



## Srebrenica: The New Evidence Professor Sir Geoffrey Nice QC

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### Introduction

The massacre at Srebrenica - genocide if it was - in July 1995 was Europe's worst since World War II. Over 8,000 men and boys were murdered by the army of *part* of Bosnia called Republika Srpska ('RS'/Republic of Serbia – not to be confused with the state of Serbia itself). There was never justification for killing any one of them. Each death was criminal murder - or worse.

This lecture follows two Gresham lectures on Srebrenica given with Doctor Nevenka Tromp in 2015. It is less about new evidence than it might have been because the UK National Archives were closed during the COVID lockdown and the limited internet access now possible has not allowed me to research properly. Material I would be searching for within the reduced 20-year standard period of protection/secretcy might, of course, be 'closed', or 'held back' from production, or blacked out despite 1995 being a full 25 years away.

Much – nearly all – of what I will say is publicly available. But given the enormous mass of material on Srebrenica subjects I hope to navigate a way through that material to give focus to one or two issues to keep in our minds until they have been *fairly* resolved. And they could be resolved in minutes if only a few governments around the world would be as open with all of us as would serve the interests of survivors and bereaved of Srebrenica – for as long as they still may live. Delaying openness until after all bereaved and victims have died of natural causes will reduce any sting of disclosure for *culpable* governments.

To reach conclusions on certain questions it *may* be necessary to reset any assumptions we are inclined to make about governments:

- I. giving priority to the interests of victims.
- II. owning up to error (as they ask of the speeding driver or even major criminal in domestic wrongdoing).
- III. producing documents where state reputations may be at risk.

For lawyers and others, confronting the difficulties of proving the crime of genocide and being honest about whether it is worth *trying* to prove it may be unsettling. And we may all have to puzzle over how errors of one government seem to enjoy the protection of subsequent governments, even when of a different political colour and to wonder what a Charles Dickens of today might make of trials of people such as Mladić or Karadžić lasting the decade that they did despite the core evidence of their responsibility for mass killings being completely unanswerable. Maybe it is time to ask whether the constraints of present judicial procedures demanded by the 'rule of law' have gone too far.

### Recent History

I can neither assume familiarity with the wars in the Western Balkans of the 1990s that lasted most of that decade nor spend time required repeating what was in the 2015 lectures; I hope to get enough history across very quickly, even for those who may view this without any prior knowledge.

When Federal Yugoslavia's 6 republics - Slovenia, Croatia, Bosnia, Serbia, Montenegro and Macedonia - started breaking up Serbs living in multi-ethnic Bosnia desired, or were persuaded that they desired, to live in Serb-only communities. The composition of Bosnia, as shown by the first of two maps, was 'ethnically' mixed having some Bosnian Muslim majority areas (green), some Bosnian Serb majority (red) some Bosnian Croat (blue). To make any significant part of Bosnia have Serb majority areas suitable for joining together, in order later to be joined to Serbia proper, required *non*-Serbs in many areas to be killed in large numbers and for other non-Serbs to be forced to move. Some three years of mass murder by the Serbs achieved just that, as the second map demonstrates. The red areas, that became known

as - and ruled as - Republika Srpska, got a Serb Majority. That process culminated in the evil killings in Srebrenica and in Žepa and Goražde, so-called 'Safe Areas'. 'Safe Area' Srebrenica was protected by a lightly armed, undersized, U.N. Dutch battalion known as 'Dutchbat'. So wicked was what was soon known to have been done that the international community finally used air power and bombed those Serbs who were attacking Sarajevo into surrender. That led to the Dayton Peace Agreement by which Republika Srpska survives, contiguous but for the 'bridgehead' area of Brčko which remains administered as an international protectorate. Once the Brčko connection of the two parts of Republika Srpska is allowed - as I dare say it will be - the joined-up RS statelet can be joined to Serbia and recognised as part of the international family of nations, having achieved its homogeneity and, by then, contiguity through mass murder.

11<sup>th</sup> July 2020

Before I move to detail, this. On 11th July this year 9 of the 8,000 plus who were killed in July 1995 were remembered by burials at the Srebrenica–Potočari Memorial and Cemetery for the Victims of the 1995 Genocide:

1. **Sead** (father's name Huso) **Hasanović** DOB 1971. place of birth Krivače, Han Pijesak Municipality (23/24)
2. **Alija** (Bekto) **Suljić** DOB 1969. Poznanovići, Srebrenica Municipality (25/26)
3. **Hasan** (Alija) **Pezić**, DOB 1925. Pustoše (69/70)
4. **Hasib** (Šaban) **Hasanović** DOB 1970. place of birth Slatina, Srebrenica Municipality (24/25)
5. **Zuhdija** (Suljo) **Avdagić**, DOB 1947. Nova Kasaba, Vlasenica Municipality (47/48)
6. **Bajro** ( Ramo) **Salihović**, DOB 1943. Voljavica, Bratunac Municipality (51/52)
7. **Ibrahim** (Hamid) **Zukanović**, DOB 1941. godine u Sase, Srebrenica Municipality (53/54)
8. **Salko** (Ahmo) **Ibišević**, DOB 1972. place of birth Ljubovija, Serbia (22/23)
9. **Kemal** (Husein) **Musić**, DOB 1968. Glogova, Bratunac Municipality. (26/27)

But it was – for some of these nine, maybe all - only body *parts* that were buried because between death and recovery of body parts these men, aged between 22 and 70, had first been killed, buried in a mass grave, prepared in advance for a mass burial. The bodies were dug up again in order to be hidden in another mass grave. And perhaps dug up and reburied again – and even again.<sup>1</sup> Which explains why only body parts are found: machines digging up the bodies are no respecters of person and split people into bits and pieces; locations of the rest of the skeletons may yet – or for ever - be completely unknown.

Imagine being one of those at the ceremony, remembering by body parts someone you loved but last saw 25 years ago; counting all those criminals engaged on these mass crimes from executioner-shooter of the rifle or machine gun to those who last deposited the body or body parts in a secret mass grave; knowing, the while, that they may be people you could pass in the street. Imagine being one of those bereaved trying to achieve internal rest or peace.

At the other end of the management chain the political and military leaders – in particular Radovan Karadžić or Ratko Mladić for the Serbs in Bosnia or Slobodan Milošević from neighbouring Serbia *have* stood trial at the International Criminal Tribunal for the Former Yugoslavia (ICTY). They each denied culpability of any sort. Milošević, whom I prosecuted, died before the end of his trial, Karadžić's trial process is complete and he was eventually sentenced to life imprisonment for genocide and other crimes. He explained nothing and apologised for nothing. Mladić, sentenced to life imprisonment for genocide and other crimes had his appeal heard a couple of weeks ago when the prosecution also appealed. Judgment not until next year.

The few survivors and the thousands of bereaved may suffer a lifetime of unstoppable grief. Why should they not?

