obstructed its ability to function. The U.N. waited three months after calling for the tribunal before adopting a statute to govern it.² The U.N. then stalled until late 1993 before appointing judges and a prosecutor for the tribunal. The choice of prosecutor, Ramón Escovar Salóm, Venezuela's Attorney General, was telling as well. A man with a reputation for all talk and little action in human rights cases, Escovar was a compromise candidate, pleasing those who hoped the tribunal would go nowhere. Betraying little real commitment, Escovar quit his post earlier this year when a new career prospect arose. Now, once again, the tribunal remains without a chief prosecutor. As a result, there are still no investigations, no indictments, and no trials.

Madeleine Albright, the U.S. Representative to the United Nations, has been a lone voice at the U.N. speaking in favor of the tribunal and against amnesties for accused war criminals.³ Those who remain silent and/or attempt to delay the tribunal — such as the representatives of Britain, Canada, and France — seem to harbor a shortsighted view of "peace," as if it could be reduced to the mere signing of an agreement. But as Albright correctly observes, granting amnesty to accused war criminals would make a mockery of justice and would contribute little to long-term stability in the region. The cycle of violence and retribution is unlikely to end unless, at a minimum, there is confidence that justice can be achieved in a lawful forum.

¹ Security Council Resolution 808 of February 22, 1993.

² The Statute of the International Tribunal in Security Council Resolution 827 of May 25, 1993 (incorporating The Report of the Secretary General pursuant to Security Council Resolution 808 of February 22, 1993, S/25704, May 3, 1993).

³ See Paul Lewis, "White House Is Adamant on Balkan War Crimes," *The New York Times*, November 3, 1993.

A functioning tribunal would be an essential component for re-establishing the rule of law in a completely lawless land. It would create a historical record of crimes committed and publicly determine the guilt of the accused in line with internationally accepted standards of due process. By establishing individual guilt, it would help dispel the notion of collective blame for war time atrocities.

Everything is in place for the war crimes tribunal to proceed except for the will of the international community. *Concrete evidence exists.* With U.N. protection and the cooperation of local authorities, an international investigatory team could gather it for trial, as Human Rights Watch's own researchers have been doing since the conflict began. The threat of new or continued sanctions against uncooperative governments would help facilitate the gathering of evidence.

***Witnesses exist.* As long as the tribunal has integrity and credibility, witnesses would be willing to testify. But to win the trust of potential witnesses, the U.N. must first demonstrate its commitment to full and fair trials, to the protection of witnesses, and to its willingness to try all of the accused, from the lowest foot soldier to top government leaders.**

***Defendants exist.* On February 14, 1994, German authorities arrested a suspected war criminal from the infamous Omarska prison camp, a former Bosnian Serb policeman, Duško Tadić, identified by refugees as one of the torturers at the camp.⁴ The scores of testimony gathered by Human Rights Watch also identifies Tadić as a suspect in the Omarska case, along with over a dozen others.**

If the war crimes tribunal had been fully functioning, Duško Tadić could have been tried before it.⁵ As a guarantee of uniform justice for all accused under strict standards of due process, an international tribunal is preferable to ad-hoc trials held sporadically in whatever countries the accused happen to surface. The countries of the former Yugoslavia, in particular, should not be allowed to try their own accused war criminals, since, absent a change in regime, governments that have sponsored atrocities can hardly be expected to vigorously prosecute those responsible. Under present circumstances, to encourage or sanction war crimes trials in any of the states that are parties to the conflict would be the functional equivalent to granting widespread amnesty.

An international war crimes tribunal will serve a vital function regardless of whether defendants can be brought to trial. Detailed indictments against the accused and the promise that they will be arrested as soon as they step foot outside their countries will constitute punishment in and of itself. With a war crimes tribunal in place, war criminals would never live at ease.

Helsinki Watch calls for action, not talk, with respect to the war crimes tribunal. In particular:

- **The United Nations and all world leaders should join Madeleine Albright in declaring that no amnesties shall be granted to those accused of war crimes, crimes against humanity,**

⁴ See Helsinki Watch, *War Crimes in Bosnia-Herzegovina, Vol. II*, p. 87 (1993).

