

What Happened at Srebrenica in 1995? Analysis of the Evidence

War Crimes Tribunal Exaggerates Number of Prisoners Captured by Bosnian-Serbs in Srebrenica Operation

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Global Research, August 04, 2012

www.srebrenica-project.com 4 August 2012

Region: [Europe](#)

Theme: [Crimes against Humanity](#)

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If our associate Andy Wilcoxson is correct in his critical assessment of the evidence at the disposal of the International Criminal Tribunal for the Former Yugoslavia regarding the number of Muslims captured by Serbian forces in the immediate aftermath of the fall of Srebrenica on 11 July 1995, the implications are staggering. To name just two. First, since Mr. Wilcoxson argues from the logical premise that the Serbs could not have executed more prisoners than they had in their custody, his analysis would tend to show that the maximum number of victims of illegal executions could not have exceeded half the claimed figure of 7.000 to 8.000. Second, that the judges of the Hague Tribunal probably did not even bother to critically read their own evidence before issuing factual conclusions that were at variance with it, as demanded by the Prosecution.

With regard to the first implication, it should be noted that from it there does not follow the automatic conclusion that even that many persons were executed. It only means that about 3.500 is the maximum number of executed persons that the evidence presented to the judges will support. It is still up to the judges to carefully review that evidence and arrive at a figure that is credible. But one thing is certain. It is mathematically impossible for the number of executed prisoners to be greater than the number of prisoners that were captured.

The second implication is very disturbing. Viewed in the light most favorable to the judges and to the institution which employs them, it suggests that they are incompetent, lazy, and unfit for the position to which they were appointed. From a more critical perspective, it could also be said of the judges that they are obliged n'importe quoi to confirm in their verdicts conclusions that go beyond the evidence but which are mandated politically. There is a precedent that supports this view. Dr Ljubiša Simić's meticulous analysis of the 3.568 Srebrenica autopsy reports prepared by forensic experts of the Office of the Prosecutor, who conducted on site exhumations between 1996 and 2001, demonstrated that the factual conclusions reached by various ICTY Chambers, that supposedly were based on that evidence, also were completely gratuitous and unsupported by the underlying data. That brings us back to the same dichotomy of possibilities. Either the Chambers acted incompetently, or they acted in bad faith and deliberately ignored and/or misrepresented evidence that was incompatible with the factual conclusions that it was expected of them to

draw.

Whichever explanation we choose, the result is shocking. We extend our gratitude to Mr. Wilcoxson for his seminal analysis of this key unresolved aspect of Srebrenica. It removes another major prop from under the mythological account of these events.

The International Criminal Tribunal for the Former Yugoslavia (ICTY) claims that Bosnian-Serb forces captured and executed up to 7,826 Bosnian-Muslim prisoners when the Srebrenica enclave collapsed in July of 1995.[1]

This paper will expose the flaw in that thesis by demonstrating that the ICTY significantly over-estimates the number of prisoners captured by Bosnian-Serb forces in the Srebrenica operation, particularly with respect to the number of prisoners captured and detained at two sites: the Sandici Meadow and the Nova Kasaba football field.

General Overview of Where and When the Prisoners Were Captured

Bosnian-Serb forces captured prisoners from two groups of people when the Srebrenica enclave fell. They captured men from among refugees gathered at Potocari on July 12-13, and from July 12th through the 17th they captured Bosnian-Muslim men from a column of men that set out from the enclave on July 11th and 12th and crossed Bosnian-Serb territory to Tuzla.

The vast majority of people captured from the column were captured on July 12th and 13th as they attempted to cross the Bratunac - Konjevic Polje - Milici Road. These prisoners were detained at two main sites: the Sandici meadow and a football field in Nova Kasaba.

Smaller groups were captured at Konjevic Polje, Jadar River, Luke School, and in the general area around Burnice, Sandici, Kamenica, Krajnovici and Mratinci all the way until the 17th of July.

Most of the prisoners captured in Potocari and along the Bratunac - Konjevic Polje - Milici Road were sent to Bratunac on July 12-13, and from the morning of July 14 onwards most were sent north to the Zvornik region and murdered at various execution sites like Orahovac, Petkovci Dam, Pilica School, Branjevo Military Farm, Pilica Cultural Center, Kozluk, etc...

Obviously, it goes without saying that executing unarmed prisoners is a war crime regardless of the number killed, and the people responsible deserve to be punished. The point of calculating the number of prisoners is not to excuse what happened, but to establish accurate information about what happened.