But for those of us who have been interested in the tragedy but, like me, never personally involved, do we help or may we hinder the bereaved and victims by going over and over the mysteries that remain about Srebrenica? Or should we shut down some, at least, of the mysteries that – I repeat – could be resolved in minutes if governments opened their archives of documents without relying on those principles of little value in human terms of sovereignty or 'nation security'. There can be no remaining 'national security' interests about methods of collection of information by spying – or they could all be safeguarded by suitable editing, redaction etc of documents. Individual security of whistle blowers or double agents can be guarded in other ways easily enough 25 years after the event of interest.

### Issues not to be Forgotten

But there are, I think, *some* issues that cannot properly be laid to rest quite yet.

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<sup>1</sup> One interlocutor to whom I have spoken in preparation for this lecture says there is an account of body part from one person being found in five different graves.

Some of these were dealt with in trials, some I heard of as rumours during my work when rumours were likely to be inaccurate and time wasters. Sometimes, once I found time to reconsider after I had left the Tribunal, there was nothing in them; sometimes otherwise. I will focus on three:

- Whether genocide happened before or just in July 1995 in Srebrenica, something that was considered as part of the case against Milošević;
- What part Serbia proper really played in the Srebrenica massacre/genocide (assuming it was), something considered in the trial, more since;
- What part western powers played, wittingly or not, in what may have become genocide in Srebrenica - rumour and technically not important, at least by the time Milošević died.

### Genocide

The Srebrenica mass murders has been found to be genocide by individuals accused by the International Criminal Tribunal for the Former Yugoslavia (ICTY) and by the *state* of Serbia at the International Court of Justice (ICJ) that deals not with crimes by *individuals* but with, in the case concerned, breaches of the Genocide Convention by a state.

First, then, did genocide, as was found by courts, only last for a short time in July in Srebrenica? Many scholars and others regard these findings as unrealistic because genocide is a process and does not happen spontaneously in just a few days. Victims and bereaved and many lawyers have argued that the genocide started far earlier – in 1993. May they be right, court decisions having been in some way diluted-by political considerations that would discourage judicial findings of longer genocidal culpability - especially for the state of Serbia? May the findings be wrong, but in the other direction, and there was no genocide at all?

The critical finding for proof of genocide is what can be proved about the state of mind of the person or state leadership concerned. Assuming there has been proof of one of the necessary genocidal acts, was it done with ‘the intention to destroy, in whole or part, a national, ethnical, racial or religious group as such’?

### Genocide by Leaders of Republika Srpska (RS)

Trials of individuals or groups before different first-instance trial judges and the appeal judges at the ICTY where convictions and acquittals of genocide allegations *have* been returned, have not achieved overall consistency. Perhaps unsurprising. And the few convictions of RS individuals for genocide do not constitute a verdict against the government of the RS statelet/mini-state itself although with:

- I. Political leader Radovan Karadžić and General Ratko Mladić sentenced to life imprisonment for genocide at Srebrenica in July 1995 and for crimes against humanity and other crimes committed between May 1992 to October 1995;
- II. Zdravko Tolimir, Mladić's deputy, being sentenced to life imprisonment for genocide and other crimes at Srebrenica and Žepa;
- III. Biljana Plavšić, who pleaded guilty, getting 11 years in prison for persecution of Bosnian Muslims between 1 July 1991 and 30 December 1992,

It would be easy to think, casually, that the leadership of the RS wanted to kill Muslims *because* they were Muslims in order to take territory. And this might be enough to sling an allegation of ‘genocide!’ at the RS (and at Serbia) when independence of RS or its joining Serbia proper is up for consideration.

### Genocide by Leaders of Serbia

The responsibility/culpability/criminal guilt of Serb leaders and Serbia itself for Srebrenica was rooted in the argument that Serbia was not as uninvolved as its formal *non*-engagement with the war might suggest but that it armed, helped, advised - even ordered - what was being done by Serbs in both Croatia and Bosnia.

But there were limited court findings about individual Serb leaders to show what part Serbia played in any genocide:

- Milošević died before verdict, although genocide charges in the indictment got beyond the end of the Prosecution case with findings by the judges of a case for Milošević to answer;
- Momčilo Perišić Chief of the General Staff of the Serb army, was never charged with a genocide offence. He was eventually acquitted of all charges against him, to the surprise of many, on the basis that he/Serbia supported only the RS army's war effort *not* its criminal activities;
- No other Serbian Serb was charged with a genocide offence;
- The ICJ Judgment, delivered in 2007, found limited breaches of the Genocide Convention undertakings by Serbia in respect of only a few days of genocide in Srebrenica in July 1995.

## Greater Serbia

The *underlying* allegation was that there was a critical *Serb* (not just RS) project driving the Srebrenica atrocities and all earlier mass killings that had converted multi-ethnic Bosnia into a jigsaw of only four pieces two of which could claim Serb majorities and dream of hooking onto Mother Serbia in due course. That project, known since the 19<sup>th</sup> c as 'Greater Serbia', sought Serb hegemony in the Western Balkans. The project, that became a dream, survived two World Wars and in the wars of the 1990s, it is said, drove first the Serbs in Croatia and then Serbs in Bosnia to slaughter neighbours who were not Serbs, including those in Srebrenica. The dream became the worst of European nightmares. The power of the dream – a continuing dangerous nightmare – must be properly understood. Only with some certainty of what drove the slaughter may we save Europe from some form of repetition, and it is no surprise to be told, as I am, that many in the Balkans have feared and presently fear more ruthless violence in pursuit of the Serb project.

Considering if and how the Greater Serbia project was influential in, or determinative of, all events from 1980 (when Marshal Tito, who had kept Yugoslavia together since WWII, died) until Kosovo achieved independence from Serbia in 2008 is too big a task for now. The spectre of the project may be sensed when considering the first two issues, whether genocide started in 1992/3 and what part Serbia actually played in the Srebrenica massacre.

## Background of International Intervention

But first - given that narratives of aggressor, victims and peacekeepers interlock - it may also be sensible to say something about failure of international intervention that allowed Srebrenica to occur. This also connects to the last section, namely the part played by Western Powers in the Srebrenica tragedy. Those interested may find, as I have done, great value in the public record of the five sessions of a Conference into 'International Decision Making in the Age of Genocide' held in the Hague between June 28<sup>th</sup> and July 1<sup>st</sup> 2015<sup>2</sup> The twenty six attending were from the highest levels of the US government, UN, NATO, the UK Government, the Dutch Government and from Bosnia and spoke openly and occasionally fiercely about issues that could be concerning or embarrassing. But the moderated event proceeded with great decorum, at least the parts recorded for public consumption, and provides what may be a better view of the overall history leading to Srebrenica than has been given in trials that lasted years but had at all times to focus on individuals through opposing adversarial lenses of the trial process. I called several of those attending the conference as witness in The Hague and have been helped by speaking to them again to prepare for this lecture, concerned not to have allowed time to corrupt judgement. (See Note at end of text for those spoken to and subjects discussed)

