

Author: Sanja Seferovic Drnovsek

9th Biennial Conference International Association of Genocide Scholars: 19-22 July , 2011

Buenos Aires, Argentina

Bosnian American Genocide Institute & Education Center www.baginist.org

Published 07. 29. 2011

Outlawing denials of genocide as a genocide prevention method

Abstract

This presentation is an appeal to the international community to support the paving of a way for a legal ban, in the region of former Yugoslavia, of denials of genocide against Bosniaks during the aggression on Bosnia and Herzegovina from 1992 to 1995. Presently, in the region of former Yugoslavia, no legal measure prevents individuals and organizations from denying judicially recognized acts of genocide (Srebrenica genocide), nor does a measure exist to require the truth to be told in educational systems across the region—allowing the continuation of denials of genocide and the fueling of hatred in the youngest minds, those on whom we rely to create a better, more peaceful tomorrow in the region.



According to the Universal Declaration of Human Rights, a possibility exists for states to limit citizens' basic freedoms, i.e. freedom of speech, in an attempt to recognize and respect all citizens. The outlawing of denials of Holocaust and other forms of genocide would ensure that we maintain a democratic society concerned for morality and the general welfare of its citizens. Fifteen European countries have already prohibited the denials of Holocaust, and some of them have extended this ban to include all forms of genocide.

This presentation examines the effects of permitted inciting of hatred and genocide, and the implications these effects may have on free, democratic societies. The presenter's hope is to stimulate constructive discussion in the global community on methods to regulate hate speech and genocide denials.

Introduction

Genocide is the worst, the most complex, the most gruesome crime, something I would even call a cancer on humanity.

Genocide is a crime that has been committed throughout the ages, though it was not until the twentieth century that this particular act of mass murder was given the name "genocide." The term describes the planned, systematic mass murder, in whole or part, of a national, ethnical, racial, or religious, or national group, with the intention to kill, persecute, dislocate, or steal their properties. This uncivilized act includes the terror and deprivation of liberty, torture of prisoners, and the torture and abuse of the weak and defenseless people. The term itself was originally coined by Raphael Lemkin, Polish Jewish jurist. Thanks to Raphael Lemkin's efforts for the development and ratification of an international convention against perpetrators of genocide, the Convention on the Prevention and Punishment of Genocide was approved by the United Nations on December 9, 1948. [i]



Ironically, Lemkin's coining of the term was a result of his deep concern for the Armenian people and the genocide being committed against them, and soon thereafter, he lost 49 relatives in the Holocaust.

After Holocaust, in which more than 6 million Jewish lives were extinguished by the Nazis, the world said "Never Again."

However, we failed to prevent genocides since the creation of the Genocide Convention, and we also failed to react quickly when they did happen.

Hundreds of thousands of innocents were slaughtered in Rwanda, Bosnia and Herzegovina, Cambodia, and Ukraine during the 20th century, and at the beginning of the 21st century we are witnessing yet another genocide—in Darfur.

Responses to genocide

On May 25, 1993, the United Nations Security Council launched a new era of international justice and created the International Criminal Tribunal for the former Yugoslavia (ICTY) as a response to atrocities in the former Yugoslavia. The new court evoked the symbol of Nurnberg. Also, International courts have been established to respond to atrocities and genocide in Rwanda, Sierra Leone, Cambodia, Kosovo, and East Timor and a permanent International Criminal Court is now operating in the Hague.

