

**English summary:**

**Stephen Karganović  
Ljubiša Simić**

**SREBRENICA: THE DECONSTRUCTION OF A VIRTUAL GENOCIDE**

It is scarcely possible to discuss meaningfully the events surrounding Srebrenica without taking a holistic approach. That means that the core event, the prisoner massacre that occurred between July 11 and 19, 1995, must be broadly contextualised to include an analysis of the role of major external actors [e.g. international community, media, etc.] as well as important internal factors [e.g. attacks on surrounding Serbian villages, failed demilitarisation process, etc.] which shaped the events that culminated in the large scale loss of life.

The reductionist approach, which has been dominant in the Srebrenica debate until recently, avoids dealing with contextual complexities and seeks instead to offer an explanation that is simplistic [a sudden desire to wipe out an entire community] and notoriously careless with the facts [an exaggerated death toll which is insisted upon to lend credibility to the charge of genocide].

The justified nervousness of the reductionist camp has been palpable. It has been working hard to encourage the passing at various levels of political resolutions and punitive measures designed to sacralise the dogmatic version of Srebrenica events and to impose it as the only correct way to view them.

The primary goal of this monograph is to analyse the losses suffered in the Srebrenica theater by the Moslem side in the Bosnia-Herzegovina

conflict in July 1995. This is an important issue for several reasons. First, because those losses are raised as evidence of guilt of the Serb side in the BH conflict, even in the collective sense of that word; second, assuming that some form of responsibility may indeed be imputed, it is fair to try to assess as accurately as possible the character and scope of those losses, otherwise the nature of the responsibility hardly can be properly established; further, those losses are not treated as a routine wartime event but have become widely regarded as exemplifying the most heinous crime known to international law: genocide, so it becomes additionally important to sort things out. Finally, all pragmatic considerations aside, there is also a moral imperative: the truth has an enormous healing power which both communities in Srebrenica – and in Bosnia-Herzegovina as a whole – should welcome if it is indeed their wish to live in peace and not to allow the recent horrors to ever be repeated.

In line with the holistic approach, available data relative to the scope of Moslem losses which resulted directly from the takeover of the Srebrenica enclave by Serbian forces [VRS] are considered. That is the primary focus of this monograph. In the chapters prepared by Dr. Ljubiša Simić, a detailed analysis is presented of the forensic material that is used by ICTY prosecution to demonstrated Srebrenica Moslem casualties in the various Srebrenica-related trials. That forensic material is the only *corpus delicti* of the crime of Srebrenica and the only available physical evidence for the allegation that in July of 1995 the Serb side committed genocide by executing “8000 Moslem men and boys.”

The other aspect of this issue is practically unknown to the public at large. It concerns the losses inflicted on the 12,000 to 15,000 strong column of the 28<sup>th</sup> Division of the Bosnian Moslem army, which included military

personnel and civilians, who attempted a break through from Srebrenica to Tuzla after the enclave's fall on July 11, 1995. As a result of clashes with Serbian forces, minefields, and other calamities, the column suffered considerable losses. Such a mixed military-civilian column is a legitimate target according to international law and, in contrast to the execution of prisoners, its casualties are not even a war crime, let alone a more serious offence. Therefore, regardless of prisoner executions elsewhere, which were a war crime, casualties sustained by the column must be distinguished and treated separately. They are not even victims of massacre, let alone genocide.

The systematic avoidance of the column as a distinct piece of the Srebrenica jigsaw puzzle during the critical period in July of 1995 and the absence of any analysis of those casualties is a salient example of the perils of reductionism and of the need to take a holistic approach. If there is a will to establish the authentic number of Moslem victims of Srebrenica in July of 1995 and to properly delineate the scope of the crime which forms the material basis for the charge of genocide, legitimate losses resulting from combat must not be conflated with executed prisoners of war. The causes and structure of those legitimate losses is discussed in the chapter authored by Stephen Karganovic. The account of combat activities and losses incidental to them is based on hitherto unexamined and unpublished statements of Moslem column members who were successful in reaching Tuzla and were debriefed about their experiences by authorities there.