- i) Rupert Smith: Quoted in opening the Conference from Rupert Smith's *The Utility of Force: 'the seeds for the Srebrenica disaster were "sown with the decisions made in the spring of 1993: decisions to threaten with no intention to act, to deploy forces with no intention to employ their force, decisions made in no political context except fear of the consequences of action to the force."* there was no strategic direction, no achievable military goals, no military campaign, no theater level military objectives, only incoherence.
- ii) Lord Hannay: There was a strategy. It was a bad strategy, but it was a strategy. The strategy was not to do lift and strike, not to do the Vance-Owen peace process, to set up a criminal tribunal, to impose sanctions on Serbia, and hope for the best.
- iii) JENONNE WALKER: I think several themes are emerging here. The first, obviously, is the folly of calling something a "protection force," or even a "peacekeeping force," when has no intention of protecting anyone. It is a "violation observing force" rather than a peacekeeping force. I am also struck by the number of things that were done to look as if we were doing something when, in fact, we were not willing to do anything serious.
- iv) JENONNE WALKER: President Clinton's major advisers were deeply divided. Chairman of the Joint Chiefs of Staff Colin Powell, who spoke with great authority, did not want us engaged at all. None of us fully appreciated the importance of President Clinton's draft evasion. Colin would have told some favourite reporter that this draft-dodging President was rashly risking American lives.
- v) Diego Arria ... Only the permanent members are fully informed about what is happening on the ground. The UN Secretariat accommodates these powers by hiding information, or as we saw later, even by helping to cover up operations, as with the case of the "slow motion genocide" that occurred before their eyes in
- vi) DAVID HANNAY: Lift and Strike was a nightmare for anyone who had troops on the ground in Bosnia. Had that policy been accepted, the first thing you would have had to do was to extract your troops. None of the

<sup>2</sup> <https://www.thehagueinstituteofglobaljustice.org/wp-content/uploads/2015/11/Srebrenica-Transcript-Session-1.pdf>  
<https://www.thehagueinstituteofglobaljustice.org/wp-content/uploads/2015/11/Srebrenica-Transcript-Session-2.pdf>  
<https://www.thehagueinstituteofglobaljustice.org/wp-content/uploads/2015/11/Srebrenica-Transcript-Session-3.pdf>  
<https://www.thehagueinstituteofglobaljustice.org/wp-content/uploads/2015/11/Srebrenica-Transcript-Session-4.pdf>  
<https://www.thehagueinstituteofglobaljustice.org/wp-content/uploads/2015/11/Srebrenica-Transcript-Session-5.pdf>

Europeans wanted to do that but they also did not want to be put into a position where the Serbs would consider their troops the enemy. This is what preoccupied everyone during those three or four months at the beginning of 1993. It was tearing NATO apart until the United States dropped the policy which caused a certain lowering of tension.

- vii) At the same time there was no real alternative policy to the Vance-Owen peace process. In April, we tried to get the Security Council to tell the Bosnian Serbs that the international community would stick to the Vance-Owen plan until hell froze over and they had better realize that... the United States refused to put. After a lot of toing and froing with Washington, we were told that the furthest Secretary of State Warren Christopher would go was to put the word "commend" in.<sup>34</sup> That was the end of Vance-Owen. The peace plan was dead.
- viii) ANDRÉ ERDŐS... In January 1993, we received information from US sources, ... that the US was ready for more radical steps, including a more active military role. It seems they were unable to take these steps because of opposition from the United Kingdom, France and Russia. This shows that, quite apart from all the internal Yugoslav problems, such as nationalism and so on, a major problem involved relations between western countries. This was one of the reasons why the war dragged on until 1995.
- ix) MUHAMED DURAKOVIĆ: In Srebrenica in 1993, it was obvious that staying in areas that were meant to be ethnically cleansed meant certain death... Most civilians in Srebrenica wanted to get out as soon as possible... That did not reflect the view, perhaps, of the political structure of Srebrenica. They felt that if the women and children left Srebrenica, it would become a much easier territory to occupy... From the point of view of the Bosnian military leadership, evacuating civilians from Srebrenica meant weakening the morale of the fighting force in Srebrenica. They did not represent the feeling of the majority of the people who only wanted to survive, to live somewhere else if Srebrenica was no longer a viable option.
- x) DAVID HANNAY: These Safe Areas resolutions... a short term expedient ... As 1993 and 1994 wore on, the expedient became more and more threadbare, as we will see. By the time of the Srebrenica massacre, it was completely worthless.
- xi) Jenonne Walker... The first serious thing that was done in the West was the NATO decision in August 1993 to take serious military action, air action, against anyone who continued shelling civilian settlements, which of course meant the Bosnian Serbs and their Serb backers.<sup>58</sup> It worked in February 1994, the first time it was tested, when we issued an ultimatum to the Serbs about pulling their weapons 20 kilometers beyond Sarajevo.<sup>5</sup>... All of us were taken by surprise when Warren Christopher and his colleagues came out with the Joint Action Program, which was fake policy.
- xii) JENONNE WALKER: I was on the "lift and strike" sales trip, during the first week of May 1993. It was a disaster of American diplomacy... It was part of our gradual, much too slow, movement to being willing to take more serious action. We were keenly aware that our allies were on the ground taking risks that we were not sharing. If we really stood up to Serbian aggression, their peacekeepers, the "peace observers" or "violence observers," would be put in serious danger that we were not prepared to share.
- xiii) DAVID HANNAY: By May 1993, were operating on the basis of the Joint Action Program. Personally, I thought the Joint Action Program was an appalling idea,
- xiv) DAVID HARLAND reported President Izetbegović saying "We have a choice, sometimes, between a territory and the people. Of course, both are important, but we will not allow the Bosniak people to be put into ghettos." In other words, the policy was: human shields. The policy was to physically block people from trying to escape embattled areas and therefore make it harder for the enemy to attack without inflicting civilian casualties...
- xv) JORIS VOORHOEVE: Security Council Resolution 836 is an example of clarity. It's very good. It says that Member States may take "all necessary measures, through the use of air power" to "support UNPROFOR in the performance of its mandate." The problem is not the light or heavy option, but the fact that this resolution was not used... You show beforehand that if the opposite side goes too far, there will be very serious consequences. The Serbs understood this message. This was the message that was delivered at the London Conference on July 21, 1995. I wish, of course, that this change of course had taken place several weeks earlier, in which case it would have saved the lives of 8,000 people in Srebrenica.
- xvi) In an August 2 letter to Secretary of State Warren Christopher, Boutros-Ghali wrote that the use of air power would have "far reaching consequences" for the security of UN troops, the progress of peace negotiations, and the delivery of humanitarian aid. He demanded the right to approve air strikes "in consultation with the Security Council." A telegram from Hurd to Hannay on July 30 makes clear that Britain also opposed granting NATO a "blank cheque" to take military action in Bosnia. Hurd stressed the need for consultations with troop contributing nations and UNHCR prior to air strikes.
- xvii) Jenonne Walker: It was not until very late in the game, August of 1995, when the UN key was transferred to the UNPROFOR commanders on the ground that it began to work better. B
- xviii) General Michael Rose's book 'Fighting for Peace' at page 46, refers to a "UK Eyes Only" paper in February 1994 "reiterating the dangers of abandoning peacekeeping for war-fighting." He writes that this paper finally convinced UK defense secretary Malcolm Rifkind to "stand firm against the Americans."

