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HISTORICAL OVERVIEW: THE ETHNIC WARS PHENOMENA TOWARDS THE END OF THE SECOND MILLENNIUM AND SOME PROBLEMS OF INVESTIGATION OF WAR CRIMES

The terms "war" and "armed conflict" are extremely difficult to define. There are different kinds of "war" and "armed conflict" with different causes and consequences and different role of international community. But, in all of them, war crimes and crimes against humanity happen and there is a need to investigate and prosecute these crimes and sometimes also to make international peacekeeping operations .

One can ask: were there more wars and armed conflicts in the world in the last decade than before? We usually believe so, especially after the collapse of former Soviet Union and Yugoslavia, after civil wars in Rwanda, Sierra Leone, Liberia, Sudan, after war against terror in Afghanistan and Iraq, war in Chechnya, conflicts in the middle east, etc. Yet, there were more than hundred wars and armed conflicts after the second world war. World is not as peaceful as it seems.

There are legal, political and practical problems regarding investigation, prosecution and trial of war crimes and crimes against humanity as well as peacekeeping operations. These questions will be discussed more in detail at this conference.

Despite the fact that Slovenia is a very small country (but with a long tradition that goes on from the 6th century A.D.) and had no big problems regarding war crimes, it still has some experiences about it. This will be demonstrated by two cases: war crimes committed after the Second World War and war crimes committed during the ten-day-war for independence in 1991. These experiences are, however, useful also for other situations.

INTRODUCTION

In a discussion about the ethnic war phenomena towards the end of the second millennium and investigation of war crimes, several questions may be posed: What is actually a "war" or "armed conflict"? What legal provisions exist and what is their meaning in actual implementation? Why focusing just on the last decade? Were there more wars and armed conflicts in the world in the last decade (since 1990) than in a more distant past (since World War II., for example)? Are recent wars and armed conflicts different from those 50 or 100 years ago? Are they more violent, cruel, ruthless and with more war crimes? Is the reaction of international community any different in developing legal provisions and/or in involvement of international police and other forces in the conflicts? Do we face different problems regarding investigation of war crimes and crimes against humanity than before? And, finally: do we have more knowledge and experience for the investigation and prosecution of war crimes? Is there more professional literature on that topic?

These are just some of the questions that I will briefly address before I go to the main topic, to the problem of investigation of war crimes in general and to the experiences of Slovenia after the World War II. and during the 10-day-war for independence in July 1991.

ETHNIC WARS AND WAR CRIMES TOWARDS THE END OF THE SECOND MILLENNIUM

DEFINITION PROBLEMS

Before discussing "war" crimes, it is necessary to define what is actually a "war", an "armed conflict", an "armed hostility", a "civil war", "war for independence", a "terrorist action" etc., because the answer to this question implies certain legal consequences. Yet, these terms are difficult to define because the problem is very complex, legal definitions are not precise enough, there is an open space for interpretation and there are different political and other views. On the one hand, an armed conflict may be a legitimate fight for independence, while on the other, a terrorist attack. Wars and armed conflicts have different causes and consequences with a different role of international community in them. Sometimes the international community will intervene, sometimes it will not. But in most of wars and armed hostilities, war crimes and crimes against humanity take place and there is a need to investigate and prosecute them.

The importance of a definition of certain armed conflict as a war or illegal terrorist attack is clearly demonstrated in the case of Afghanistan and Iraq. According to some legal experts and politicians, international conventions about war crimes and crimes against humanity should not be applied in illegal attacks or terrorist acts, and the prisoners should not be treated as prisoners of war. "After 9/11.....Geneva conventions which ban the use of torture on prisoners of war and were signed by the U.S. in 1955 did not apply in a war against terrorists." (Time, June 21,2004, p.31) The Taliban militia lost its right to prisoners of war status because "it did not wear uniforms, did not operate under responsible commanders and systematically violated the laws of war". (Time, June 21, 2004 p..31) Therefore, according to these views, the rules of interrogation of prisoners could be "more flexible" (as demonstrated in Abu Graib prison in Iraq, in Guantanamo camp, etc.). Actually, the authorities suggested rules of interrogation which are otherwise illegal such as: sleep deprivation, uncomfortable positions, shock therapy, sensory deprivation, mind games, etc. (Time, May 17, 2004, p.42) Situation is similar in Chechnya and some other countries in the world where armed conflicts between governmental troops and rebels are not considered a war (not a civil war, or ethnic war, or war for independence) but as a terrorist action of some drop-outs. And, in a war against terror, everything is allowed..