⁵ As of this writing, German authorities are considering charging the man as an accessory to genocide or murder under German law.

or genocide;

- **The United Nations should not sanction or encourage the functional equivalent of amnesties, that is, allowing each offending government to try its own war criminals;**
- **The U.N. should appoint a new prosecutor with a vigorous commitment to human rights and the willingness and ability to take on the complicated task of managing war crimes prosecutions;**
- **In turn, the prosecutor should assemble a competent prosecutorial team, diverse in nationality and gender, with the same vigorous commitment to human rights;**
- **Investigations, including forensic exhumations and identification of witnesses, should begin immediately, with appropriate U.N. protection and assistance;**
- **Sanctions should be imposed against any country that harbors accused war criminals or that impedes and/or fails to cooperate in the collection of evidence for war crimes investigations;**
- **Investigations and trials should include all those accused of war crimes, crimes against humanity, and genocide, regardless of rank or nationality, and should abide by the highest standards of due process.**
- **Additional funds should be allocated to the tribunal to permit extensive field investigations, investigative personnel and logistical assistance, as well as adequate funds for defense counsel; all allocation decisions should be open to public inspection.**

Last summer, Human Rights Watch issued the attached summaries of eight cases that, with immediate investigation, would be strong candidates for prosecution. The summaries identify twenty-nine possible defendants by name, link each defendant to specific crimes and, in turn, enumerate potential violations of the pertinent law. The cases are still ready, but the tribunal is not. We demand immediate investigations and prosecutions — now.

EIGHT CASES READY FOR PROSECUTION

Vukovar	7
Viašić	11
Posavska Mahala	13
Omarska	15
Lora Prison	19
Doboj	21
Čelebići	23
Čarakovo	25

The following eight cases are selected from hundreds of possible cases in Helsinki Watch's files on war crimes in the former Yugoslavia. They were selected because they are ready for investigation and reflect a diversity of crimes and defendants.

VUKOVAR

(Helsinki Watch Case File No. I-A-16)

Possible Defendants

Veljko Kadijević: Yugoslav Minister of Defense and the Chief of Staff of the Yugoslav National Army (JNA) during the siege of Vukovar.

Col. Veselin Šljivančanin: in charge of security after the fall of Vukovar.

Stanko Vujanović: commander of the first company of the territorial defense unit of Vukovar.

Captain Miroslav Radić.

Predrag Milojević: called "Kina," a JNA volunteer from Ruma.

Dragoslav Milosavljević: called "Panta," a JNA reservist from Negotin.

Ivica Andrić: called "Djetić," a JNA reservist from Montenegro.

Spasoje Petković: called "Štuka," a JNA reservist.

Milan Lazarević: called "Grozni," a JNA volunteer from Uzdina.

Other executioners identified presently only by nickname.⁶

Summary of Crimes

Murder, torture, inhumane treatment, wanton destruction of cities, towns, or villages, and devastation not justified by military necessity.

Applicable Law Under the Statute of the International Tribunal

- **Article 5(a)(h)(specifying that murder and other inhumane acts committed against civilians are "crimes against humanity").**
- **Article 3(b)(specifying that "wanton destruction of cities, towns or villages, or devastation not justified by military necessity" are violations of the rules of war).**
- **Article 2(a)(b)(c)(d)(specifying that willful killing, torture, inhumane treatment, "willfully causing great suffering or serious injury to body or health", and "extensive destruction and appropriation of property not justified by military necessity and carried out unlawfully and wantonly" are "grave breaches" of the Geneva Convention of 1949).**

Summary of Case

⁶ Testimony on file with Helsinki Watch. Helsinki Watch will release the names only after they are confirmed.

Following Croatia's secession from Yugoslavia in the summer of 1991, the Yugoslav National Army (JNA), began to occupy by force certain areas of Croatia in conjunction with local Serbian militia groups. Vukovar — a Croatian city in eastern Slavonia — became the scene of a fierce battle between Croatian troops, and Serbian irregular forces backed by the Yugoslav National Army. The JNA and Serbian paramilitary squads bombarded the town, directly targeting schools, cultural monuments and hospitals. Residents struggled to survive, living for days at a time in chambers underneath the city hospital; after months of fighting, Serbian forces finally took the town in November of 1991.

Both during and after the battle of Vukovar, Serbian and JNA forces committed some of the greatest atrocities perpetrated in Croatia. One of the most notorious offenses involves the Serbian evacuation of 440 Croatian patients from the Vukovar Hospital. Evidence gathered so far indicates that Serbian soldiers and paramilitary squads summarily executed nearly half of these patients, burying their remains in mass graves.