- xix) Shashi Tharoor What was going on was that the member states wanted to keep us in Bosnia as a fig leaf or a band aid or both while they were unable to make up their mind as to what they really wanted. They wanted both: the fig leaf/band aid on the one hand and the appearance of belligerence/muscular air power on the other. UNPROFOR ended up bearing the worst of the burden.
- xx) RUPERT SMITH: My solution was to ring up the capitals of the troop contributing nations and say, "I am doing this. There is a risk of hostages. Are you okay with that?" They said, "Yes, yes, go ahead and bomb." Two bombings later, they were not ok. That's why I called it "breaking the machine."
- xxi) In his June 27, 1995 letter to Smith, Janvier reiterated that it was necessary to "resist the temptation, no matter how inviting, to use force except in self-defense."
- xxii) During their June 9 meeting in Split, Janvier told Smith that it was no longer possible "to use air power because of the obvious reason that our soldiers are on the ground" and the Serbs controlled the situation "whether we want it or not." (Source: ICTY). This sentence was omitted from the version of the document released by the 2001 French Parliamentary Commission on Srebrenica.

The history from 1991 to early 1995 of involvement of the international community in the affairs of Bosnia is clearly one of failure: thousands of criminal killings were not stopped and a formerly homogeneous multi-ethnic state was splitting in a way that will never be repaired, one part of the split state enjoying its level of internal independence by having killed thousands of citizens of the other part.

### Serbia And Serb Leaders: Genocide From 1993 Or Just in July 1995 In Srebrenica: Serbia's Part In The Srebrenica Massacre/Genocide

As the date of Srebrenica's fate approached a series of well evidenced facts can be listed.

Documentaries made by Laura Silber and Allan Little for the BBC, produced by Brook-Lapping, are quite exceptional accounts of events shortly after they occurred with extensive face-to-camera interviews with all the Balkan presidents and other leading figures in the tragedy. They should be viewed by anyone interested in learning, in the most efficient way, what actually happened. Not only are they valuable for my purposes this evening and generally for anyone interested but they are critically valuable as a lesson to lawyers and judges that you don't need to spend 10 years and much more than a billion dollars *not* reaching decisions about what happened in conflicts. Responsible journalists and film makers can get there in months. I urge any interested to watch, enjoy and learn from these readily available films.

Those films show in grim footage the continuing pattern of mass killing from 1993 until the final scene at Srebrenica. Continuity – more *formally* shown in ICTY evidence of course – is one thing that shows genocide happening not just in 1995. Same pattern of killings for three years, no evidenced change of intention, terrible things about Bosnian Muslims recorded as said by RS leaders and even some Serb leaders? If it was definitely genocide in 1995 why not in 1993? If not in 1993 can we find the starting point? If we can't is that because it was constant and genocide started at the latest in 1993. The issue is in the Mladić Prosecution appeal.

The first of two very short clips from part 6 of 'Death of Yugoslavia' - Pax Americana<sup>3</sup> - deals with Naser Orić, Muslim Military leader in Srebrenica. He had been fighting Serbs from the enclave but was neutralised by his own leaders with the consequence that Srebrenica was left even more exposed: here is how he was forced out and why <https://www.youtube.com/watch?v=bLrlaZSGXyA> - 1.01 minutes to 2.03 minutes

Jumping ahead, one of my recent interlocutors, the then Dutch Defence Minister Joris Voorhoeve, explained how Srebrenica seemed to be disregarded on 10<sup>th</sup> July the night before the Town was taken: President Izetbegovic did not reply to a call to him from Srebrenica's mayor; Hasan Muratović, Bosnian Minister for UN Affairs, said at a dinner words to the effect that Srebrenica did not bother him. May one of the truly miserable realities be that the Bosnian government side actually did not care that much about what was going to happen to Srebrenica? More of this later.

'Why Srebrenica Had to Fall' by Dutch documentary film makers Huub Jaspers and Bart Nijpels is an important documentary with speakers who have authority to be believed without question; the film reveals:

- I. Western powers had a spy in Serbian military headquarters feeding information to the West (David Harland – UN's top political adviser in the region and see later for probable identification of the spy);
- II. In January 1994 the lightly armed Dutch battalion – Dutchbat - that was to protect Srebrenica was promised air support by UN Secretary General Boutros Ghali if it was attacked (promise made to Dutch Defence Minister Joris Voorhoeve);
- III. On 9<sup>th</sup> May 1995 General Sir Rupert Smith, on basis of intelligence, expected Serbs to pick off enclaves one by one and then go for Sarajevo (original US document);

<sup>3</sup> <https://www.youtube.com/watch?v=bLrlaZSGXyA> 1.01 minutes to 2.03 minutes

Another source: 24<sup>th</sup> May 1995, as the Independent Newspaper of 30<sup>th</sup> October 1995 revealed, General Bernard Janvier Commander of all UN forces in Bosnia made a confidential statement to the UN, expressing the desire to ditch the enclaves telling ambassadors and representatives of the UN Security Council and 35 troop-contributing nations that the UN forces stationed in the enclaves, including Dutch UN troops in Srebrenica, were

*"of no great use": they were isolated, poorly armed and vulnerable to being taken hostage. Limited reinforcements and other gestures, including Nato air attacks, also were of little use.....The best option available was to pull out. "We have little time ahead of us. We must take measures which allow us to limit the risks incurred by our forces," ..... "Let us be pragmatic and honest especially towards those whose security we hold in our hands: without lightning rods, stay out of the storm! "In saying that," the general added, "I do not feel I am betraying the spirit of the mission. That mission is based on the consent of the parties ... In the absence of the consent of the parties, leave them to face their responsibilities in the zones where we are scapegoats."*<sup>4</sup>

Back to the Jaspers/Nijpels film:

- I. By the end of May 1995 Serb heavy artillery was already close to, and in striking distance of, Srebrenica;
- II. On 28<sup>th</sup> May in US the National Security Council Principals Committee recorded a 'quiet agreement' between US, France (President Chirac) and UK (Prime Minister Major) to suspend airstrikes for foreseeable future; but without telling the Dutch on the ground, who might need delivery of the promised air support to defend Srebrenica, or (of course) the Srebrenica citizens.
- III. On 29<sup>th</sup> May another Clinton document revealing the quiet agreement not to strike and the humanitarian nightmare to follow [https://www.youtube.com/watch?v=DQB1ug\\_eFJg](https://www.youtube.com/watch?v=DQB1ug_eFJg) minute 39.03 – 40.29 and 41.07 – 41.30
- IV. At some stage a question was asked by those with Serb interests of a Western Power's intelligence source what would happen if the three enclaves were taken; there was no answer. For some this non-answer could only have reflected the same policy underlying the quiet agreement and was construed, as probably intended, as a green light for the taking of Srebrenica (Joris Voorhoeve from an intelligence officer 6 years later).