Prisoners Captured At Potocari

Bosnian-Serb forces entered Potocari on the morning of July 12th and sometime between 10:00 AM and 1:00 PM they began taking military aged Bosnian-Muslim men as prisoners from among the refugees who had gathered there. The Tribunal estimates the number of prisoners captured in Potocari by Bosnian-Serb forces to be about 1,000 men.[2] The total number reported missing from Potocari on July 12-13 is 1,487 men.[3]

Prisoners Held on Nova Kasaba Soccer Field

The Krstic trial chamber “estimated 1,500 to 3,000 men captured from the column were held prisoner on the Nova Kasaba football field on 13 July 1995.”[4] They base their finding on estimates provided by two of the prisoners who were held captive on the field: “Witness P” and “Witness Q.”

However, better evidence exists than what was relied upon by the Tribunal. The best evidence is an aerial reconnaissance photograph produced by the United States that shows the group of prisoners held captive on the Nova Kasaba football field at approximately 2:00 PM on July 13th.

By overlaying the American reconnaissance photograph in Google Earth it is possible to measure how much ground space is occupied by the prisoners sitting captive on the soccer field. These measurements show that the prisoners occupied approximately 670 square meters of ground space.[5]

An average man sitting on the ground occupies about one square meter.[6] If we assume that each prisoner occupies approximately 1 to 0.85 square meters that would mean there was 670 to 790 prisoners in the 670 square meters occupied by them in the aerial reconnaissance photograph.

In addition to the aerial reconnaissance photograph, we have eye witness testimony from Lt. Vincentius Egbers, a soldier in the Royal Dutch Army who was deployed to the Srebrenica enclave with DutchBat III.

On July 12th he saw “between 100 and 200 men” lined up on the field “sitting on their knees with their hands in their neck.”[7] On July 13th he passed by the field again in the morning and saw “there were still men on the football field and men who were brought towards the football field at the day before” he estimated their number to be “a few hundred”.[8]

Zoran Malinic who was a Bosnian-Serb soldier tasked with guarding and compiling a list of prisoners testified in the Tolimir trial that the prisoners were held there until about 6:00 PM on July 13th when they were loaded on busses and sent to Bratunac. He estimated the total number of prisoners to be between 1,000 and 1,200.[9]

Bojan Subotic, commander of the Bosnian-Serb military police platoon tasked with loading the prisoners onto the busses and trucks, testified that at around 7 p.m. on 13 July, about fifteen vehicles arrived at the Nova Kasaba Football Field to transport the prisoners to Bratunac.[10] This is roughly consistent with the estimate of 1,000 to 1,200 prisoners made by Malinic if one assumes that 65 to 80 prisoners were loaded on to each vehicle.

The picture being painted here is consistent. There were 100 to 200 prisoners on the morning of the 12th, by the morning of the 13th the number had grown to “a few hundred”, by 2:00 PM that number had grown to 670 to 790, and by 6:00 or 7:00 PM the number had reached 1,000 to 1,200 prisoners when they were loaded on the busses and sent to Bratunac.

Prisoners at Sandici Meadow and Kravica Warehouse

Throughout the morning and afternoon of July 13th Bosnian-Muslim men from the column surrendered to, or were captured by, Bosnian-Serb troops at Sandici meadow. Some of the prisoners were sent to Kravica warehouse 1.2 kilometers away and massacred there at approximately 5:00 PM that evening. The rest of the prisoners remained on the meadow

before being sent to Bratunac later that day.

The Popovic trial chamber heard estimates from people detained on the meadow that there was a total of anywhere from 900 to 2,000 prisoners held captive there.[11] According to the Krstic trial verdict, “Between 1,000 and 4,000 Bosnian Muslim prisoners taken along the Bratunac-Konjevic Polje road were detained in the Sandici Meadow throughout 13 July 1995.”[12] The Krstic trial chamber bases this estimate largely on Serbian radio communications allegedly intercepted by the Bosnian Army.

As was the case with the Nova Kasaba football field, better evidence exists than what has been relied upon by the Tribunal. Yet again, we have aerial reconnaissance photography taken at approximately 2:00 PM on July 13th showing the prisoners sitting on the Sandici Meadow. The prisoners in the photograph occupy roughly 478 square meters of ground space.[13] This means there was about 480 to 570 prisoners on the meadow at that time.

It is important to note that busses can be seen parked on the road by the meadow, and in another reconnaissance photo taken at about the same time; two busses can be seen parked in front of the Kravica warehouse.[14] It is clear from the photographs that the transfer of prisoners from Sandici Meadow to Kravica warehouse had already begun when the photographs were taken.