No measure of justice can restore that which is lost forever; trials cannot bring husbands, children, and parents back to life, or dispel the permanent trauma of being raped or tortured, but they can bring the perpetrators of these crimes, war criminals, to justice

The first case to address genocide occurred in the ICTY Appeals Chamber, in the case Prosecutor v. Radoslav Krstic (Case #IT-98-33-A), in April 2004, found that genocide was committed in Srebrenica in 1995. General-major Krstic carried out the genocidal massacre following orders from former Serb leader Radovan Karadzic and General Ratko Mladic, killing more than 8,000 Muslim (Bosniak) men and boys. Judge Meron, one of the judges in the case, wrote: "They stripped all the male Muslim prisoners, military and civilian, elderly and young, of their personal belongings and identification, and deliberately and methodically killed them solely on the basis of their identity." [ii]

In February 2007, another court—the International Court of Justice (ICJ)—confirmed ICTY's ruling in the judgment of the case Bosnia Vs. Serbia. The ICJ found Serbia guilty only of "non-prevention" of genocide at Srebrenica. [iii]

However, during the current trial of Momčilo Perišić, another accused war criminal, the prosecution has successfully proved the existence of a “joint criminal enterprise” (between Serbia and Bosnian Serb forces), and it is expected that Radovan Karadžić’s, Ratko Mladic’s, and Goran Hodžić’s trials will prove that this joint enterprise not only failed to prevent but also committed genocide against Bosniaks, beginning with 1992. These four trials could make up for what the Tribunal lost due to the incomplete proceedings against Slobodan Milošević, who died before the judgment in the case against him.

Genocide and Holocaust Denials

Despite the number of internationally proven cases of genocide, heard by the most prestigious judges in the world, many cases of genocide and Holocaust denials are heard regularly.

The effects of denial are well presented by Roger W. Smith, professor emeritus at the College of William and Mary and co-founder and past president of the International Association of Genocide Scholars:

“Denial of well-documented genocides and of crimes against humanity is deeply offensive to survivors, their descendants, and all those who care about fellow humans without regard to ethnic, racial, or religious identity. There are also the consequences of denial: lack of respect for the victims of the most horrendous crimes against whole groups in the case of genocide, and for the suffering of innocent persons in the various offenses listed under the heading of ‘crimes against humanity.’ Moreover, with that denial, would-be perpetrators will be encouraged to commit atrocities if it suits them: with denial comes silence, and if individuals, groups, and states do not remember and do not resist denial, their inaction sends a signal that genocide and crimes against humanity can be committed with impunity. The lesson can be drawn: commit genocide and deny it” [iv]

A Srebrenica genocide survivor, Zuhra Osmanovic, expresses her thoughts about the recent arrest of the war criminal, former general Ratko Mladic: “Mladic is finally arrested, we waited too long but he is in a jail where he belongs. However, this is not the end, there are many Mladics left behind. The young people in the Republic of Srpska, celebrate Mladic as their hero. In my opinion, this is the most disturbing case of genocide denial”.



Gregory H. Stanton, president of Genocide Watch, defines genocide as a process that develops in eight stages and denial is the last stage.

According to dr. Smail Cekic, Director of the Institute for Research of Crimes Against Humanity and International Law of the Sarajevo University, "Denial of genocide is a crime (genocide) and it is developed in two phases: during the execution of the crime and following its execution. Denial of genocide (refusal to admit and accept the facts that genocide was committed) is actually a valuable indicator that genocide happened ".[v]

In my opinion, based on my experience as a witness of the creation of Slobodan Milosevic's regime's genocidal policy in Belgrade towards the end of the 80s, genocide denials are the root causes that led to new mass atrocity, and a violent cycle is persistent. The regime's propagandistic interpretation of the region's past that made it possible for the nationalistic leaders of the 1990s to turn

once peaceful neighbors into “ ancient enemies” and to aggravated violence. Denial of genocide after the wars 1991-1995 are causes that can lead to new atrocities.

There are many common elements of holocaust and genocide denials such as the moral equivalency argument (both sides engaged in genocide). Universalizing the guilt means that no one was guilty and it attempts to minimize the number of deaths and destruction of genocide.

Dr. Samuel Totten, expert on teaching genocide and holocaust, identifies “ ethnic cleansing, “ ancient ethnic hatred” and “ civil war” as terms used most often in the 1990s as euphemism for genocide during the periods when genocides raged in Rwanda and the former Yugoslavia. In the above cases, government officials and bureaucrats in the United States were ordered by their superiors not to use the “g-word” .. It is a big difference between ethnic cleansing and genocide in terminology and reality.