Second Pax American clip: By June 1995 it was understood that a swap of territories was being considered –Sandy vershbow - <https://www.youtube.com/watch?v=bLrlaZSGXyA> 2 minutes 10 seconds to 2 minutes 30 seconds.<sup>5</sup>

By 30<sup>th</sup> May UN Secretary General Boutros Ghali's authority was required for any use of air power.

Back to the Jaspers/Nijpels documentary:

- I. On 1<sup>st</sup> June Sir Rupert Smith believed, from intelligence, that Serbs were embarking on a campaign to capture the enclaves. Mass flight and huge suffering was forecast including substantial casualties. Reading documents revealing this made Sandy Berger, Clinton's Security Adviser, furious despite it being his department's document and thousands eventually being killed. It is said that in killing people in genocidal or similar atrocities the perpetrators treat the victims as de-humanised. Maybe the same happens in the rooms of powerful advisers. Berger's anger was not at what happened but at what it showed of the administration of which he was a part. (See minute 17.56 of the film). More of Berger soon. Dutch Defence Minister Voorhoeve confirmed this at the July 2015 conference 'I have some painful information. After the fall of Srebrenica an intelligence officer of an important ally of the Netherlands (I'm not allowed to reveal sources), handed to one of my officers a piece of paper containing information from a high ranking Serb officer' [probably Milošević's former intelligence chief, Jovica Stanišić] from the end of May. The Serb source stated that [the Bosnian Serb army] intends to capture the three eastern enclaves in the next three weeks. I have a copy of this document, which states that the source was a reliable person in an intelligence position very close to the leadership in Belgrade. There is some discussion over what the information means. As is often the case with intelligence, it is dealt with at the mid-level and then put aside as something is not proven. Predictions are never proven until reality proves them. My impression is that the information was not taken seriously enough. I assume it was not reported to political leaders.'<sup>6</sup>
- II. 3<sup>rd</sup> June first Serb military presence in *the safe area*

Let me interpose evidence from four other sources.

- I. Andreas Zumach of whom we will hear more later is a much-respected award winning German journalist. He saw CIA intelligence communications and spoke about them in public. He was asked about them by

<sup>4</sup> <https://www.independent.co.uk/news/un-left-8000-to-die-in-bosnia-1580101.html>

<sup>5</sup> <https://www.youtube.com/watch?v=bLrlaZSGXyA> 2minutes10 seconds to 2 minutes 30 seconds

<sup>6</sup> <https://www.thehagueinstituteforglobaljustice.org/wp-content/uploads/2015/11/Srebrenica-Transcript-Session-3.pdf> pages 4-5

the Dutch Government as part of the official NIOD investigation and report into Srebrenica. The record of that interview had to be prised out of the Dutch government by a freedom of information application although Zumach has been content to speak of what he saw. Here is what he said:

*"The scripts I saw, starting from the date of June 17th, are very clear, they are absolutely clear about the intention, the preparation for, and the type of attack in order to conquer the enclaves. .... they were listening to the communication between Mladić and... General Perišić, The chief of staff. The earliest one I saw was on June 17th. So there might have been earlier ones, but I can only claim that at least three weeks before very very clear ..they had an attack force. Credible force. Talking in detail about what was needed, how many troops, how many weapons for this attack. I saw later, later in June... There can be no doubt about what the intention was and that it was imminent in the sense it would happen in the next few weeks. Absolutely."*

- II. On 12 August 1995 Newsday published an article stating that before during and after the battle that Perišić was sending instructions to Mladić on strategy and what they were doing  
*"Intelligence officials from two western countries and from Bosnia said that the commander of the Yugoslav army, Gen. Momčilo Perišić, was on a mountain tip across the border in Yugoslavia, sending instructions and counsel to Gen. Ratko Mladić, the commander of the Bosnian Serb military forces. The radio conversations, intercepted by intelligence agencies, took place before during and after the battle for the enclave captured by Serbs on July 11. "Mladić and Perišić conferred constantly about their strategy and what they were doing", said one of the western officials, who like all of the intelligence officers interviewed asked to remain unidentified. The officers said they were still analyzing intercepts, but "Mladić is always asking Perišić about what he should be doing. This didn't surprise us, because they are the same rank, but Perišić was clearly in command and had the upper hand."*
- III. Cabell Bruce, author of that article, and another much respected journalist Roy Gutmann published a report a year later explaining how they were informed of an agreement between General Janvier and Mladić that there would be no close air support
- IV. The Independent Newspaper recorded: Between 6th July and 11<sup>th</sup> July Janvier refused pleas for support from UN forces for support from UNJ forces on at least five occasions, often over the objections of his own staff.<sup>7</sup>

Jaspers/Nijpels' documentary takes up the narrative:

- I. A Dutchbat observation post was cleared by the Serbs on 'leave or die' basis;
- II. On 6<sup>th</sup> July Mladić's troops took 30 Dutchbat soldiers hostage;
- III. Between 10-11pm 10<sup>th</sup> July there was a promise from Sarajevo of 30 NATO planes coming at 6am. Curiously the US released a record of Minister Voorhoeve expressing 'Voorhoeve is wary of airstrikes, which he thinks could lead to great civilian casualties and would put the 427 dutch troops (including 30 being held by bosnian serbs) in greater danger', but with passages of what Voorhoeve said redacted.<sup>8</sup> Voorhoeve's position was that he had said in terms  
*"the United Nations cannot refuse the use of close air support."* That is literally what I said. It came out a bit garbled in the 1999 UN Report, saying that I left it up to the Force Commander, General Janvier. My message was: "UNPROFOR has to apply close air support because it was promised to the Netherlands Government and is a final means of assistance to Dutchbat."  
As to the redacted passage he said  
*"I can only guess what has been redacted from this cable. I remember this conversation with the ambassador. I was worried about the Dutch blue helmets, I had just buried one of them who had been killed by Bosnian fire. Nevertheless, we were convinced that close air support had to be given. I think I should have pressed that point much stronger and earlier and personally in Zagreb"*<sup>9</sup>

Mo Sacirbej confirms in discussion that he was told by Joris Voorhoeve on 10<sup>th</sup> July of his call for an airstrike. He was also told by Carl Bildt that Srebrenica would not be defended

- IV. There we no air strikes as promised or at all.

On 11th July a Blue Sword meeting to obtain agreement for the use of air power was in progress with Akashi present where air strikes were being discussed. Akashi was called to the phone to speak to Milosevic following which he simply announced the meeting was adjourned.

11<sup>th</sup> July Mladic marched in and did not have to look up – he knew no planes would trouble him. How? The Killings followed.