In our opinion, laws of war should be applied in any armed conflict, no matter what kind of a conflict or war is it and no matter what is the status of prisoners and combatants. Why would we need laws on war then, if there are not used in actual conflicts? Long time ago, Marcus Tullius Cicero said that "INTER ARMA SILENT LEGI" (in the war law is silent). Two thousand years later some people still defend his principle and also advocate its implementation in armed conflicts and wars. (Roberts, Guelff, p.14). We believe yet, that there is a need for such laws and their improvement as well as for new ways of their practical application. If nothing else, international laws on war are legal and ethical obligation for everyone involved in an armed conflict: from the top commanders and politicians to the last soldier in the field. Perpetrators cannot say that they didn't know these rules or find an excuse for their actions. As in the case in Abu Graib prison, where prisoners were tortured and humiliated, the excuse that it is a question of "bad apples" cannot be taken seriously. Soldiers are professionals and must know the rules of Geneva and other conventions and act according to them. They must expect sanctions even if they are just following orders from superior officers or political leaders. The same applies to the war in Bosnia, Kosovo, Uganda or anywhere else.

WARS AND ARMED CONFLICTS IN THE LAST DECADE

The definition of war and armed conflict (as a synonym) which will be used in our presentation is the one of the Scandinavian School (Conflict Data Project). According to this, it is possible to talk about "armed conflict" or "war" if:

- there are conflicts with armed hostility
- one side in the conflict is government
- there are at least 25 casualties per year (1.000 for war). (Since there were more than 1.000 casualties on September 11 attack, we could call this a war, too.)

So, were there more wars and armed conflicts in the last decade than before? Many people believe so, especially if we consider what happened after the collapse of the former Soviet Union and Yugoslavia, take into account civil wars in Rwanda, Sierra Leone, Liberia, Sudan, the "war against terror" in Afghanistan and Iraq, war in Chechnya, conflicts in the Middle East, etc. But considering the above mentioned criteria, there has been more than 240 such armed conflicts after the Second World War. World in general has not been very peaceful, and the last decade is not an exception.

The second question is: are there any differences or specifics of these wars and armed conflicts with regard to wars taking place centuries ago? The answer is partly affirmative: there are new and more lethal weapons used, new tactics and war strategies, which all causes new problems and demand a new legislation.

"Smart" bombs, planes without pilots, satellite guided missiles, very strong classical bombs (Daisy cutters) and rockets with uranium warheads certainly enable better target accuracy, but on the other hand (as cases in Iraq and Afghanistan have demonstrated) many civilian targets get hit because of the wrong intelligence or other reasons. Yet, parallel to all new technology and tactics, we can still witness the same kind of brutality and cruelty of soldiers as was seen in the wars thousand or more years ago. Prisoners and civilians had been brutally tortured, raped and killed in the past as they are today. It seems that human nature stays the same when it comes to war or armed conflict, no matter how more civilized the world has become.

The third question relates to the reaction of international community to wars and armed conflicts. This includes legislation, prosecution and trial of war crimes as well as international police peacekeeping operations and the investigation of war crimes.

Sources of the laws of armed conflict are (Roberts at al.):

1. Customary law (which became part of internal criminal legislation of each country)
2. International treaties:
 - the Hague Conventions and Declarations of 1907
 - the Nuremberg Charter of 1945
 - the Geneva Conventions of 1949
 - the Protocols Additional of 1977

There has not been much new in this area in the last decade, since most of the legal provisions on war have been developing from the beginning of the 20 century till the middle of 80's. The most important exception is the establishment of the International Criminal Court which is, unfortunately, not approved by all countries.

Which crimes are war crimes? According to the Nuremberg principles war crimes are:

- crimes against peace: (aggression)
- war crimes: violations of the law or customs of war (grave breaches of international conventions)
- crimes against humanity

The prosecution of war crimes and crimes against humanity has also changed (from Nuremberg International Military Tribunal, through International Criminal Tribunal for Rwanda in 1993, International Criminal Tribunal for former Yugoslavia in 1994 and Special Court for Sierra Leone in 2002, to International Criminal Court in the Hague) and it went from ad hoc courts to the establishment of the ICC.