If the holistic approach is to be fruitful, it cannot be confined to a breakdown of Moslem casualties in July of 1995 but must encompass all elements which influenced the situation on the ground from the outbreak of hostilities in April of 1992 to the fall of the enclave in July of 1995. As a

minimum, that requires that attention be paid to two key factors: the agreed to but never implemented demilitarisation and dissolution of Moslem armed forces within the enclave and systematic attacks launched out of the enclave which devastated Serbian villages surrounding Srebrenica, and which were accompanied by the mass killing and expulsion of the peaceful non-Moslem population. These events are part and parcel, morally and forensically speaking, of the dénouement of July of 1995, and in this monograph they are treated accordingly.

The empirical analysis of authentic Moslem casualties, and their proper categorisation, is the core issue with regard to Srebrenica. Without a corpse, there is no murder, or genocide for that matter. The forensic evidence of Srebrenica is the only corpus delicti we have, and its quality and correct interpretation are crucial to understanding and properly interpreting what happened. Dr. Ljubiša Simić, in two essays, presents the results of his critique of the forensic data, after having reviewed the entire, 30,000 page, record of ICTY's office of the prosecutor on this subject.

The numerous errors and methodological shortcomings in the prosecution forensic results, which Dr. Simić identifies, strongly suggests that the Hague tribunal drew huge and mostly unwarranted conclusions based on scant and improperly elaborated evidence. The critique of the forensic aspect of ICTY prosecution's Srebrenica case is a metaphor for the factual untenability of several other key props upon which it rests.

Three of those major props are closely examined.

[1] The Erdemović evidence. Dražen Erdemović is a the prosecution's key Srebrenica ocular witness as well as an alleged participant in the commission of the crimes which he describes. He became the star Srebrenica prosecution witness after concluding a plea bargain. In return for a benign

sentence of 5 years for allegedly taking part in the execution of 1200 prisoners at Pilice, Erdemović has given evidence in five Srebrenica trials so far. But his evidence is shown to be highly problematic, contradictory, and in many key details plainly unconvincing. An example of Erdemović's fundamental lack of credibility is the fact that at Pilice, where this mass crime allegedly involving about 1200 victims occurred, ICTY prosecution forensic teams exhumed the remains of only 137 potential victims, of whom 70 had blindfolds and/or ligatures, which confirms that the story as told by the witness is partially correct, but nevertheless enormously exaggerated.

Since Erdemović is a key ocular witness/participant, a great deal of the official Srebrenica narrative in fact rests on his shaky testimony, plus the grossly misrepresented forensic findings.

[2] DNA evidence. DNA was introduced into the Srebrenica investigation process as an evidentiary tool rather late in the game, but with great pomp. Its application in the gathering of evidence is under the auspices of the International Commission for Missing Persons in the former Yugoslavia [ICMP] whose official mission is to help identify suspected remains of individuals who went missing during the conflict. Although ICMP officially tries to nurture the profile of a non-political and humanitarian organisation, its background shows close ties to the US political establishment and, in fact, its president is appointed by the US Secretary of State. That suggests the possibility of a conflict of interest because it raises the specter of a client relationship with a government which is competing tenaciously for influence in the region. It should be noted that ICMP's purported identification of over 6000 out of Srebrenica's 8000 alleged victims just happens to dovetail very conveniently with that government's Bosnian agenda.

While DNA evidence, with its aura of cutting edge science, can undoubtedly be used to make a huge impression on behalf of whatever cause it is trotted out to support, its effectiveness in bringing ICTY prosecution to within striking distance of its goal of identifying 8000 Srebrenica victims is highly uncertain. Where it was presented in court, as in the Popovic et al. case, that was in closed session and under highly restrictive conditions which limited defence's opportunity to properly examine and criticise the application of this procedure in the identification of Srebrenica victims. It seems, surprisingly, that even the Office of the Prosecutor was denied full access. The stated reason for this secretiveness is that supposedly, in the interest of privacy, DNA test samples and analytical results cannot possibly be released or made public without the written permission of surviving relatives. Since such permission is hardly forthcoming, that effectively makes ICMP's tender of DNA evidence unverifiable and a matter of faith. The acceptance of such faith based evidence does not generate any meaningful scientific or judicial data and it is a serious violation of the procedural rights of the accused.

