

VIEW FROM THE HAGUE

NO EXCUSE FOR KILLING AND TORTURING CIVILIANS

Last week, Judges of the International Criminal Tribunal for the former Yugoslavia heard opening statements in the trial of Naser Orić, former commander of Bosnian Muslim armed forces in several municipalities in Eastern Bosnia. Arrested by SFOR forces in Bosnia in April 2003, Orić is one of 103 ICTY indictees who have appeared before the court.

Orić is charged with a number of crimes committed against Serb civilians and their property between 10 June 1992 and 20 March 1993. According to the indictment, members of the Military Police, who were under Naser Orić's command, detained several Serbs in the Srebrenica police station and in the building behind the Srebrenica Municipal Building. The indictment alleges that the guards, and others with the guards' support, physically abused the detainees and treated them in an inhumane manner. It states that the detainees were beaten with various objects including wooden sticks, wooden poles, steel pipes, metal bars, baseball bats and rifle butts, as well as being punched and kicked.

The indictment lists seven specific incidents of this cruel treatment and names the victims. For example, the indictment alleges that a 41 year-old Serb was assaulted with various objects including wooden poles and iron bars. He was punched and kicked all over his body. He was beaten about the head with an iron bar and his teeth were extracted using rusty pliers. His ribs were fractured.

The indictment also alleges that one Serb was beaten to death, and six others were killed.

Naser Orić is not charged with having directly participated in these beatings and killings. He is charged with having command responsibility over the direct perpetrators, that is, for failing to take necessary and reasonable measures within his power to prevent these crimes from happening or to punish the perpetrators. As we have written many times in this column, under international law, military commanders have a duty to know whether their subordinates have committed crimes or are about to, to punish the perpetrators and to prevent further crimes from happening.

Naser Orić is also charged with direct participation, as well as command responsibility, in the wanton destruction and looting of Bosnian Serb property in at least 50 predominantly Serb villages and hamlets. The indictment alleges that in the course of a number of attacks against Serb villages in the Vlasenica, Srebrenica and Bratunac municipalities, Orić's forces plundered cattle, furniture and television sets, and destroyed buildings and dwellings. As a result of these actions, thousands of Serbs fled the area.

Like all ICTY indictees, Naser Orić is standing trial because a Tribunal judge examined evidence collected by the Office of the Prosecutor of his involvement in crimes under international law, and was satisfied that this evidence was sufficient to bring him before the Tribunal to answer the charges.

Over the last decade, many of the Tribunal's indictees have been referred to as "heroes who defended their people". Moreover, the media across the former Yugoslavia seem to devote much more attention to these so-called 'heroes' than to victims living in their midst. For example, in the Serbian press, one is much more likely to read an interview with one of the Tribunal indictees than any of the thousands of refugees across the country. This is unfortunately the case practically everywhere in the former Yugoslavia.

And yet, one thing is clear: killing, torturing and mistreating civilians and destroying their property are crimes, and there is no defence for them, not even the claim that they were committed in the name of "defending the people." The Sarajevo *Dani* journalist, Emir Suljagić, who survived the siege of Srebrenica, commented on this situation in the following words: "I know how difficult it was, how hungry we were, exposed to torture and destruction on a daily basis. But if it was food we needed, there was no reason to burn [Serb] houses and destroy already deserted villages... No community must place itself above the law that defines relations among people. No circumstances justify that."

Outreach Programme

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