Major Šljivančanin admits that Serbian troops did evacuate a number of people from the hospital to a place called Ovčara, but addedly claims that he turned all these people over to prison authorities in Sremska Mitrovica, a Serbian town which houses a major prison facility.⁷ Helsinki Watch, however, has *prima facie* evidence that all of the above defendants, with the exception of Kadijević, took part in the summary execution of 200 patients at Ovčara.⁸

Though not a perpetrator himself, Kadijević also bears responsibility for the massacre and wanton destruction of the city. As the Yugoslav Minister of Defense and the Chief of Staff of the Yugoslav National Army, Kadijević received timely warnings from his officers in the region that crimes were taking place and that the Serb paramilitary forces should be disarmed. Kadijević not only neglected to disarm the paramilitary forces, he also failed to take any substantive measures to prevent further crimes — such as the Ovčara massacre — from occurring. Furthermore, following the executions, Kadijević took no steps to investigate allegations and discipline the perpetrators.

Evidence

There is physical evidence of a massacre which took place approximately six miles south of Ovčara — the area to which Major Šljivančanin admits having taken approximately four hundred prisoners

⁷ In an interview for *Monitor*, an independent Montenegrin magazine, Major Šljivančanin attempted to account for the bodies found six miles south-east of Ovčara with the following explanation: "There were no killings and shootings, though there were bodies which were gathered in piles during the cleaning of the town...you can imagine how difficult it was to bury them properly..."

⁸ The Serbian government's account also contradicts Major Šljivančanin. In response to a protest letter written by Human Rights Watch to Slobodan Milošević, the Serbian government (in a letter dated March 18, 1992) claims that the account of the Vukovar incident is inaccurate and proceeds to correct the facts: instead of Serbs taking 440 patients from the hospital, as Human Rights Watch claimed, Serbs took only 380 patients; instead of Serbs releasing 128 patients to Croatian authorities, Serbs released 173 patients. This contradicts Šljivančanin's claim that Serbs handed over all patients. It also fails to explain what happened to the patients who were not delivered to Croatian authorities.

from the Vukovar hospital. Based on a preliminary exploration of this site, Physicians for Human Rights has concluded that "a mass execution took place at the grave site. The grave site is a mass grave, containing perhaps as many as 200 bodies."⁹ The team also had discovered "clusters of spent Kalashnikov cartridges" and bullet scorings on acacia trees behind the grave site.

A Helsinki Watch representative has interviewed a witness who testified that all of the above listed defendants, with the exception of Kadijević, either organized, ordered, or executed the massacre. Provided that he is given adequate protection, this witness might testify at trial. In July 1993, Helsinki Watch representatives gathered additional testimony from approximately seven other Vukovar survivors of the Ovčara massacre. Since January 1992, Helsinki Watch has collected scores of testimony from Vukovar survivors and witnesses, all of whom provided accounts of both the siege and the subsequent abuses.

The large number of refugees from Vukovar now living in Croatia could provide investigators with additional information. Also, all of the major newspapers have carried accounts of the incident which could direct investigators to additional witnesses.

Croatian governmental and nongovernmental organizations have released reports on Vukovar that could prove useful as well. In particular, Croatian government sources and humanitarian aid groups have prepared lists naming the patients of Vukovar's hospital, indicating which patients subsequently "disappeared."

General Comments

This is a case that urgently calls for immediate investigation and prosecution. Given that physical evidence of the Vukovar massacres may be disappearing daily, investigators must act now to locate and preserve physical evidence of mass grave sites. The extensive work on Vukovar already conducted by Physicians for Human Rights, Helsinki Watch, Croatian governmental and nongovernmental organizations, and other humanitarian and human rights groups should facilitate the investigation.

⁹ Testimony of Eric Stover, Executive Director, Physicians for Human Rights, before the U.S. Commission on Security and Cooperation in Europe, on January 25, 1993. See also Physicians for Human Rights, *Report of a Preliminary Site Exploration of a Mass Grave Near Vukovar, Former Yugoslavia*, January 19, 1993, inserted as Annex II to "Letter Dated 9 February 1993 from the Secretary-General Addressed to the President of the Security Council," S/25174, February 10, 1993.

VLAŠIĆ

(Helsinki Watch Case File No. I-A-1)

Possible Defendants

Dragan Mrdja.