The ICTY’s lead Srebrenica investigator, Jean-Rene Ruez testified about the reconnaissance photographs in the Popovic trial saying, “We knew from the Witness 37 that he was taken there by bus, before being taken inside this east part, and the picture, the aerial picture dated 13 July, shows that at that moment, just at that moment, two buses were parked in front of this east part of the warehouse.”[15]

Witness 37 testified under the pseudonym PW-111 in the Popovic trial, and he did indeed testify that “two buses arrived [at the meadow], and they awaited us on the asphalt road. They made a selection. They didn’t get everybody at the same time. This officer came, the one who stood in front of us with a knife, and he said, ‘You, you, you, come out. Go down to the asphalt road and get on buses.’ I was among them. He selected me, too.”[16]

During his testimony PW-111 marked a photograph showing where the busses that brought him and the group of prisoners he was with to the warehouse were parked, and it corresponds exactly to aerial reconnaissance photograph.[17]

Most importantly, PW-111 testified that the prisoners he arrived with were the first ones to arrive at the warehouse.[18] And although he wasn’t exactly sure how long the process of transporting prisoners from the meadow to the warehouse lasted, he estimated that it took an hour and a half to two hours.[19] Another survivor of the Kravica warehouse massacre testified that he was not brought from the meadow to the warehouse until 4:00 or 5:00 PM.[20]

Given that the distance from the meadow to the warehouse is only 1.2 kilometers; if the busses seen in the aerial reconnaissance photograph are the same busses that brought PW-111 to the warehouse, and if PW-111 was among the first to arrive at the warehouse, and if it took a couple of hours to bring the rest of the prisoners from the meadow to the warehouse that would mean that at 2:00 PM when the reconnaissance photos were taken that most of the prisoners would have still been at the Sandici meadow.

The 480 to 570 prisoners on the meadow, plus the two busloads of prisoners at Kravica warehouse which included PW-111 would put the most probable number of prisoners captured at Sandici Meadow somewhere in the neighborhood 700 or 800 prisoners assuming that some of them might have already been loaded on the busses seen waiting on the road at Sandici meadow in the photograph.

Prisoners Captured At Other Locations

Although I dispute the ICTY's findings regarding the number of prisoners captured at Sandici Meadow and the Nova Kasaba football field, I'm not going to bother disputing their claims regarding the number of prisoners captured at other locations.

According to the ICTY prosecution: On the evening of July 13th two busloads of prisoners held at an agricultural warehouse in Konjevic Polje were sent to Bratunac.[21] The busses were not completely full and stopped to pick up prisoners at Sandici Meadow on their way.[22] On the morning of July 13th sixteen men were captured by Bosnian-Serb forces and taken to a remote part of the Jadar River where they were killed on the spot.[23] On July 13th, six Bosnian Muslim men were captured, and then interrogated and killed at the Bratunac brigade headquarters.[24] Between July 13th and 17th 200 prisoners were captured in a sweep of the terrain between Sandici, Kamenica, Krajnovici and Mratinci towards Konjevic Polje.[25] On July 13th at Luke School near Tisca 22 men were captured off of busses transporting refugees and killed.[26]

By my reckoning, the ICTY prosecution claims to have adduced evidence showing that the number of prisoners captured and detained at places other than Potocari, Nova Kasaba, and Sandici meadow was about 350 to 400 prisoners.

Total Number of Prisoners

1,000 to 1,487 prisoners captured in Potocari, another 1,000 to 1,200 at the Nova Kasaba football field, 700 to 800 at Sandici Meadow, plus another 350 from other locations adds up to 3,050 to 3,837 prisoners that the Bosnian-Serbs could have captured, not the 7,000 to 8,000 that have been alleged by the Tribunal.

Another piece of information that lends credence to the thesis that the Serbs did not capture as many prisoners as alleged by the Tribunal is Momir Nikolic's testimony that he estimated the total number of prisoners held in Bratunac on the night of July 13th to be around 3,500 or 4,500.[27] Although Nikolic has credibility problems[28], as the assistant chief of security and intelligence for the Bratunac Brigade of the Bosnian Serb Army, Nikolic would have been one of the best placed people to make an estimate of this kind, and his estimate is at least in the same general ballpark as our calculations here.

As shown above, the key flaw in the ICTY's findings is that they drastically over-state the number of prisoners captured by the Bosnian-Serbs at Sandici Meadow and the Nova Kasaba football field.

The Nature of the Evidence Relied Upon By the ICTY

Instead of determining the number of prisoners based on hard photographic evidence that can be precisely measured and objectively evaluated, the Tribunal opts instead to rely on wildly varying estimates provided by surviving massacre victims, hearsay evidence, and "intercepts" of alleged Serb radio traffic provided by the Bosnian Army.