Investigation of war crimes and crimes against humanity usually falls within the competence of police authorities of the country where the crimes were committed. Yet, in many cases this is not possible or not effective, therefore international police forces are needed. Such is situation, for example, in Bosnia, Kosovo, etc. International police usually come to the country when the war or major hostilities are over, that is, in the post war conditions.

The role of (international) police in the post-war conditions is:

- investigation of war crimes
- peacekeeping
- apprehending war criminals
- searching for missing persons
- teaching local police

INVESTIGATION OF WAR CRIMES

There are legal, political and practical problems regarding investigation, prosecution and trial of war crimes and crimes against humanity as well as peacekeeping operations. Interesting enough, even though war crimes have been perpetrated all too frequently during the last century, little if any discussion pertaining to their investigation and prosecution can be found in the professional literature on criminal investigation/criminalistics. Most textbooks from the field do not mention this topic. One of the exceptions is the book "First World Conference on New Trends on Criminal Investigation". More useful information are also found from sources such as the news media and popular literature such as Simon Ewiesenthal's moving autobiography.

But first, what are the reasons for involvement of international police in post war conditions? Such operations are namely dangerous and expensive, and the police officers who are involved also face many problems.

Among other reasons the most important are:

- greater objectivity of investigation (local police is sometimes not impartial, not willing to detect and investigate crimes of their own citizens, not willing to search for them and arrest them, etc. as clearly seen in the case of Serb and Bosnian Serb police in the investigation of the massacre in Srebrenica and searching for Ratko Mladić and Radovan Karadžić. Sometimes even friendly international police or intelligence officers help them.);
- greater skills of investigators (local police, especially when newly organized and with new and inexperienced police officers, are not capable of proper investigation; there is a lack of forensic experts – for example for DNA testing, etc; again we can find this situation in Bosnia, Kosovo, etc.);
- better technical and other equipment (for crime scene investigations, forensic examinations, monitoring and searching for suspects or deceased, identification of decomposed bodies, etc.).

On the other hand there are some problems, specific to international police forces:

- language, cultural and other barriers (local population does not trust foreign police; there is a lack of communication because of language barriers; lack of knowledge of cultural and social circumstances; mistrust because of some bad experiences of misconduct or bad treatment, etc. International police forces that come from countries familiar to native population are much more welcome to do the job. Such is a case with Slovene police officers in Bosnia and Kosovo);
- different mentality (strangers, especially from countries not familiar with historical development of the country, with the origins and reasons for conflict, with different religion and social views cannot successfully work with native inhabitants);
- legal problems (not knowing local criminal procedure, police laws, etc.).

General problems of investigation of war crimes and crimes in war (war crimes are crimes as defined by international conventions, while crimes in war are otherwise typical crimes committed during a war time or other forms of military aggression) – no matter if investigated by national or international police – are:

a) legal problems

Sometimes (as seen also from the 10-day-war for the independence of Slovenia in 1991) the main legal problem is to determine the precise legal status of the conflict in question: is it a war, an armed conflict, a civil war, a terrorist action or something else? Next, what is the status of people who are involved: are they soldiers, civilians, "combatants", terrorists? It is important to clarify these questions, because the answer determines legal classification of violent acts and the status of prisoners. In Slovenia, the first question was solved by a declaration of a state of war. In some other countries (Chechnya, Uganda, etc.) the situation is not so clear. The question about the status of persons involved in a conflict or war is, for example, still open in the case of Taliban prisoners at Guantanamo bay. Legal definition of criminal offence is also important from the view of prosecution and trial: most criminal offences cannot be prosecuted more than 50 years after their commission, while genocide, unlike other war crimes, has no statute of limitation. It is not always possible, however, to talk about a genocide, and there are often disputes around this (recently in Uganda, for example). It has been already mentioned, that sometimes legal definitions are not precise enough and there is an open space for interpretation. In other cases, it is a question whether all the elements of a given criminal offence are present (like criminal intent, for example). It is difficult to prove, and easy to deny any responsibility at the highest level (Milošević has categorically denied any responsibility for war crimes, insisting that he had no direct control over decisions made by his commanders).