Individual police officers (not yet identified by name).¹⁰

Summary of Crimes

Genocide, murder, aiding and abetting genocide and murder.

Applicable Law Under the Statute of the International Tribunal

- **Article 4(2)(a)(b)(specifying that killing members of a national, ethnic, or religious group and causing serious bodily or mental harm to members of the group with the intent to destroy, in whole or in part, that group is an act of genocide).**
- **Article 5(a)(specifying that murder of civilians committed in armed conflict is a crime against humanity).**
- **Article 2(a)(b)(c)(specifying that willful killings, torture, inhumane treatment and "willfully causing great suffering" are "grave breaches" of the Geneva Convention of 1949).**
- **Article 7(1)(specifying that those who aid and abet in the planning, preparation and execution of war crimes are also responsible for those crimes).**

Summary of Case

In August of 1992, Serbian forces released thousands of non-Serbs from detention camps in northwestern Bosnia. Serbs expelled many of the former prisoners from the area by loading them onto buses, and then driving them toward the Muslim and Croatian controlled town of Travnik in Bosnia.

On August 21, a group of non-Serbs released from the Trnopolje camp was sent on buses toward Travnik. Armed men stopped the convoy en route and systematically executed approximately 150-200 men aged seventeen and older in the mountainous area known as Vlašić. Allegedly, Serbian police officers lined the men up on the edge of a ravine, shot them and then pushed them into the ravine. Witnesses report that the officers then started firing down into the ravine to make sure that no one remained alive. At least seven of the men are known to have survived.

Witnesses have identified Dragan Mrdja as the commander of the police officers. Although Serbian authorities have admitted that the massacre took place, Helsinki Watch has received no evidence of a serious attempt to bring the guilty parties to trial.

Evidence

¹⁰ Helsinki Watch will release names once they are confirmed.

Helsinki Watch is in possession of testimonies given by two witnesses who survived the Vlašić massacre by falling into the ravine before being shot. B.J.,¹¹ a Muslim resident of the village of Kevljani in the municipality of Prijedor, and Esad,¹² a thirty-year-old Muslim resident of the village of Trnopolje in the municipality of Prijedor provide corroborative accounts of the mass execution. In addition, both eyewitnesses have identified Dragan Mrdja as the commanding police officer.

The Helsinki Watch reports are also supported by press reports. In a *Washington Post* interview published September 22, 1992, a survivor nicknamed Černi provides a description of the massacre. In subsequent *Washington Post* articles, Mary Battiata writes that "the man in charge was identified by three convoy passengers, including a former neighbor," (September 23, 1992) and that "many of the survivors have identified the police officer [in charge]" (September 28, 1992). In addition, on September 28, 1992, *The New York Times* published an Associated Press Report according to which a survivor named Semir (last name withheld) was able to recognize several of the killers from his home village of Čarakovo. The witness recognized among the officers two brothers who had rounded up Muslims in Čarakovo.

The accounts of the Vlašić massacre are further corroborated by a Serbian authority, Stojan Župljanin. Župljanin, chief of security forces in Banja Luka, admitted to *The Washington Post* that the massacre had occurred. He stated that fifty bodies had been recovered from the mass grave and that others were still waiting to be picked up.

In addition to the testimony of survivors, investigators may be able to perform autopsies on the bodies of victims and collect physical evidence — such as empty bullet shells, traces of blood and bodies — from the site itself.

General Remarks

The Vlašić massacre is extraordinarily well-documented. In particular, survivors have been able to describe the incident in great detail. Witnesses have identified the police commander and at least some of the perpetrators. Furthermore, the recovery of bodies from the site indicates the possibility of detailed autopsies. Clearly, the Vlašić case is well suited for immediate investigation.

¹¹ Interviewed by a Helsinki Watch representative on October 17, 1992, in a refugee camp in Croatia.

¹² Interviewed by a Helsinki Watch representative on October 17, 1992, in a refugee camp in Croatia. The witness is identified here under a pseudonym.

POSAVSKA MAHALA

(Helsinki Watch Case File No. IV-B-I)

Possible Defendants

**Marijan Brnić,
Jozo Barukčić,
Martin Barukčić,
Martin Barukčić (not the same as above),
Ilija Jurić,
Ilija Glavaš,
Pavo Glavaš.**

Summary of Crimes

Rape, torture and inhumane treatment.