[3] Satellite photos. Evidence in this category has been known and avidly discussed since August of 1995, when US Secretary of State Madelaine Albright showed what purported to be photos of Srebrenica mass graves to the UN Security Council. But as with the DNA evidence, it also is inaccessible and unverifiable, in this case for the alleged reason of national security. But it has recently come to light, as a result of an interview given by Jean-René Ruez, ICTY prosecution's chief investigator during the initial stages of the Srebrenica investigation, that the widespread impression that was nurtured over the years, that Srebrenica mass graves and evidence of "disturbed earth" suggesting reburials were reliably recorded from outer

space using the latest satellite technology, is in fact false. According to Ruez, aerial reconnaissance over Srebrenica was conducted not by technologically advanced satellites whose intelligence gathering techniques might justifiably be subject to secrecy, but by much older U2 spy planes. Since a U2 had been shot down over the USSR some time ago, it may be assumed that its major features are quite well known to foreign intelligence, thus eliminating the need for placing a 50-year seal on Srebrenica photos on the pretext that it in order to protect sophisticated intelligence gathering technology.

In sum, it turns out that what were thought to be satellite photos are actually nothing of the kind and that, upon closer examination, this particular prop of the official Srebrenica narrative is as unverifiable as the DNA evidence and as unreliable as the testimony of Dražen Erdemović.

In chapter I, *Have Moslem victims anything to do with Serbian victims?*, the three days in July of 1995, during which Moslem residents of the Srebrenica enclave were victims, are balanced against the record of the three preceding years of the war, during which residents of surrounding Serbian villages were targeted systematically in a campaign of devastation and mayhem. However, this balancing account is steadfastly ignored by the proponents of the official Srebrenica narrative, and for a reason which makes eminent sense from their perspective. If the original crime of Srebrenica was the pogrom of the Serbian population during the first three years of the conflict, then the picture changes fundamentally. The conclusion that would then more naturally fit the facts might be that the crime committed in 1995 against the symbolic perpetrators of the original crime of Srebrenica was revenge, a settling of accounts. But such a conclusion hardly

is suitable material from which to fashion a victimological narrative and a genocide cult.

The so-called international community and its various agencies and institutions failed to rise to the challenge and serve as honest brokers in encouraging an equitable solution early on to the tripartite ethnic conflict in Bosnia and Herzegovina. Instead, they served mainly as enablers for one of the sides, while consistently misrepresenting the position, goals, and conduct of another.

The perspective of UNPROFOR commander Gen. Phillippe Morillon on the players and the nature and background of the conflict in Bosnia is extensively examined. He has discussed in great detail the brutal methods employed by Naser Orić, the local commander of Moslem forces in Srebrenica, the destructive and lethal consequences of his raids on surrounding Serbian villages, and the degree of intercommunal hatred that this extraordinarily brutal campaign of violence generated. Evidence is presented that representatives of the international community were well aware of the impact of the violence which Orić orchestrated, openly boasting to foreign journalists and to General Morillon of fighting a war where no prisoners are to be taken. Considering that Orić was the local field commander for the Sarajevo Moslem-dominated government which enjoyed international recognition and also in considerable measure political support, the failure of the international community to make its concerns over this outrageous conduct known created a climate of impunity where practically no restraints were imposed on the Moslem side. The result were numerous attacks on Serb civilian targets [a list of villages and statements of surviving victims is given] in which over 1000 inhabitants were killed and dozens of villages were burned and to this day remain uninhabitable.

In chapter II, Demilitarisation, an overview of the failed demilitarisation process is presented, including a discussion of the salient features and implementation record of both demilitarisation agreements that were concluded on April 17 and May 8, 1993, respectively. The agreed upon terms for the cessation of the successful Serbian counter-offensive in the Spring of 1993 against the vastly expanded enclave under the control of Naser Orić's Moslem forces included the stationing of a UN peacekeeping force within the protected enclave, the handing over by Moslem troops of all their weapons to it, and the dissolution of all non-UN military units within the enclave. The latter two points of the agreement were never carried out, and evidence is presented that the UN knew and tolerated it, in disregard of its duty to ensure the successful implementation of the demilitarisation agreement. In fact, raids continued to be conducted outside the enclave by armed units of the Moslem army throughout the period of existence of the „demilitarised“ safe zone, right up to late June of 1995, culminating with an attack on the village of Višnjica. Evidence is presented that at that stage the fully operational 28th Division of the Bosnian Moslem army inside the enclave was about 5000 men strong. Proof of consistent violations of the demilitarisation agreement by the Moslem side is also presented from the Debriefing document of the Dutch Battalion.