b) identification of victims:

Sometimes victims are missed or unidentifiable. In Srebrenica, for example, the Serbs have talked at first of maximum 1.300 dead Bosnians. Later on, the Commission of the Federation of B&H publicly announced that there were about 7.000 civilians massacred (which seemed at the time unbelievable), then the number rose to 9.000 and the latest official list includes names of 12.000 killed. (Delo, 10.7.2004). How big are the identification problems is demonstrated by the fact that out of 12.000 persons killed, only about 1.000 deceased were identified and properly buried. Victims are difficult to find (there are still more than 32 secret mass graves in Srebrenica), because the perpetrators moved bodies from one grave to several other locations, or because they were well hidden (as in the case of war crimes against prisoners after the end of the second world war in Slovenia) in secret and hard to find places (the caves). Exhumation and forensic examination for forensic identification is also very expensive. The more the time passes the more difficult it is to locate mass graves: even now, when satellite photos and other modern technologies are available.

c) identification and search for the criminals

Perpetrators are often equally unidentifiable; they are anonymous killers hidden within an attacking plane, armoured vehicle or in some other way invisible (masked etc.) to any witness. These persons are often impossible to be identified by other means than witnesses since, any written orders given to them are unavailable to police and prosecution. In the cases of shooting civilians, ballistic evidence is impossible to collect in order to identify the guilty soldiers. Many of perpetrators have fled a country or are well hidden by relatives or friends (Mladić, Karadžić). So, it takes a lot of effort, skills and financial means to trace them (compare to the famous ODDESA action as described by Simon Wiesenthal). Even if their whereabouts are known, prosecution is not guaranteed. Suspected war criminals may be living in a country that protects them and don't want to extradite them (cases in Bosnia, Croatia, Serbia). They can also alter their identities and hide themselves in a third country, making the task of finding them even more difficult. In addition, there is a problem of identifying the correct individual as in the famous Demjanjuk case in Israel. A large network of agents is necessary to locate war criminals who have altered their identities. These agents must also uncover the source of their funds. Sometimes locating suspects is more of an intelligence issue than one of criminal investigation (Wiesenthal). Another example for that is the "operation Eichmann" (Aharoni, Dietl). One can learn a lot by reading such books as Wiesenthal's and Aharoni-Dietl's.

d) testimony of victims and witnesses

Witnesses and victims of war crimes are obviously under tremendous stress and pain while the horror is going on. Their memory may be affected. They may identify the wrong suspects, suffer from amnesia, remember things that have never occurred, or be blinded by a desire for revenge. Specifically, in regard to the testimony of the rape victims in the former Yugoslavia, it has been written that the "traumatic social repercussions, which may be affected by woman's cultural origins or social status may affect her ability to bear the trauma of rape and time to come to terms with emotional distress and physical effects of rape. Reliable information is particularly difficult about such cases as the victims are frequently reluctant to report the incidents or give details.. even after reaching the places where they are safe" (Amnesty International, January 1993). It takes a lot of effort, patience, skill, and sensitivity to get to the truth. Victims and witnesses are often afraid of revenge or other harmful consequences even decades after event. In the war crime prosecution against Dragan N. one of his victims was so afraid of retaliation, that he testified from behind a screen (Time, November 6, 1995). Another problem is that defence lawyers can inflict psychological harm to victims in hope of discrediting their testimony. As Wiesenthal has stated, witnesses suffered not only because they had to meet their former torturers but also because of the unbelievable provocations of the defence attorneys (Wiesenthal, p.174).

e) testimony and defence of suspects

Individuals accused of war crimes never lack for defences, some more "creative" than others. For example, they "lack memory", they were "merely following orders", they blame "others", they minimize their guilt, they acted "under special psychological circumstances", they were intoxicated or under the influence of drugs, mass hysteria or revenge or even they did everything for their country of patriotism and self defence (Milošević). Perpetrators of war crimes can be divided into different categories: sadistic and pathological; vengeful; hysterical; submissive, etc. As in any other war, however, the criminals include otherwise rational individuals who nonetheless perpetrate unimaginable horrors upon whole nations or ethnic groups. It is of little comfort to their victims that such moral pariahs can be gentle and sensitive toward people close to them (like notorious Adolf Eichmann in Second World War). Some high ranking officers in the former Yugoslavia actually bragged during interviews about their atroc-

ities without any apparent feelings of guilt or remorse. Lastly, a popular excuse of war criminals is to blame the enemy for engaging in even more barbaric behaviour.