Applicable Law Under the Statute of the International Tribunal

- **Article 5(f)(g)(specifying that torture and rape committed against civilians in an armed conflict are "crimes against humanity").**
- **Article 2(b)(specifying that torture and inhumane treatment are "grave breaches" of the Geneva Convention of 1949).**

Summary of Case

On June 5, 1992, fifteen members of a Bosnian Croat paramilitary group identified as the "Fire Horses" ("Vatreni Konji") allegedly gang-raped five Serbian women in Posavska Mahala. After the incident, a group of women visited the Croatian military headquarters at Novi Grad where they reported the rapes to the Bosnian Croat military police. The Bosnian Croat police arrested the alleged rapists and then released them without prosecuting them.

Evidence

Helsinki Watch is in possession of testimony given by two of the victims, one of whom identified all of the seven possible defendants named above.¹³ Once granted adequate protection, these witnesses may agree to testify. In addition, the military police in Novi Grad purportedly has records containing information on the victims and the alleged rapists.

¹³ Interviewed by Helsinki Watch representatives in January 1993, in Belgrade, Yugoslavia. The witnesses were identified by the Yugoslav State Commission on War Crimes.

General Comments

Given that the Statute of the International Tribunal specifically includes rape as a "crime against humanity," no reason exists to delay the investigation. If the investigators discover that the paramilitary leader planned or aided the gang rape in any way, he should be prosecuted as well, under Article 7 of the Statute.

OMARSKA

(Helsinki Watch Case File No. III-A-1)

Possible Defendants

Željko Mejakić (alternately referred to as **Meakić**, **Mejakovic** and **Mehajić**): commander of the Omarska camp.

Drago Prcać: a deputy of Mejakić's described as the "most brutal" of all the soldiers at Omarska.

Dušan (Dule) Tadić: alleged to have ordered and/or conducted the castration of one or more prisoners.

Nedejko Grabovac: an officer in the "Serbian Army" reported to have raped at least one prisoner.

Mladjo Krkan: An Omarska prison guard directly implicated in the murder of two prisoners.

Radoslav Brdjanin: a member of the government of the self-proclaimed "Serbian Republic" (Republika Srpska) who visited the Omarska camp.

Summary of Criminal Acts

Genocide; murder; rape; torture; unlawful confinement of civilians; persecution on political, racial, and religious grounds; other inhumane acts committed against a civilian population; and aiding and abetting all of the above acts.

Applicable Law Under the Statute of the International Tribunal

- **Article 4(2)(a)(b)** (specifying that killing members of a national, ethnic, or religious group and causing serious bodily or mental harm to members of the group with the intent to destroy, in whole or in part, that group is an act of genocide).
- **Article 5(a)(e)(f)(g)(h)(i)**(specifying that murder; imprisonment; torture; rape; persecutions on political, racial, and religious grounds; and other inhumane acts committed in armed conflict against a civilian population are crimes against humanity).
- **Article 2(a)(b)(c)(h)**(specifying that willful killing, torture, inhumane treatment, "willfully causing great suffering" and "unlawful confinement of civilians" are "grave breaches" of the Geneva Convention of 1949).
- **Article 7(1)**(specifying that those who aid and abet in the planning, preparation, and execution of war crimes are also responsible for those crimes).

Summary of Case

Omarska was a predominantly Serbian village in the Prijedor region of northwestern Bosnia. Serbian authorities converted part of the village into a detention camp following the outbreak of fighting in Bosnia and Hercegovina. The camp was the scene of some of the most brutal atrocities committed in detention camps in the Balkan conflict, as Serbian soldiers and prison guards raped, castrated, and brutally beat their prisoners.

Prior to the discovery of the camp by foreign journalists in the summer of 1992, Omarska held approximately two thousand Muslim and, to a lesser extent, Croatian men. The camp also detained between thirty-three and thirty-eight women; the majority of these detainees were civilians.

A clear chain of command existed at the camp, with commander Željko Mejačić at the top. As the leader, Mejačić assumed responsibility for the acts of his subordinates. The nature of the atrocities committed by those subordinates precludes the possibility that they were isolated crimes committed without the sanction of a commanding officer. In particular, soldiers attacked prisoners in a continuous and systematic manner. For example, witnesses have described a procedure in which Serbian soldiers routinely forced new prisoners to pass through two rows of guards to be beaten. Witnesses have also testified that every night guards beat to death five to fifteen men inside a white house used for interrogations. The guards regularly left "heaps of bodies" lying in front of the building throughout the next day.