Ethnic cleansing is not ‘ I want to destroy an ethnic group, wipe it out’. It ‘s “They’re not going to live with us.”[vi]

The perpetrators of genocide dig up mass graves, burn the bodies, try to cover up the evidence and intimidate the witnesses. One such example, is an existence of secondary graves in Bosnia and Herzegovina. The killers plowed the bodies into hastily dug mass graves, which they later reopened to move the bodies to other sites in an attempt to hide the crime. They worked with bulldozers that ripped bodies apart. The pieces of one body was found in many cases in 4 different mass graves.

Genocide denials and their impact on Reconciliation in the former Yugoslavian territory

Genocide denial has serious consequences and it is deeply rooted in the politics in various countries . In the case of Yugoslavian territory, the wounds are still fresh. The war criminals are still walking around.

There are thousands of victims’ remains that have yet to be found. With each find, people are forced to relive the horrors of genocide. The trucks full of human bones, remains of 613 recently discovered and identified victims of the Srebrenica genocide, drove through the capital of BiH, Sarajevo, going to Potocari –Srebrenica on 16th anniversary of the Srebrenica genocide, on July 11, 2011. An incomplete skeleton of my friend Zuhra Osmanovic’s 14 years old son was in those trucks.

Before she left Chicago and went to Potocari, she worked through the pain of loss and told me, "The real thing is to know what one's people did and accept that. A lot of Serbs do not admit [that Serbs committed genocide in] Srebrenica. Unless a person recognizes that, one cannot reconcile with the past in order to live with his or her neighbors. The point is that I understand that if somebody allegedly killed people in my name, I should say 'I don't like this, and they should be punished'".

.As long we bury our heads in the sand, we can be certain that there will be more violence in the future. Unwillingness to confront the truth and the past is very obvious in Serbia and BiH, in its entity Republika Srpska.

Genocide deniers are in most cases genocide supporters or creators of genocidal policies. The best example is Srdja Trifkovic, who was one of the leaders of the Bosnian Serbs during the years of ethnic cleansing. He has an online article titled "The Hague Tribunal: Bad Justice, Worse Politics," in which he argues that there was no ethnic cleansing at all against Bosnian Muslims by Serbs. His subtitle reads "The Myth of the Bosnian Holocaust," Here repeatedly accuses the U.S. authorities of distorting or covering up "facts" about Bosnia to accuse Serbs unjustly.

. Srdja Trifkovic, has been denied entry to Canada. As a result he was unable to give a planned lecture at the University of British Columbia in Vancouver. Canada's authorities deemed Trifkovic inadmissible to Canada on grounds of violating human or international rights for being a prescribed senior official in the service of a government that engages or has engaged in terrorism, systematic or gross human rights violations, or genocide, a war crime or a crime against humanity. (subsections 6(3) to (5) of the Crimes Against Humanity and War Crimes Act.) This is a welcome outcome that can be attributed to a determined and successful campaign by the Canadian and American Bosniak community. [vii]

Unfortunately, Srdja Trifkovic is merely an extension of Serbian deniers. The Hague has not led Serbian society to confront the past. Sonja Biserko, president of the Helsinki Committee for Human Rights in Serbia, called this phenomenon "the culture of denial in Serbia about the recent wars" in former Yugoslavia after Milosevic's fall. [viii]

Serbia's minimal cooperation with the Hague in the opening of its archives has also been tolerated rather than being treated as an obstacle to the country's integration into the European Union.

When the International Court of Justice (ICJ) found Serbia guilty only of 'non-prevention' of genocide at Srebrenica, the Serbian public interpreted this as proof that Serbia was not involved in the war against Bosnia-Herzegovina. Following the ICJ's verdict, denial acquired a new dimension.

Denial is present most strongly in political discourse, in the media, in the sphere of law, and in the educational system.

In politics and law, Karadžić's, Seselj's, and Krstić's defense has been joined by a significant part of Serbia's legal profession, especially the relevant part of the University of Belgrade's law faculty.