f) real (material) evidence

The absence of physical evidence is another substantial obstacle to a successful prosecution. Each side hides or destroys any incriminating evidence, particularly military orders and other documents. Moreover, some orders are communicated orally with no written confirmation whatsoever. Evidence can be altered or eliminated in other ways. Even when bodies of victims are found, it is often difficult to determine the cause of death. Forensic examinations are sometimes futile. It is not unusual for war criminals to destroy evidence by burning bodies, removing bodies from mass graves for reburial elsewhere (Srebrenica), throwing them to the river (also in Bosnia) etc. Newly found documents can also be in favour of the accused as happened in a recent case of Croatian general Tihomir Blaškić. Blaškić had been found guilty by ICCY for mass killing of civilian population in a village of Ahmići in Bosnia and sentenced to 49 years in prison. However, new evidence was found in archives of Croatian secret service that proved that actual perpetrators were other persons (a group of military police called "Jokers"), so general Blaškić was set free and returned to Croatia (Delo, 3.8.2004).

g) experts

Experts are central to investigation and evidence gathering. They help identify bodies, reconstruct the crime, assess real (material) evidence, and render valuable opinions about army matters. The role of witnesses is indispensable for successful prosecution. As actual cases have shown, however, experts can also testify on behalf of the defendants – either with the intention of assisting the search for truth or merely helping a war criminal avoid just punishment. Some of the problems with experts are high costs, their unavailability and long periods of time they need to complete their task.

h) involvement of politics

Politics plays a central, and many times unwelcome, role in the prosecution of war crimes. Political considerations, hesitation and different interests often interfere with efforts to try war criminals regardless of the brutality of crime. There are many examples from the past and from present: many countries had protected Nazi war criminals, and some continue to do so (Wiesenthal). For political reasons, the USA allegedly covered up Japanese warfare experiments and other atrocities committed in Manchuria between 1932 and 1945 (S. Harris). The war in Bosnia is a more recent example of politics subverting justice. Each side in the struggle accuses the other of war crimes but refuses to admit their own brutal conduct. They are also unwilling to send their people to the international courts to stand trial. Generals and high ranking officers are considered as heroes in their country, even though they committed war crimes, so local governments and people are hiding them from justice, while their counterparts on the enemy side are accused for war crimes and crimes against humanity. Even the USA is not willing to sign ICC convention and is signing bilateral agreements with some countries not to extradite US citizens, if accused of war crimes. Recently, Serbian government is secretly negotiating with general Mladić, promising to fund his defence and help his family if he surrenders... "The change appears to have been prompted by the U.S. and EU.'s renewed pressure on Serbia to deliver Mladić or face economic sanctions (Time, July 26,2004, p.19). Along with political considerations, financial considerations play an important role in the success of investigation and prosecution of war crimes or crimes against humanity. High costs are sometimes the reason for not investigating or prosecuting war criminals: "if funds dry up (almost *28 million for one year) even the worst of the war criminals will have nothing to worry about." (Time, Nov.6, 1995)

EXPERIENCES OF SLOVENIA

Despite the fact that Slovenia is a very small country (but with a long tradition that goes on from the 6th century A.D.) and had no big problems regarding war crimes, it still has some experiences about it. We will demonstrate this with two cases: war crimes committed after the Second World War and war crimes committed during the ten-day-war for independence in 1991. The experiences are, however, useful also for other situations.

WAR CRIMES AT THE END OF SECOND WORLD WAR IN SLOVENIA

In 1941, Slovenia, as part of Yugoslavia, was invaded by German, Italian and other Axis forces, and fought for its freedom with the Allied forces. It was finally liberated in 1945. The struggle against these foreign aggressors was complicated by an internal conflict between the partisans (led by the communist party) and the quislings that continued even after the end of the Second World War. War crimes were perpetrated by both sides in this conflict. For years, there was little political will to investigate these crimes. After the change of political system and independence of Slovenia, however, a special parliamentary committee was formed to investigate them. This committee faced numerous problems and obstacles, and the investigation and prosecution has had little success.