If Željko Mejačić did not directly order his subordinates to commit such acts, he certainly knew or had reason to know that his subordinates were guilty of atrocities. Thus, his failure to take measures to prevent and punish these crimes cannot be excused.

Radoslav Brdjanin, a member of the government of the self-proclaimed "Serbian Republic" (Republika Srpska) visited the Omarska camp during the time in which the atrocities were committed. Given the prevalence of the crimes, he too knew or should have known of their existence. His visit, as well as the close proximity of the camp to Banja Luka, provide evidence that knowledge of the Omarska atrocities extended beyond the confines of the camp itself, and that authorities in the Bosnian Serb government allowed and perhaps even encouraged the crimes committed therein.

Evidence

Helsinki Watch has collected testimony from numerous witnesses to the Omarska crimes.¹⁴ Witnesses have identified, by name, all of the above possible defendants as possible war criminals and have provided names of several of the deceased. Given the large number of witnesses, some of them could be located in the event of trial.

In addition to pursuing witnesses, investigators should examine the site of the prison for physical evidence, such as bullet-holed and blood stained walls and remains of the deceased.

¹⁴ Interviews conducted by Helsinki Watch representative between October-December 1992, and January-February 1993 at various locations in Croatia. See Helsinki Watch, *War Crimes in Bosnia-Hercegovina, Vol. II* (released in April 1993); pgs. 87-121 and 163-164.

General Comments

The atrocities committed in the notorious Omarska prison camp lend themselves particularly well to prosecution. Both the extensive media coverage of the Omarska crimes and the prevalence of survivors speaking about their experiences indicate the existence of a solid case deserving thorough investigation.

LORA PRISON

(Helsinki Watch Case File No. III-B-5)

Possible Defendants

Tomo Dujic.

Individual Croatian soldiers (identified presently only by nickname).¹⁵

Summary of Criminal Acts

Torture, inhumane treatment, aiding and abetting torture and inhumane treatment.

Applicable Law Under the Statute of the International Tribunal

- **Article 2(b)(c)(specifying that torture, inhumane treatment and "willfully causing great suffering or serious injury to body or health" are "grave breaches" of the Geneva Convention of 1949).**
- **Article 7(1)(specifying that those who aid and abet in the planning, preparation and execution of war crimes are also responsible for those crimes).**

Summary of Case

As the commander of the Croatian-controlled Lora prison in Split, Tomo Dujic is responsible for the continued torture and beating of Yugoslav National Army Reservists who were detained in the prison. According to the witness, soldiers tortured prisoners at all times, but particularly beat some prisoners whenever Dujic visited them. Those prisoners include: Gavrilo Tripkovic, Damjan Tripkovic, Drago Vujovic, Rusko Bekan, and Mile Sakovski. According to the witness, Dujic at times personally took part in the torture; on one occasion, Dujic put a thick rubber glove on his hand and rammed it inside the prisoner's anus.

The witness also reports that prison interrogators (identified only by the first names or nicknames: Toni, Markota, Dego, Čemeraš, and Kudra), strapped prisoners to an "electric chair" in Dujic's office. According to the witness, the interrogators connected Gavrilo Tripkovic, Damjan Tripkovic, and Zoran Perkovic (a priest from Kupres) to a hand-cranked generator until they fainted. The witness also testified that soldiers would force them to drink urine, and would urge them to rape each other.

The above crimes could not have been committed without Dujic's sanction. If he did not actually order crimes to be committed, he certainly allowed them to occur under his command. And, in any event, Dujic is criminally liable for the crimes he committed personally.

Evidence

Helsinki Watch is in possession of testimony given by Gavrilo Tripkovic, 50, a Serbian salesman from Prebilovci (a village three kilometers away from Čapljina), and other collaborate testimony. In

¹⁵ Helsinki Watch will release the names only after they have been confirmed.

addition to such testimony, investigators should be able to collect physical evidence from the prison site, and hospital records detailing prisoners injuries.

General Comments

The availability of testimony from a man who not only experienced and witnessed abuses, but also knows the names of both the perpetrators and the victims renders this case suitable for investigation and prosecution.