<sup>7</sup> <https://www.independent.co.uk/news/un-left-8000-to-die-in-bosnia-1580101.html>

<sup>8</sup> <https://foia.state.gov/Search/Results.aspx?searchText=%22srebrenica%22&beginDate=19950101&endDate=19960101&publishedBeginDate=&publishedEndDate=&caseNumber=>

<sup>9</sup> <https://www.thehagueinstituteforglobaljustice.org/wp-content/uploads/2015/11/Srebrenica-Transcript-Session-3.pdf>



Hasan Nuhanović, interpreter for Dutch peacekeepers whose mother, father and brother were handed over to Mladić's troops and killed, was at a meeting on 15 July, by when most of the men and boys from Potočari had been executed, attended by General Smith, Akashi, Bildt and Stoltenberg on behalf of the international community, and Mladić and Milošević on behalf of the Serbs side. The next day, 16 July more than 1,000 men and boys, who had been taken away in Potočari, were executed at Pilica/Branjevo farm and Kozluk.

Very soon afterwards it was understood that aerial footage existed of Srebrenica. The then Chief Prosecutor of the ICTY, Richard Goldstone, went to the USA to collect it. He may not even have been granted a meeting and certainly came back empty handed. Aerial photography soon after the event would have shown something of what had happened – mass graves; columns of people leaving Srebrenica on foot or in buses? Who knows? Hard for a country to have agreed – by tacit consent or otherwise – to the taking of the enclave and then revealing by provision of aerial photography how soon it was known that things had gone so terribly wrong.

Another source, the NIOD report section "Intelligence and the war in Bosnia"

- I. In 2002 The NIOD published report titled "Intelligence and the war in Bosnia 1992-1995" alleging in part the possible existence of USG intercepted communications.....Chapter five titled "The role of the intelligence and security service" cited a meeting between Mr. Carl Bildt and former United States Vice President Mr. Al Gore which occurred on or about 3 August 1995 at the White House, Washington D.C, U.S.A. Under a subheading, "Monitoring targets in Serbia" an allegation is made citing the existence of USG Intercepted Communications involving communications between Mr. Slobodan Milošević and VRS General Ratko Mladić relating to the fall of the "Safe Area".  
*"The existence of these intercepts was confirmed by a western diplomat. During a meeting at the White House between Gore and Bildt, the Swedish negotiator tried to convince the American vice-president that he should not form an excessively black-and-white image of President Milosevic. Gore responded to these statements by reading from American intercepts which showed that Milošević had consulted with Mladić about the attack on Srebrenica. Gore then reportedly said to Bildt: "Forget about this. Milošević is absolutely not the friend of the West."*
- II. The allegation is attributed to a Confidential Source, identified as a very senior diplomat who, when re-interviewed, checked the notes of this interview and corroborated what was published. The contemporaneous note is even stronger:
- III. "A very interesting meeting in the context was a meeting between Bildt, X (my source) and Gore. Bildt tried to convince the American Vice President that he should not have black and white views regarding Milošević. Gore responded to these remarks by starting to read from secret Sigint intercepts from which transpired that Milošević had given direct orders to Mladić in the case of Srebrenica. Gore told Bildt and X: "Forget about this. Milošević is absolutely not the friend of the West."

Before I return to the chronology of the Dutch film it is worth realising quite how significant this intelligence *could* have been if made available to me in my role as Prosecutor of Milošević: The head of his army was in direct discussion about the taking of Srebrenica from mid-June at least; Milošević actually gave instructions to Mladić.

Does this help with Milošević's and Serbia's role in what happened at Srebrenica? Does it explain why there was surprise by us at Perišić not being charged by those in charge of his case with serious Srebrenica offences and at his acquittal? Might the one judge of three in the Milošević case who was guarded about evidence being sufficient for proof of direct as opposed to indirect involvement in Srebrenica genocide have thought again?

The Jaspers/Nijpels film again:

A mere 6 days after the fall, mid-July, Berger wrote: 'The loss of Srebrenica and Žepa may open the way to more realistic territorial solution and we will need to have a heart to heart discussion with the Bosnians aimed at eliciting greater flexibility on the map'<sup>10</sup>..... <https://www.youtube.com/watch?v=DQB1ugeFJg> 49.35 – 49.55 50.20 – 52.21 It was perhaps one document too many for him to face.

#### After the Event Evidence

Other 'after the event' evidence of very great significance came when Milošević said at the meeting of Supreme Defence Council in August 1995: "Momo remembers well my conversation with Mladić on the occasion of attack on Žepa and Srebrenica. [so sometime close to 20 July probably] On that occasion I said: "Ratko, you are now measuring the military price of that success. The military price is six persons killed, 20 wounded, one vehicle destroyed, etc. This is very inexpensive; the political price could be million times higher because there might be a concern for the interests of 12 million people!" See 41st SDC Session held on 14 August 1995, Prosecution v. Slobodan Milošević (Case No. IT -02-54), Exhibit P667.41, ERN 0345-8372-0345-8405/ ET0345-8372-0345-8405: 21.

<sup>10</sup> <https://www.youtube.com/watch?v=DQB1ugeFJg> 49.35 – 49.55 50.20 – 52.21

Knowing that there were transcripts of intercepted phone calls we set about getting transcripts of these conversations. They could have been of critical evidential value, showing Milošević to be either an innocent man at least determined to have all Srebrenica refugees on a bus with a bottle of water or a guilty one willing for Mladić to do anything he wanted because it was known the West would not intervene.

But although one country believed to hold the intercepts was already in The Hague waiting to be questioned by the judges over its possession of such transcripts, a great power walked into Mrs. Del Ponte's office and instructed her to withdraw my application for the transcripts and I had no choice but do as she – my 'line manager' – required. My acquittal of *myself* for not doing more at that stage – as set out in Appendix 1 of the book 'Justice For all' – is one I no longer accept. I think I should have gone further then, although that would probably have ended my career in The Hague to little effect.

A mark of the power of the resistance to my efforts to uncover the truth through obtaining and using 'secret' but highly relevant information is shown in an email I had completely forgotten but recently rediscovered. It shows, from what I wrote to the Legal Attaché at the UK Embassy in The Hague (who may well have been working not through the Ambassador but for another part of general FCO interests) what had been said to me to shut me up:

"██████████, I have given thought to yesterday's telephone conversation. The content - and tone - of part of the conversation were inappropriate and have caused me considerable concern. You raised the issue of the OTP's litigation under Rule 54bis against ██████████ having been stopped by pressure from the ██████████ (although the rest of the conversation was carried on under the fiction that you were unaware of this). In the course of the conversation you made observations, requests or demands that I should give you "straight answers" about what the OTP had or had not done in the course of this litigation. This is not the first time that you have taken this approach. I observed yesterday, as I have before, that you do not have, and do not seem to understand, the necessary and appropriate instincts to be expected of a trial lawyer charged with ensuring due process in court, something achieved by conscientious application of independent judgement to available material. I observed yesterday, and repeat, that interference by any third party to litigation pursued by an independent prosecutor may be a matter of grave concern likely to reflect adversely on all involved. It is also something that may have to be disclosed to the court at some stage. You hinted at demarches to be made and generally pressed to the limit the suggestion that the OTP should not have pursued matters in the way it did *against* ██████████. This is quite unacceptable and seemed like a further attempt to put pressure on me or the OTP in the conduct of the prosecution I lead. Geoffrey"