The Serbian courts are agreed in their view that Serbia and its army were not engaged in Bosnia

In education, Darko Trifunović, who teaches at the Faculty of Security, has publicly denied the validity of the verdict passed by the ICJ and he insists that fewer than one hundred men were actually killed in Srebrenica.

Emil Vlajki, in his text 'Srebrenica as a metaphor', writes that Srebrenica has become one of the greatest of twentieth-century myths and that "the evidence for the alleged massacre was and remains inadequate." Milivoje Ivanišević, a publicist and 'researcher' into war crimes in Bosnia, likewise insists in his book *Traganje za istinom* [Search for Truth], that no genocide occurred in Srebrenica.

I must not forget Dobrica Ćosić, the well known creator of the Serbian policy of aggression against Bosnia and Herzegovina, Croatia and Kosovo, and genocide against Bosniaks. Serbian nationalists persist in their attempts to create and implement their great project, "The United Serbian States." When a high-ranking Orthodox church official suggested the creation of such an entity during his speech in Belgrade, the response of his enormous audience, consisting of top Serbian intellectuals (Dobrica Ćosić, Matija Becković, Predrag Palavestra, Antonije Isaković, Milorad Ekmečić, Desanka Maksimović, Milorad Unković, Stanko Cvijan, Gojko Džogo, dr. Radovan Karadžić, Dragoljub Mićunović), was a standing ovation", wrote a historian, Mensur Seferović.[ix]

Ironically, somebody nominated Dobrica Ćosić for the Nobel Prize.

Many politicians in the West, unfortunately, because of national, ethnic or religious background of victims of genocide (Bosnian, European Muslims-Bosnjaks) supported the aggression against Bosnia and Herzegovina and genocide against Bosniaks.

Serbian aggressors were counting on prejudice against Islam and Muslims. Samuel Huntington, in his book *Clash of Civilizations*, states: "In the post-Cold War world, the most important distinction among people are not ideological, political or economic. They are cultural... People use politics not just to advance their interests, but also to define their identity. We know who we are only when we know who we are not and often only when we know whom we are against... Western universalistic pretensions come into conflict with other civilizations, most seriously with Islam and China." [x]

This theory offers a justification for the conflicts between Christianity and Islam as irreconcilable worlds, but which conceals the economic and territorial tendencies. [xi]

These various forms of denials and fueling of hatred have been persisting for two decades and continue to attempt to conceal, minimize, relativize, and negate the genocide of Bosniaks in Bosnia and Herzegovina.

Genocide denials in education

The worst form of genocide denials is in education, and the worst consequences of genocide denials are in the education of young minds.

The current director of the department of textbook selection of the Ministry of Education in Serbia recently banned a history textbook written by a professor of political science for the eighth grade because of its "poor representation of Slobodan Milosevic and the disintegration of Yugoslavia." [xii] Nobody protested the decision, allowing textbooks to be the next weapons of choice in this continuing war. [xiii]

Today, this politicization of studies about History of BiH in BiH is visible especially in primary and secondary schools across the country where a new group of nationally sensitive subjects has developed, according to the argument that certain subjects should and must be taught differently to different ethnic groups. These include language, as well as history, geography, music, nature and society, and religious instruction. This post-war structure (created by Dayton) of the B&H educational system requires segregation of students on an ethnic basis and results in the development of 'monoethnic' and intolerant students, individuals, and future state leaders.

After Dayton, it is now possible, (for the most part) to draw borders around ethnic groups; even within the Federation itself, which is divided into cantons. It is thus that the Dayton Agreement created a decentralized system with a very weak central government through various institutional forms. This physical separation of peoples allowed for a (re)nationalization of the population through various mechanisms, and one of them is the educational system in which history is taught, and which has come to reinforce the system that created.[xiv]

The controversy over the interpretation of the history of this region has proven to be an obstacle to ethnic harmony and reconciliation.