After the end of the war, Nazi collaborators and opponents to communist regime tried to escape from Slovenia. Many were caught and returned, and some were publicly prosecuted. Only recently, however, it was publicly revealed that many others were summarily executed without trial and buried in secret mass graves.

As mentioned before, a special parliamentary committee was formed to conduct an inquiry into these crimes. In December, 1994 representatives of the Office of the State Prosecution, the Ministry of the Interior, and the Parliamentary commission formed a group to coordinate their efforts. The main task of this umbrella organization was to find out how many individuals were actually killed, obtain their names, issue death certificates, find secret graves, exhume the bodies of victims, and conduct a formal investigation, all with the purpose of prosecution.

So far only two criminal charges have been filed against unknown offenders for the mass killings of prisoners of war in Podutik (near Ljubljana), where approximately 1,300 prisoners were killed and buried, and in Kren caves. Exhumation has been delayed, however, because of the high costs. The investigators chose these two locations because it is assumed that the victims had been buried with their personal belongings, thus making identification easier.

It is estimated that more than 10,000 Slovenian prisoners of war or civilians were killed after the end of the Second World War. There were many more killed in Croatia and the other republics of former Yugoslavia. The largest mass graves are at Teharje, Rog, Pohorje, Podutik and Hrastnik. It is curious that the executioners usually used caves to hide the bodies of their victims. There are more than 3,000 caves in Slovenia and they are very well located on maps. Thus, whenever there was a change in the appearance of a cave (different dimensions, closed tunnels, etc.) one suspects they were altered after bodies were thrown into them. The first discovery of mass grave occurred at Podutik, soon after killings, because the bodies were not buried deep enough.

Investigators and the special parliamentary committee faced the following obstacles in their investigation:

- a) Most of the people with any knowledge were still afraid to talk about these crimes. They were afraid of possible revenge, no matter that political system had changed;
- b) No official documents were available to indicate who gave the orders, where the executions occurred, and other important information. It was assumed that while some documents exist in the Belgrade archives and in other secret places, most were destroyed;
- c) Only ordinary citizens were willing to talk about these events or testify; no major "pentiti" were willing to talk. Those who were willing to talk tend to minimize their involvement in the incidents:
- d) Suspects, victims and witnesses were the elderly; their memories faded so that many related their statements with such qualifications as "it seems to me", or "as far as I can remember, but I am not sure", etc;
- e) The members of the parliamentary committee were not very skilled in investigative work, especially in interrogation techniques;
- f) There was little enthusiasm among police officers to investigate crimes that occurred so far in the past, so that it had little chance to be conducted successfully; moreover, it required much work and patience. After all, far more recent crimes also demand their attention.

WAR CRIMES AND CRIMES IN WAR DURING THE 10-DAY-WAR FOR INDEPENDENCE

The problems of investigating war crimes which were committed during the war for independence of Slovenia are somehow different than those mentioned above. In this war, the Yugoslav army and secret service used aggression to block the move for independence; the Slovenian people, police and special forces reacted immediately. The next day after the declaration of independence (which was on June 25, 1991), tanks of Yugoslav army left their bases and headed for Ljubljana and other cities in Slovenia.

Whenever there was a violent confrontation e.g. shooting, battle, air attack, looting, etc. the police were present and units of the criminal police investigated crime scenes, gathered evidence, recorded incidents on video tapes, interrogated witnesses, etc. The types of crimes that occurred fall into three categories:

- a) War crimes against the civilian population (attacks on settlements; attacks on individual civilians; torture and inhuman treatment of the civilian population; intimidation; large scale destruction of property; looting and pillaging);
- b) Use of forbidden methods of warfare (forbidden attack on a civilian target);
- c) Abuse of internationally recognized signs (the abuse of the sign of the Red Cross during military operations).