In chapter III, „Analysis of ICTY Forensic Reports,“ a sustained critique is presented of ICTY prosecution forensic experts' abduction reports based on exhumations of 13 mass graves in the region of Srebrenica conducted between 1996 and 2002. The results of those exhumations were offered by the prosecution to the various ICTY chambers dealing with Srebrenica as demonstrating that the overwhelming majority of the victims were executed, with but a negligible percentage showing a pattern of injury

consistent with combat activity. In chapter IV, „Interpretation and presentation of results of mass grave exhumations,“ both this contention and the prosecution’s assessment of the total number of bodies in the mass graves are effectively challenged. But the main focus of this chapter is on the prosecution forensic experts’ methodology, which ultimately led to factually unsupported and properly unexamined impressions passing for facts, which severely infected the substance of the Krstić judgment (2001). All the main judicial findings regarding Srebrenica were reached in that case and were mostly replicated in the subsequent cases. Some of the major conclusions of the Krstić court are taken to task in light of its uncritical acceptance of many of prosecution forensic experts’ professionally defective data.

Some of the main issues identified here are the misleading implication that each of the 3658 prosecution autopsy reports = one body, when in fact it may consist of no more than a few bones from which no meaningful forensic conclusions may be drawn; the presence of injuries inflicted by „high velocity bullets“ is unexplored, although – as is demonstrated here – such injuries could only have been made by artillery projectiles and are highly indicative not of executions but of combat deaths; although victims with blindfolds overlap to a large extent with those with ligatures (442 in total), they are presented in the Krstić judgment as separate categories, apparently in an attempt to almost double the number of victims who were incontestably executed; also in Krstić, there is no analysis to distinguish and set aside victims of artillery ammunition or mine fragments, who could not possibly have been executed; prosecution forensic reports show also the presence of complete bodies with various amounts of soft tissue and no perceptible injuries, suggesting that some residents of the

enclave died of natural causes rather than execution, but no proper account is taken of that; in Krstić, the number of bodies in the mass graves is put at 2028, when in fact forensic evidence after a few more years of exhumation activity supports the presence of at most 1920, including all causes of death; based on prosecution projections, the Krstić chamber accepts in 2001 that an additional 4805 bodies would be found in as yet unexhumed mass graves, but almost ten years later this anticipated evidence that would have retroactively made the Krstić judgment look more credible has failed to come to light.

Several issues are singled out for specific discussion.

The forensic evidence unearthed by the prosecution at Pilice is compared to the evidence given by their principal witness, Dražen Erdemović, who allegedly took part in the mass execution which occurred there. The enormous discrepancy between Erdemović's claim of how many were executed (about 1200 in five hours) and the forensic evidence on the spot (137) is but one of the problems there because in the form and at the pace described by Erdemović there would have been but 2.5 minutes per batch of prisoners to do the job in that time frame. A comparison with evidence of the mass execution of 1000 prisoners at another location in the Blagojević and Jokić case, which that chamber heard and accepted, reveals that in that episode it took about three times longer to execute fewer prisoners.

Another issue is that in many cases the pattern of injury that is described in the forensic reports as resulting from a „bullet“ in fact is not necessarily consistent with the impact of conventional bullets from automatic and semi-automatic weapons that are commonly used in executions. Upon closer examination, even prosecution autopsy reports give important clues, such as „high velocity bullet“ and „burst out injuries,“ which suggest that the more

likely cause were artillery munitions. A close technical analysis leads to the conclusion that out of 655 deaths in the exhumed mass graves that are attributable to a „bullet,“ about 150 show characteristics more consistent with artillery such as the Praga gun that was widely used against infantry during the Bosnian war. An analysis of numerous statements given by surviving members of the retreating 28th Division column amply documents the widespread use of the Praga, and artillery in general, by Serbian forces in the combat which took place along the column's route. That strongly suggests that even a significant number casualties attributed to bullets were in fact victims of combat related artillery injuries, thus to some extent excluding execution even in that category.