As the Krstic trial chamber explained in its judgment, “Prominently featured in the evidence presented by the Prosecution in this case, were transcriptions of conversations between VRS personnel in July and August 1995 that were intercepted by intelligence officers from the ABiH. These documents were handed over to the OTP by the Bosnian government.”[29]

The Tribunal assures us that it “considered all challenges made by the Defence, including the theory that the intercepts had been fabricated, evidence relating to the chain of custody, and the general lack of audio recordings” and in spite of that “the Trial Chamber remains satisfied, particularly in light of the evidence given by the intercept operators, that the intercepts are a contemporaneous record of intercepted VRS communications. It is satisfied that there is no deficiency in the chain of custody of the intercept materials, and finds there is no evidence in support of the Defence allegation that the intercepts were either fabricated or tampered with.”[30]

The intercepts related to Srebrenica consist solely of written transcripts, and even though the audio recordings that the transcripts were allegedly produced from have not been provided, the Tribunal is unable to see how they might not be trustworthy evidence. There’s a hole in that reasoning so big you could drive a bus through it, but I won’t belabor such an obvious point. Without audio recordings to back them up, the intercepts have zero value as evidence — especially when the people providing the intercepts are the military faction who fought against the Serbs in the war.

Flaws in the ICTY’s Use of Forensic Evidence

The ICTY prosecution has produced a list of 7,661 persons missing and dead in connection with the fall of Srebrenica.[31] In addition, the ICMP has identified the remains of 6,838 persons in connection with the fall of Srebrenica through DNA analysis, and estimates the total number of missing to be between 8,000 and 8,100.[32]

You’re probably asking yourself: If that many people are missing and dead, if almost 7,000 bodies have been found, and if the Serbs couldn’t have executed more than the 3,050 to 3,837 prisoners that they had, then how did the rest of these people die? The most likely explanation is that those people died in combat or else they got caught in the cross-fire as the column fought its way across Bosnian-Serb territory to Tuzla.

In addition to the Tribunal’s decision to attach less weight to photographic evidence than it does to far weaker evidence, the Tribunal misinterprets the forensic evidence that it has collected as well.

For example, the ICTY asserts that over 1,000 prisoners were executed at Kravica warehouse, and they base this finding on the number of victims found in mass-graves that have been linked to Kravica warehouse.[33]

Prosecution investigator Dusan Janc prepared an expert report in 2009 in which he concluded that the remains of 1,319 individuals had been found in primary and secondary graves associated with the Kravica Warehouse killings.[34]

What they do not take into consideration is the fact that the Kravica warehouse is a finite space that could have only housed a limited number of prisoners.

The total floor space of the two rooms of Kravica warehouse where the prisoners were held is 589.5 square meters; 262.5 square meters in the west room, and 327 square meters in

the east room.[35] Therefore, we know that the number of prisoners who could have been seated on the floor of Kravica warehouse is somewhere in the region of 600 or 700 men if the warehouse were empty, which it wasn't. The warehouse was in use at the time of the massacre and part of the floor space was occupied by the material being stored inside of the warehouse.

One of the men who survived the massacre testified that inside the room of the warehouse where he was sitting there were containers, an old wire fence, and a dilapidated old car that were all being stored inside of the warehouse.[36]

Janc was forced to revise his 2009 findings when other evidence proved that a significant number of the bodies in the graves that he had linked to the Kravica warehouse massacre had in fact come from other locations.[37] We're not talking about one or two bodies either; we're talking about whole truck loads of bodies that were brought in from other places at different times to be buried in these graves and the forensic investigators who exhumed the graves and carried out the investigation never had a clue.

The forensic investigators knew there was plaster and building materials from the warehouse in the graves that they were examining, they knew that DNA found on the walls of the warehouse matched the DNA of some of the victims found in the graves[38], but they had no way of knowing the origin of all of the bodies in the grave. Just because some of the bodies came from the warehouse it didn't mean that all of the bodies had come from the warehouse.

The mistake that Janc made with regard to Kravica warehouse is repeated over and over again in the Tribunal's interpretation of the forensic evidence. If they find a link between a primary grave and a secondary grave they assume that all of the bodies in the secondary grave must have come from the primary grave. If they find a link between a grave and an execution site they assume that all of the bodies in the grave must have been killed at that execution site, even though they have no way of knowing whether some of the bodies in the grave might have been brought in from other places.