Legal and academic responses to Holocaust and genocide denials

According to the Universal Declaration of Human Rights, a possibility exists for states to limit citizens' basic freedoms, i.e. freedom of speech, in an attempt to recognize and respect all citizens..

The International Covenant on Civil and Political Rights, obligates member nations to pass domestic legislation prohibiting advocacy of national, racial or religious hatred. 160 countries are parties of this multilateral rights treaty. As a result, countries that do not specifically criminalize denials of Holocaust and genocide prosecute individuals who promote hate speech. The line dividing these two types of conduct—genocide denials and hate speech—is overcast and individuals engaging in genocide denials usually do so in context of making Jew, Bosniaks, Tutci, etc-hate statements. These individuals are then prosecuted for violation of hate speech prohibition.

The ICCPR also states that, "Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

As already mentioned, fifteen European countries have already prohibited the denials of Holocaust, and some of them have extended this ban to include all forms of genocide. (Austria, Belgium, Czech Republic, France, Germany, Hungary, Israel, Liechtenstein, Luxembourg, The Netherlands, Poland, Portugal, Romania, Spain, Switzerland)

Bosnia's ethnic tensions delay the creation of a Holocaust and genocide denial Law.

In May 2007, Ekrem Ajanovic, a Bosniak Member of Parliament (MP) in the Bosnian Parliament proposed legislation on criminalizing the denial of Holocaust, genocide and crimes against humanity.^[xv] Bosnian Serb MPs voted against this legislation and proposed that such an issue should be resolved within the Criminal Code of Bosnia and Herzegovina. Following this, on May 2009, MP's Adem Huskic, Ekrem Ajanovic, and Remzija Kadric proposed to the BH parliament a change to the Criminal Code of Bosnia and Herzegovina where Holocaust, genocide, and crimes against humanity denial would be criminalized.^[xvi]

Bosnian Serb MP's have repeatedly been against such a legislation claiming that the law " would cause disagreement and even animosity.^[xvii]

Conclusion: What can we do to prevent future genocide

I Call upon the states that have not yet ratified the Convention to do so.

To honor the Genocide Convention's sixtieth birthday, the United Nations Human Rights Council in March 28, 2008, 41st meeting adopted without a vote Resolution 7/25 entitled " Prevention of Genocide" and reaffirmed the significance of the Genocide Convention, and called upon the states that have not yet ratified the Convention (only 140 have) to do so and recognized the role of the Secretary-General in dealing with early warning or prevention cases.

II Demand that states implement laws that the International Covenant on Civil and Political Rights requires them to do. One hundred seventy-four countries have signed the covenants, so they can reasonably be expected to implement laws that protect public order, freedom of identification with any group.

III it is the EU's responsibility to exert pressure on potential additions to the Union (particularly former Yugoslavian countries) and to demand that they enact laws that outlaw the denial of genocide.

Of particular importance to the former-Yugoslavia region is the role of the European Union.

It has been proven that genocide denial is an obstacle to ethnic harmony and reconciliation in post-genocide societies. Thus it is the EU's responsibility to exert pressure on potential additions to the Union (particularly former Yugoslavian countries) and to demand that they enact laws that outlaw the denial of genocide. The denial of genocide against Bosniaks is one of the key issues

preventing the cooperation among Bosnia's three ethnic groups, and EU pressure would help bring an end to the lies, denial, and a persisting tension that in effect aims to destroy the Bosnian statehood. In both Bosnia and Serbia, political motivation exists to pass these laws; in Bosnia, the Bosniak-Croat Federation passed a Srebrenica Genocide resolution on July 13, 2011 but a nation-wide passing of a law has been continuously blocked by the second entity within Bosnia, Republika Srpska (a genocidal creation of the Dayton Agreement). Even Serbia has showed signs of recognizing the atrocities that took place, but it stopped at calling events at Srebrenica "atrocities," and not "genocide."

IV The cooperation with non-governmental organizations (NGOs) such as Amnesty International or Women in Black in Serbia, who were particularly established in reaction to the denials of genocide is an essential component in pushing for truth and justice.