A list of column member statements indicating artillery barrages by Serbian forces during the retreat route is provided, along with their reference numbers in the electronic data base of the Hague tribunal.

Other serious methodological issues in the treatment of the forensic evidence are discussed. For example, a number of bodies were exhumed in primary graves in 1996 which exhibited only skeletons, without any soft tissue, which virtually excludes that they could have been execution victims only a year earlier, given that the decomposition process takes several years. Also, a number of individual forensic reports are highlighted for special comments to illustrate their low level of professionalism.

In chapter IV, „Interpretation and presentation of results of mass grave exhumations,“ a thorough analysis is presented of the 30,000 pages of forensic material which constitutes not the main, but the only physical evidence of Srebrenica, with a separate discussion for each burial site. The first fundamental conclusion reached is that while in the Prosecution evidence there are said to be 3658 “cases,“ that does not equal 3658

exhumed bodies. On more careful examination, it turns out that in about 44% of these “cases”, or a total of 1583 of the available ICTY autopsy reports, not only was there absolutely nothing resembling a complete body from which meaningful forensic conclusions might be drawn, but what was termed a “case” may have consisted of no more than a body fragment, often a single bone, incapable of generating any forensic conclusions at all. In fact, even the prosecution’s own forensic experts concede that in 92,4% of these autopsy reports, which consisted of body fragments, the cause of death could not be determined. But even the slightly over 50% of the exhumed remains which do allow the possibility of some forensic conclusions nevertheless do not present a uniform picture and they do not necessarily support the prosecution’s case. A breakdown of patterns of injury is presented, some clearly suggesting combat deaths rather than execution. If we combine victims with blindfolds and ligatures, 442, and those with bullet or bullet fragment wounds only, 505, the total of victims whose condition and pattern of injury at the time of exhumation were consistent with execution is 947. That is less than a third of the cases in ICTY prosecution’s forensic evidence, and far short of the official Srebrenica execution figure of about 8000. A control analysis was also conducted to determine the total number of victims in the 13 exhumed Srebrenica mass graves, irrespective of other relevant factors. The method selected was simple but extremely reliable: count all the right and left femur bones, which happens to be one of the sturdiest skeletal components. When paired, the femurs give a total of just under 2000 victims (1919), which is about 6000 short of the 8000 figure which must be properly documented if the authorized version of Srebrenica events is to be sustained.

In chapter V, „*Is there evidence of intent in July of 1995 to execute all captured Moslems in and around Srebrenica?*“, it is argued that the execution of prisoners in July of 1995 can only be viewed as either a war crime of significant proportions or as an act of genocide, as ICTY has claimed. But for the latter option to be chosen, there must be persuasive evidence of the existence of intent to execute every Srebrenica Moslem who might have fallen into the hands of Serbian forces, at least during the critical period, July 11 to 19. That intent should have manifested itself in the indiscriminate liquidation of all such prisoners.

But statements of surviving soldiers and civilians from the Srebrenica enclave who during that period were captured by Serbian forces, some of whom had been wounded and were properly treated in Serbian medical facilities, lend no support to such a hypothesis. In total, 60 statements are considered (all properly referenced to the ICTY electronic data base) and chief prosecution investigator Jean-*René* Ruez is quoted to the effect that a total of about 1200 were taken. In 14 of those cases, the person was captured between July 12 and 19, 1995 and was properly processed by Serbian forces, and in 29 cases the POW was properly registered with the International Red Cross. Each of the 60 statements is briefly summarised.

The issue, can genocidal intent be attributed to the mass killing which followed the takeover of Srebrenica on July 11, 1995, is also considered from several additional angles.

1. The existence of such intent is inconsistent with the transfer of about 20.000 women, children, and elderly, by the Serbian forces to territory under Moslem army control.
2. On July 16, 1995, VRS opened a corridor to allow passage to the retreating Srebrenica column instead of using all its available assets in an

attempt to annihilate it, which would have been more consistent with genocidal intent.