Someone in the UK wanted the truth *not* to emerge or for it at least to be rationed and its release controlled by UK interests not according to the rule of law

Clinton's release of documents that allowed Jaspers/Nijpels to make his film was similarly a calculated rationing – much was blacked out and nothing provided for the period of the takeover – the German General on the film wondered whimsically whether there was a comprehensive electricity blackout in Washington for precisely that period! Was failure to produce simply to avoid disclosure of how much the US happened to discover after the event? Or was it that they knew Mladić had been told he could go ahead? By someone they knew? Or by several methods of communication conveying the same message? Or by making it obvious that he could do what he liked because there was no prospect of air bombardment? Recall the 'swap of territories' spoken of by Sandy Vershbow: no one suggested to Milošević and Izetbegović that they meet and discuss the process of 'swapping'. Was it easier, as one interlocutor suggested to me, to let the Serbs do the 'dirty work' and just hope the consequence in human lives lost would not be too terrible?

Rationing of truth and disregard for the interests of victims and bereaved has come in various ways. Consider this video of Richard Holbrooke (Chief US negotiator) and (now Baroness) Neville-Jones:<sup>11</sup>

<https://www.youtube.com/watch?v=tzBgmUplLg> 9.47 to 1050

10 years after Dayton was signed Holbrook made as clear as daylight - with on his face the cloud of responsibility that impelled the honesty in his email reply - that he had indeed been instructed to abandon Srebrenica *and* its people. That he sought later to withdraw his observation and that the UK representative Neville Jones effectively supported him shows how fragile is the truth when some as yet imperfectly articulated US interest wants otherwise.

<sup>11</sup> <https://www.youtube.com/watch?v=tzBgmUplLg> 9.47 to 1050

## And So, To What Bosnia Did

Curiously, rationing of historical truth was something even the Bosnian Government did. The 2007 ICJ judgement against Serbia as a state was, as I have said above, regarded by many as unsatisfactory. The people of Bosnia might have benefitted from having it 'revised', as is technically a possibility providing the application is launched within 10 years and on the basis of new evidence. The ICJ rules, more appropriate for discovering a new map for resolution of a 'law of sea' boundary issue, may not have envisaged allegations of Genocide Convention breaches revealed by unfolding evidence in sequential trials in each of which additional evidence emerged following the original Judgment date but within the 10 year period. Launching an application for revision would always be difficult and in informal discussions, and as occasional commentators, Dr Tromp and I often enough spoke of the difficulty of achieving revision that so many wanted but suggested that it could be worth trying both because success *might* come – the 2007 Judgment had the strongest possible dissent by the Vice-President of the Court, Judge Al-Khasawneh, in favour of far stronger findings against Serbia.

In July 2015 we were asked to explain our position to President Bakir Izetbegović, son of the late wartime President Alija Izetbegović who had started the ICJ process. The son seemed disinclined to do anything and was advised in our presence by someone who seemed positively hostile to what we suggested.

We nevertheless followed up the meeting with two letters giving detailed advice that had called on one of the world's leading ICJ lawyers, acting of course without fee, to suggest what might be possible. The letters were not even acknowledged. Then, towards the end of 2016 with just a few months to go before the 10 year deadline expired we were approached out of the blue by Hasan Čengić offering – for the first – that we should be *paid* to work on the Revision. Some fees were indeed paid by an anonymous source in Turkey not by the government for whom we, nevertheless, understood we were working. What followed was bizarre and occasionally amusing sometimes deeply unpleasant. In summary Dr Tromp and I were being required to write an Application for Revision (completely impossible – no preparatory work had been done) that would be handed over to someone from the government, probably the Agent for ICJ purposes Sakib Softić, to be merged with another document prepared by former US Ambassador at large for War Crimes Trials David Scheffer. But I was instructed that I could never meet and should not contact Mr Scheffer, that I could not see his draft and – presumably – would not see whatever emerged from the process of merging two documents. That process was, I was told, to be undertaken by no less than the dissenting judge in the ICJ case, Al-Khasawneh.

Of course I refused. No lawyer could even contemplate it. Pressure to do as asked was continuously applied to me and Dr Tromp in Sarajevo, Istanbul where we required to go, as we discovered once there, for no good reason and The Hague and was occasionally near to threatening. Meanwhile we had discovered that the President already knew any application was bound to fail: to make an application there had to be an Agent. The only agent, continuous since launch of the original application to the ICJ in 1993 was Sakib Softić and a legal opinion had already been prepared and even provided to the court explaining how he could never qualify. We withdrew assuming that the only real plan was to have Dr Tromp and me implicated by my signature on an application that was bound to fail to ensure we never revealed in public how for a decade the government had let its people down by doing nothing. Softić and Scheffer put in an application and it was unceremoniously thrown out, as was inevitable. What was in the document has never been revealed to the people most interested in it – the citizens of Bosnia.

Scheffer failed to reply to my requests thereafter to explain what on earth he had been up to and to comment on the inferences Dr. Tromp and I drew from the conduct of all those involved. Only when alerted to my making this history public today did he reply saying nothing of value or significance other than that

He: 'knew nothing about the idea of merging an Application for Revision by you with one by me (and of course our Application of Revision never was by me alone but largely by the compensated team of lawyers). Maybe someone in Sarajevo made some comment like that at some point but if they did I must have never taken it seriously and it would never have occurred to me to undertake any drafting exercise in that manner. (It sounds like something Softić might have said.)

I have written to all involved in this disturbing business asking for an explanation of what had been sought of Dr Tromp and me. Phon van den Biesen, lawyer for Bosnia, did reply saying he did not know but would shelter behind lawyer's confidentiality if he did! Nothing of substance has been offered from those who must have known what was actually afoot including Hasan Čengić and former judge Al-Khasawneh.

It is a strong inference to draw that the Bosnia Government did not want a full exploration of something as truly terrible as Srebrenica because it might embarrass them. But remember Naser Orić, being removed from Srebrenica in advance. Recall the indifference shown to Defence Minister Joris Verhoeve on 10<sup>th</sup> July and of a theory, spoken of by one very close to events, that a great disaster at Srebrenica would have served Bosnia well – a distorted mirror of the plan to use living humans as shields from attack; use attacked and ethnically cleansed humans to force the US to intervene by force

on the Bosnian side. But silence of representatives of the Bosnian state – Čengić, Al-Khasawneh and Scheffer were all working for the state – in the face of this articulated conclusion means there is no alternative.

From the above what do I conclude:

- III. Killings of Bosnian Muslims were all criminal; there was no excuse in Serb unhappiness at the referendum that led to a declaration of independence. If there were, where would 'Brits', Scots and Irish be when Brexit is done and we face the breakup of the Union? Not justifying killing each other, I hope;
- IV. The international attempts at peace keeping/protection of safe areas was without hope for the people of Srebrenica and led to a decision not to use air support to save the citizens. Enough is already known of this. General Janvier declined an invitation to attend the July 2015 Conference to explain away his refusal to do as was pleaded. A French inquiry into this unhappy part of the history was never concluded;
- V. Courts have failed to set out any complete history and will not now do so unless something like a Revision of the Bosnia-Serbia case can be achieved.