V The work of researchers, publishers, and intellectuals is also invaluable in the quest to discover and disprove untruths about the genocide that occurred.

VI The mandatory inclusion of genocide education

As a result of the passing of laws against the denials of genocide would bring about another crucial element: the mandatory inclusion of genocide education in schools throughout the region, at a national level, and not at a cantonal level as education exists today. Truth and justice are the key stone for reconciliation.

It is not healthy for democratic societies to carry "the cancer on humanity" in their spines, a cancer that came from states that do not want to find a cure for it, and do not wish to admit their crimes against humanity and international law. The outlawing of denials of Holocaust and other forms of genocide would ensure that we maintain a democratic society concerned for morality and the general welfare of its citizens.

Conclusively, this presentation is an appeal to the international community to not allow the creation of pure ethnic states and to reject the "Clash of Civilizations" theory that oppose any form of diversity. Genocide is a crime that has intent to destroy one group of people just because of who they are, as well as simultaneously intend to destroy peaceful co-existence among different ethnic groups, different cultures, different religions, and different ideas.

[i] Convention on the Prevention and Punishment of the Crime of Genocide, Adapted by Resolution 260 (III) A of the United Nations General Assembly on 9 December 1948.)

[ii] "Judgment", 19 April 2004 Appeals Chamber (Judge Meron, Judges Meron [Presiding], Porac, Shahabuddeen, Guey and Schomburg)

[iii] The Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro), case 91, International Court of Justice (ICJ) Judgment returned on 26 February 2007.

[iv] Smith, Roger W. (2010). University of Saint Thomas, Journal of Law and Public Policy, IV (2), 128-137)

[v] dr. Cekic S., (2011, July). Negiranje genocida u Bosni. Korak, 21)

[vi] Dr. Samuel Totten Teaching About Genocide: Issues, Approaches , and Resources, 75-91, pg. 14
Copyright © 2004 by Information Age Publishing.

[vii] Ramic E. (2011, February). Bosnian Genocide Denier Srdjan Trifkovic has been barred from Canada.
Institute for Research of Genocide Canada , <http://www.instituteforgenocide.ca>.

[viii] Biserko S. (2010) Human Rights Reflect Institutional Importance : Annual Report : Serbia in 2010 ,
Helsinki Committee for Human Rights in Serbia. For publisher Sonja Biserko., ISBN 978-86-7208-180-0/
COBISS.SR-ID 184136972 , www.helsinki.org.rs

[ix] Seferovic M., Preboli Zla , Herausbeger:BosanskaRijec 2001, strana 67.

[x] .”(Hantington, S., Sukob civilizacija Ipreoblikovanje svetskog poretka, Biblioteka Istrazivanje istoricara, BanjaLuka, 2000, strana 21-22)

[xi] Drnovsek S., Educating against Prejudices . (2008,September-November). Korak ,12

[xii] (SPS kadrovi u akciji: Zbog Milosevica zabranili udzbenik. (2011, June10). e-novine. Retrieved from <http://www.e-novine>).

[xiii] (Stojanovic D., Initials. (2011, July 28). Ratovi devedesetih u srpskimudzbenicima istorije (1993-2005): eksplozivna naprava sa odlozenim dejstvom. e-novine,/46253/, Retrieved from <http://www.e-novine>).

[xiv] <http://www.state.gov/p/eur/rls/or/dayton/52582.htm>)

[xv] Karcic F. , (2007, May 7). Poricanje Genocidaproglasiti krivicnim djelom . Preporod ,33/502/, Retrieved from <http://www.preporod.com>

[xvi] S.B (2009, May 6) Stranka za BiH: Krivicnim ZakonomBiH obuhvatiti genocid I holocaust . 24sata, /6216/ , Retrieved from <http://www.24sata.info>.)

[xvii] Dzidic D., (2009, January 1). Bosnia's ethnic tensionsdelay holocaust denial law. BalkanInvestigative Reporting Network, 151/10/16246/,Retrieved from <http://www.bim>.