The graves are a huge mess because the Bosnian-Serbs dug up the "primary" graves where the victims were initially buried and then re-buried them in "secondary" graves, most probably to conceal evidence of the executions.

The graves are all within about a 50 mile radius of each other. It therefore seems likely that the combat casualties and the executed prisoners have all been mixed together in the same graves. Although the Krstic trial chamber found that "the majority of the victims were executed"[39], they did concede that one "cannot rule out the possibility that a percentage of the bodies in the gravesites examined may have been of men killed in combat." [40]

Conclusion

There is no compelling evidence to suggest that Bosnian-Serb forces managed to capture more than 3,000 to 4,000 prisoners. Photographic evidence showing the number of prisoners at the two main prisoner regroupment sites at Sandici meadow and the Nova Kasaba football field show that far fewer prisoners were captured at those locations than claimed by the Tribunal.

The number of prisoners executed by the Bosnian-Serbs is limited by the number of

prisoners they captured. If the Tribunal's finding that "the majority of the victims were executed" is correct it's only a very slight majority. It is equally possible that a slight majority were not executed. The exact numbers will probably never be known.

Notes

[1] Popovic trial judgment, 10 June 2010, para 664.

[2] Krstic trial judgment, 2 August 2001, para 66; Popovic et al. indictment, 4 August 2006, para 28

[3] Popovic trial exhibit P00566

[4] Krstic trial judgment, 2 August 2001, para 177

[5] Google Earth KMZ File - <http://www.slobodan-milosevic.org/documents/srebrenica.kmz>

[6] Testimony of prosecution expert witness Dusan Janc, Popovic trial transcript, 5 May 2009, pg. 33686-33687

[7] Testimony of prosecution witness Lt. Egbers, Popovic trial transcript, 18 October 2006, pg. 2724-2725

[8] Testimony of prosecution witness Lt. Egbers, Popovic trial transcript, 19 October 2006, pg. 2766-2768

[9] Testimony of prosecution witness Zoran Malinic, Tolimir trial transcript, 9 June 2011, pg. 15378, 15387, 15397

[10] Testimony of prosecution witness Bojan Subotic, Popovic trial transcript, 1 September 2008, pg. 24989-24990

[11] Popovic trial judgment, 10 June 2010, Footnote 1299

[12] Krstic trial judgment, 2 August 2001, para 177

[13] Google Earth KMZ File - <http://www.slobodan-milosevic.org/documents/srebrenica.kmz>

[14] Ibid.

[15] Testimony of ICTY investigator Jean-Rene Ruez, Popovic trial transcript, 11 September 2006, pg. 1443

[16] Testimony of prosecution witness PW-111, Popovic trial transcript, 7 February 2007, pg. 6978-6979

[17] Popovic trial exhibit PIC00062.

[18] Testimony of prosecution witness PW-111, Popovic trial transcript, 7 February 2007, pg. 7056

[19] Ibid., pg. 6989

- [20] Prosecution's final Trial Brief in Popovic trial, para. 601 reference to closed session testimony of PW-156
- [21] Prosecution's final Trial Brief in Popovic trial; para 542-544
- [22] Testimony of prosecution witness Mevludin Oric, Popovic trial transcript, 28 August 2006, pg. 898
- [23] Prosecution's final Trial Brief in Popovic trial; para 545-546
- [24] Ibid; Para 560
- [25] Ibid; Para 577
- [26] Ibid; Para 637-639
- [27] Testimony of prosecution witness Momir Nikolic, Blagojevic and Jokic trial transcript, 23 September 2003, Pg. 1750
- [28] Nikolic confessed to crimes he did not commit and gave false testimony in order to secure a plea agreement with the ICTY prosecutor. See Popovic trial transcript, 23 April 2009, pg, 33090-33094
- [29] Krstic trial judgment, 2 August 2001, para 105
- [30] Popovic trial judgment, 10 June 2010, para 64-65
- [31] Popovic trial exhibit P02413
- [32] ICMP Press Release, 11 July 2012; - <http://www.ic-mp.org/press-releases/over-7000-srebrenica-victims-recovered/>
- [33] Popovic trial judgment, 10 June 2010, para 443
- [34] Popovic trial exhibit P04490
- [35] Popovic trial exhibit P04529
- [36] Testimony of prosecution witness PW-111, Popovic trial transcript, 7 February 2007, pg. 6988
- [37] Popovic trial exhibit P04492
- [38] Popovic trial exhibits P04490, P02993
- [39] Krstic trial judgment, 2 August 2001, para 80
- [40] Krstic trial judgment, 2 August 2001, para 77

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