DOBOJ

(Helsinki Watch Case File No. II-A-26)

Possible Defendants

**Nikola Jorgić (also known as "Jorga").
Dr. Obrad Filipović.
Dr. Jodić.**

Summary of Crimes

Rape, torture, inhumane treatment and aiding or abetting rape, torture and inhumane treatment.

Applicable Law Under the Statute of the International Tribunal

- **Article 5(d)(f)(g)(specifying that torture and rape committed against civilians in an armed conflict are "crimes against humanity").**
- **Article 2(b)(specifying that torture and inhumane treatment are "grave breaches" of the Geneva Convention of 1949).**
- **Article 7(1)(specifying that those who aid and abet in the planning, preparation and execution of war crimes are also individually responsible for the crimes).**

Summary of Case

In early May of 1992, Serbian forces took over the northeastern Bosnian town of Doboï. Immediately thereafter, Serbian forces converted a Doboï high school into a detention center for women. Witnesses testify that the school hall was packed with hundreds of women forced to sit side by side, and that members of the Yugoslav National Army, paramilitary forces and the local militia systematically raped, gang raped, raped with various objects (bottles, guns etc.), beat, spat on and urinated on the women over an extended period of time.

Witnesses have identified the overseer of the center as Nikola Jorgić, a Serbian police officer from Doboï. According to the witnesses, Jorgić introduced himself as the man in charge. He in fact exerted a substantial degree of control over the center by deciding, among other matters, when women were allowed to leave. Given the prevalence of rape within the center, one can conclude that Jorgić knowingly permitted them to continue unpunished. Some evidence indicates that he even ordered rapes to be committed: one witness has recalled that Jorgić forced certain men to commit rapes.

In addition to naming the overseer of the camp, one victim was able to identify two of her rapists as acquaintances named Dr. Jodić and Dr. Obrad Filipović.

Evidence

Helsinki Watch is in possession of testimony provided by B.,¹⁶ a forty year-old Muslim woman from Dobož. Serbs detained B. in Dobož for twenty-eight days until her brother paid 1,000 German marks for her release. B. identified Nikola Jorgić as the commander of the Dobož police force. Furthermore, she recognized two of her rapists, Dr. Jodić and Dr. Filipović as workers and acquaintances from her work place. In the event of a trial, it is possible that B. might agree to testify.

In addition to the evidence compiled by Helsinki Watch, investigators can draw from other sources for information concerning the Dobož detention center. The Croatian Ministry of Health has compiled a report summarizing incidents of wartime rape which includes descriptions of cases from Dobož. In addition, the Ministry of the Interior of Bosnia and Hercegovina claims that it has collected and documented 13,000 cases of rape; if so, accounts from Dobož most certainly are included. Furthermore, many news reporters have covered Dobož and thus may be able to provide investigators with leads.

General Remarks

This case is well documented and appropriate for immediate investigation. Given that the Statute of the International Tribunal specifically includes rape as a "crime against humanity," (see Article 5), no reason exists to delay the investigation.

¹⁶ Interviewed in January 1993 by a Helsinki Watch representative in Zagreb, Croatia.

ČELEBIĆI

(Helsinki Watch Case File No. III-C-I)

Possible Defendants

Hazim (or Adem) Delić.

Prison guards (now identified only by nickname).¹⁷

Summary of Criminal Acts

Murder, torture, inhumane treatment, willful causing of serious injury to body and health, and aiding and abetting such acts.

Applicable Law Under the Statute of the International Tribunal

- **Article 2(a)(b)(c) (specifying that willful killing, torture, inhumane treatment and "willfully causing great suffering or serious injury to body or health" are "grave breaches" of the Geneva Convention of 1949).**
- **Article 7(1) (specifying that those who aid and abet in the planning, preparation and execution of war crimes are also individually responsible for the crimes).**

Summary of Case

In May 1992, after the Yugoslav National Army withdrew from its barracks in the village of Čelebići (in the municipality of Konjić) Bosnian forces assumed control and used the facility to house Serbian prisoners. On the basis of Helsinki Watch interviews with international relief workers, Serbian advocates in Belgrade, and former detainees, it appears that the Čelebići detention facility was initially controlled by Croatian forces and manned by Muslim guards; shortly thereafter Muslim forces assumed control.

Hazim Delić — the commander of the prison — was directly responsible for the ill treatment of numerous prisoners. Described by a witness as the soldier who conducted the most beatings, Delić often joined the guards in brutally beating the prisoners. Many prisoners died as a result of injuries inflicted by prison guards.