3. The testimony of Dutchbat doctor, A. A. Schouten, who was present in Srebrenica and nearby Bratunac for several days following the takeover denies seeing anything that would support the suspicion that large numbers of Moslem men were being taken away for execution.

4. In the debriefing of three UN military observers, taken on July 24, 1995, it is also denied that in the aftermath of the takeover any evidence or reports of mass killing of military age men had reached them.

5. The fact, noticed by prosecution military expert Richard Butler, that thousands of prisoners would have been an excellent bargaining chip for the Serbian side, which could have exchanged them for its own captured personnel, militates strongly against the irrational decision to execute Moslem prisoners.

6. The Serbian military plan of attack also was inconsistent with the intent to eliminate all Moslem residents of the enclave as such. Instead of tightly surrounding the enclave, leaving no possibility of escape, VRS attacked from the south, leaving escape options of which the mixed male 12.000 to 15.000 strong military/civilian column availed itself by undertaking the trek from Srebrenica to Tuzla.

Based on this evidence, it is clear that the reductionist approach fails once again and that a nuanced picture must be sought if events are to be understood properly.

In chapter VI, „*Analysis of Moslem column losses due to minefields, combat activity, and other causes,*“ an assessment is made of the casualties that could have been suffered by the mixed military/civilian column estimated at about 12,000 to 15,000 which left the enclave on foot,

attempting a breakout through mountainous terrain, in order to reach Moslem-controlled territory in Tuzla, about 60 km. to the northeast. Along the way, the column had several military clashes with Serbian forces and survivor statements agree that it suffered severe casualties. Based on information in dozens of such statements, the losses inflicted on the column—due mainly to minefields, fighting between different factions within the column, and ambushes set by Serbian forces—are reconstructed. Also, based on witness statements, points of contact with Serbian forces ambushing the column are indicated. Statements about column losses by international observers in the area who had insight into the local situation are presented. It is concluded that while no exact figures are available, or perhaps even possible, column losses were ascertainably substantial and in the thousands. Under international law, combat losses suffered by a mixed military/civilian column are legitimate, yet in most reconstructions of Srebrenica these casualties are not treated as a separate category and they are as a rule implicitly conflated with execution victims. Due weight must be given to this major source of casualties on the Moslem side, which cannot be considered as constituting either massacre or genocide.

In Chapter VII, "*The balance sheet*," an attempt is made to reach some broad conclusions as to what Moslem Srebrenica losses in July of 1995 might have been in light of the preceding analysis. This is accomplished, first, by reviewing sources offering relatively reliable data about the population of the Srebrenica enclave immediately prior to the takeover on July 11, 1995. It is put at about 40,000. Evidence is then considered of how many of them had subsequently reached safety. UN and WHO headcounts converge on the conclusion that by August 4, 1995, at least 35,632 residents of Srebrenica enclave had been accounted for. That means that the

maximum that casualties could have been is just over 4000. In light of the evidence that there were at least two major sources of casualties, executions and combat activity during the retreat of the 28<sup>th</sup> Division column, the thesis of 8000 executed war prisoners is completely untenable. Furthermore, of the slightly more than 4000 who might have perished, forensic analysis of the number of femur bones shows the demonstrable presence of about 1920 bodies in the mass graves. The conclusion that the pattern of injury breakdown supports is that 947 victims were probably executed, combining those found with blindfolds and/or ligatures and those with injuries caused by conventional bullets.

The available data, in particular the forensic evidence fifteen years after the fact, lend no support to the claim of 8000 executions. While the Genocide convention does not require a minimum number, its focus being on special intent, the relevant jurisprudence and common sense establish the expectation that the number of victims ought to be substantial before the hypothesis of genocide could meaningfully be considered. In the case of Srebrenica, the presence of special intent to commit genocide is negated by a number of factors. The impression that genocide occurred in Srebrenica in July of 1995 is unsupported by any substantive evidence offered so far. Hence the conclusion that, while real war crimes did occur, what is claimed to have been genocide was a virtual event.