## Conclusions

What has happened since the Srebrenica massacre teaches us many things. Focusing on survivors and the bereaved:

- VI. There is no way we who have not suffered can know whether the unstoppable grief of which I spoke at the start can be reduced by more and better truths. But we can be quite sure the reverse – keeping truth from survivors and bereaved may harm by not giving them the *chance* to achieve a timely personal, internal resolution if that is in fact possible;
- VII. The issue of the start date of genocide – a few days in July 1995 or years earlier in 1993 – having been raised must be properly answered. The only way that can be done is by Bosnia completing the process begun at the ICJ case and left incomplete. In the interests of survivors and bereaved the Bosnian state - the Federation if it can't be the whole state that encompasses RS – must write the evidence-based history and *might* do so in an application to the ICJ for extensions of time limits to allow the Revision to be considered.
- VIII. By such an effort and application all will also get to know what was the real role of the Greater Serbia project and of whether it is still in place and a danger.
- IX. Serbia, The USA, Great Britain, France, probably German and even the Bosnian Government have one thing in common: they have not provided documents that would tell the truth and help survivors and bereaved spend the remainder of their natural lives in whatever peace they may achieve. They probably also share something else: the motivation for not providing documents - for hiding them: they have something to hide or some objective to serve that they would prefer not to reveal. And that takes precedence over the mere interests of victims.
- X. Trials that last 10 years are of little or no use to anyone and in years to come we will be ridiculed for having trial procedure norms designed for national judicial systems allowing accused war criminals - unrepresented or by their advocates - to spend years and over a billions dollars denying the obvious and delaying the time when a good measure of truth, of the kind others can achieve in months, is established and accepted. Lawyers and judges benefit from this 'indulgence'; it is not clear who else does.
- XI. Srebrenica must be laid to rest in some way that serves human interests. The annual events in Potočari must always be available to all who truly care, want and need to remember.
- XII. Nation states attending Potočari memorials or wanting to be seen as ever mindful of the Srebrenica tragedy, should remind themselves of how they could do so much good by opening up the record of their own actions and failings. But they won't, I fear. Victims have always counted for little – at the hands of Serbs of Republika Srpska and Serbia and, in this case, they count for little as shown by the actions of those others who let them down.

## Note

In preparation for this lecture I spoke with:

General Sir Rupert Smith, Commander of UNPROFOR 1995;

Joris Voorhoeve, Dutch Minister of Defence 1994-1998;

Diego Arria, Permanent Representative of Venezuela to the UN 1991-1993;

David Harland member of UN peacekeeping Mission in Bosnia 1993-1998; and also to

Hasan Nuhanović, Srebrenica survivor, author ('Under the Un Flag', essential reading) campaigner, activist;

Mo Sacirbej Bosnia Foreign minister at the time of Srebrenica and present at Dayton;

Sonja Biserko, Helsinki Committee for Human Rights, Belgrade;

Brett Randall the ICTY investigator who kept meticulous notes of efforts to obtain evidence of intercepts of phone calls at the time of Srebrenica; and Andreas Zumach, Journalist who has seen some of those intercepts.

The following were among issues discussed, sometimes reflected in the above text. They are all interesting topics for discussion. Whether they can be conclusively resolved, or whether conclusive resolution of any of them would benefit the victims and bereaved, is unclear.

- Whether there was a single communication to Mladić that there would be no aerial support for the Dutch in Srebrenica or whether there were several communications by different means. I incline to view there may have been several, all kept from Dutchbat and Dutch Minister Voorhoeve; whether one or several make no difference to responsibility. The decision not to use air power followed some agreement to let Srebrenica fall.
- Whether Mladić's troops, ready to attack and waiting on the ridge above Srebrenica for a couple of days before the attack, tells anything of his state of mind; whether taking or 'squeezing' the enclave was the intention. Arguably of limited significance for overall assessment of culpability but *could* point away from the inference that this was a genocidal attack in which it was planned *from the very start* that all Bosnian Muslim men would be killed.
- The UN Report prepared by David Harland has been said to have been 'whitewashed' by UN officials after he wrote it. Probably clear it was at least toned down.
- Early encounters of those involved in peacekeeping with Mladić – as early as 15th July with a UN Resolution at the same time were despite the killings not having been completed – were these lost opportunities to stop what Mladić was having done?
- Present security of Bosnia could follow from its being a member of NATO; all its neighbours except Serbia are NATO members.
- Carl Bildt, who was with both Milošević and Mladić a couple of days before 11<sup>th</sup> July was recorded as saying not to use air power because of its consequence for peace talks.
- There was a clear Serb bias coupled with a concern about having a Muslim state in the heart of Europe and perhaps a willingness to maintain a Christian Europe at some cost.
- There had been secret talks between Haris Silajdžić, Hasan Muratović, Momčilo Krajišnik to swap territories that did not succeed but may later have been cause of Izetbegović embarrassment.
- The presence of UNPROFOR peacekeepers allowed both sides of the conflict to operate 'human shield' tactics or to take hostages
- Was the 'silent agreement' no more than the withdrawal of authority to use airpower from General Sir Rupert Smith and pass to Boutros Ghali?
- May Mladić's decisions have been – initially – military-based, there being Bosnia fighters in the enclaves ('rear areas' for Mladić)
- Was what Diego Arria saw in 1993 on his visit to Srebrenica and what was recorded at that time evidence of an intention to annihilate, equivalent to the intention required for genocide?
- Was Kofi Annan's selection as Secretary General a reward for his not raising the scandal of Rwanda and Bosnia?
- Has Dutch intelligence been involved in hiding truths despite Dutch leaders from 1995 being shocked at what was revealed in Jaspers/Nijpels film?
- May Stanišić have been the route of communication of the decision not to use air power?
- The US warned German Foreign minister Genscher that early recognition of independence of Slovenia and Croatia would lead to a bloodbath.
- Was the final decision not to use air power taken by President Chirac himself?
- By the summer of 1995 were France and UK simply tired of UNPROFOR?
- Was allowing the land swap to happen by giving victory to Serbs in East Bosnia a way to a solution?
- Why was a document produced by the US reporting Voorhoeve's anxiety about consequence of bombing redacted?
- Why has the US failed to publish any material relevant to the precise period despite publishing the material shown in the Jaspers/Nijpels film

#### For Reading or Viewing

- The documentary Death of Yugoslavia and Fall of Milošević. Part 6 Pax Americana deals with Srebrenica
- The documentary 'Why Srebrenica had to Fall' by Jaspers/Nijpels
- Public record of the July 2015 Hague meeting – see footnote 2 above
- Under the UN Flag by Hasan Nuhanović
- The Utility of Force by Sir Rupert Smith Chapter 9