According to a former Čelebići prisoner, a guard nicknamed "Zenga" willfully beat to death Simo Aramović and Nedjo Milošević. Guards also shot to death Kuljani (first name not known), Miroslav Vujičić, and Boško Samouković. In addition, the former prisoner recalls having been forced by prison guards to remain in a manhole with six other prisoners for two days without food or water.

Given his position of authority and his active participation in the beating of prisoners, Delić must

¹⁷ Helsinki Watch will release the names only after the identities of the accused are confirmed.

have been aware of the crimes being perpetrated in his camp. If Delić did not specifically order atrocities to be committed, he nevertheless tolerated continued mistreatment of prisoners. He thus may be held responsible for all the crimes committed during his command of the Čelebići camp.

Evidence

Helsinki Watch is in possession of testimony given by Ljubimir,¹⁸ a twenty-one-year-old Serb from the village of Brđjani. The witness gave a full account of the abuses, beatings, and killings that took place at Čelebići. He identified, by name, the camp commander and some of the victims. Furthermore, he was able to identify by nickname an executor of the actual killings. It is possible that Ljubimir might testify at trial. At least two additional witnesses have corroborated his testimony.¹⁹

In addition to the testimony of witnesses, investigators are likely to discover physical evidence of the alleged crimes when they visit the camp, which has reportedly since been closed.

General Remarks

This well documented case of Bosnian Muslim, and possibly Croatian abuses against Serbs. In particular, there is prima facie evidence that the camp commander is guilty of war crimes. Given the likely availability of witnesses, this case is particularly well suited for prosecution.

¹⁸ Interviewed by Helsinki Watch representatives on October 6, 1992, in Belgrade, Yugoslavia. The Yugoslav State Commission on War Crimes and Genocide supplied the witness. The witness chose to withhold his name and the name used here is a pseudonym.

¹⁹ These witnesses were also supplied by the Yugoslav State Commission on War Crimes. They were interviewed by Helsinki Watch representatives on October 6, 1992.

ČARAKOVO

(Helsinki Watch Case File No. IV-A-3)

Possible Defendant

Rajko Dragić.

Summary of Criminal Acts

Rape.

Applicable Law Under the Statute of the International Tribunal

- **Article 5(g)(specifying that rape committed in an armed conflict against a civilian is a "crime against humanity").**

Summary of Case

In late July of 1992, Serbian forces took over the northwestern Bosnian town of Čarakovo. Shortly after the fall of the town, Rajko Dragić (nicknamed "Bokser", identified as a soldier in the "Serbian Army") broke into the home of Senada,²⁰ a young Muslim woman and Selim, her husband. Wielding both a machine gun and a knife, Dragić took the family's television and VCR and then proceeded to rape Senada repeatedly in front of both Selim and the couple's four-year-old daughter. "Bokser" then set the house on fire, forcing the family to flee.

Evidence

Both Selim and Senada have been able to identify Dragić. Selim recognized him as his co-worker at the rail company in Prijedor. Senada knew him from her native village of Rakelići. If they are granted adequate protection, Senada and Selim may testify at trial.

General Comments

This is a particularly well documented and simple case. Both the victim and her husband knew and identified the assailant. Furthermore, the victim's husband was a witness to the crime. Given that the Statute of the International Tribunal specifically includes rape as a "crime against humanity," (see Article 5), no reason exists to delay the investigation.

* * *

Helsinki Watch was established in 1978 to monitor domestic and international compliance with

²⁰ **Interviewed by Helsinki Watch representatives in January 1993 at the mosque in Zagreb, Croatia. The names used here are pseudonyms.**

the human rights provisions of the 1975 Helsinki Accords. The chair of Helsinki Watch is Jonathan Fanton and the vice chair is Alice Henkin. Jeri Laber is executive director; Lois Whitman is deputy director; Holly Cartner and Julie Mertus are counsel; Erika Dailey, Rachel Denber, Ivana Nizich and Christopher Panico are research associates; Christina Derry, Ivan Lupis, Alexander Petrov, Lydda Ragasa and Isabelle Tin-Aung are associates; and Zeljka Markić and Vlatka Mihelić are consultants.

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Helsinki Watch is affiliated with the International Helsinki Federation in Vienna, Austria.