To illustrate these three categories, the description of actual incidents of war crimes that occurred during this period is provided:

- In Gornja Radgona during the period of June 28, 1991 to July 3, 1991, soldiers of the Yugoslav army shot two civilians and with machine guns and tanks attacked civilian property such as apartment buildings, railway and bus stations, and even churches. Private houses and shops were looted. A court investigation was initiated but the whereabouts of the responsible army officers are not known.
- On June 28, 1991, on the road between Maribor and Sentilj, a Yugoslav war plane attacked the trucks that were merely passing Slovenia. Three drivers were killed. The identification of the pilot is still not known.
- On June 6, 1991, in Nova Gorica, members of the Yugoslav army shot into a crowd of civilians and wounded many of them. The identification of the offenders is not known.

- On June 28, 1991, a truck convoy on the road from Ljubljana to Zagreb was attacked by several war planes. Three truck drivers were killed, and 14 trucks and the contents were destroyed. The officer who gave the order to attack is still unknown.
- In Dravograd, many apartment houses were destroyed. Although the commanding officer is known, he is unavailable for prosecution.
- From June 26, 1991 to July 6, 1991 in the city of Mokronog, a Yugoslav army officer threatened to blow up a large warehouse of gasoline which could have caused an ecological catastrophe. The officer was later promoted for his acts. He now lives in the former Yugoslavia. A trial is therefore not possible.
- On June 28, 1991, the airport Brnik was attacked by war planes and damage of approximately 100 million US \$ was done to civilian private cars and buildings. The pilots are not known.
- Communication towers and stations were subjected to aerial attacks at Kum, Krvavec and Nanos. The pilots and their superior officers are known but live outside Slovenia.
- On June 28, 1991, two Austrian journalists were attacked and killed by fire grenades at the Brnik airport even though their jeep displayed a large "PRESS" sign. The commanding officer was put on trial but acquitted because of the lack of criminal intent. The state prosecutor has appealed.
- An abuse of the Red Cross symbol occurred on July 9, 1991 when a Yugoslav military helicopter improperly used the Red Cross symbol to transport military personnel.

These are only 84 cases where police filed criminal complaints against members of the Yugoslav army. The state prosecutors decided to investigate and prosecute 43 of them; among them, there were only two trials and nobody has been yet found guilty (26 of the alleged offenders are unknown and 17 are unavailable for trial).

Some of the problems faced by the state prosecutors included the following: key witnesses and suspects left the country and were not available to testify (many are located in other republics of former Yugoslavia and outside court's jurisdiction, appeals to other republics to return them to Slovenia haven't been successful); suspects typically argued that they were just following orders of superior commanders; there is very little written documentation available as to who gave orders, when or how; many offenders are either unknown or, if known, witnesses are not willing to testify against them in court.

CONCLUSIONS

Although wars and armed conflicts together with war crimes and crimes against humanity have been perpetrated all too frequently during this century, little discussion pertaining to their investigation and prosecution can be found in the professional literature. Even in such impressive treatises as *Kriminalistik – Handbuch for Praxis und Wissenschaft* (Kube, Storzer, Timm) there are lacunae in this regard. There is, however, much more literature about investigation of terrorist crimes, yet the topics are different, so a special attention should be focused on war crimes and crimes against humanity and a systematic approach of their investigation should be established.

On the other hand, it is obvious that international community has been more involved in ethnic wars, civil wars, armed conflicts, etc. either through development of laws of war, setting up ad hoc military tribunals for prosecution and trial of war crimes and finally by establishing International Criminal Court (even though with opposition of some major states – like USA, for example) or through direct involvement in investigation of war crimes and peacekeeping in post-war conditions.

The unique nature of war crimes requires the development of special investigative techniques. These techniques would help in future prosecution of war criminals. By reviewing existing cases, one can identify major problems, and perhaps develop some guidelines for the future use.

The current situation is far from ideal. The chances that someone who engages in war crimes will be arrested, tried and convicted are very slim. Of those that are tried, most are "small fish". Major actors in mass death and destruction can feel relatively safe from having to answer for their crimes. Yet the world demand justice. More intense pressure needs to be placed upon states that refuse to extradite killers and rapists they so generously harbour and celebrate as liberators and war heroes. The costs of enormously long trials are important, but shouldn't be the argument against doing justice. The outcome of the Slobodan Milošević case will be an important precedence in trials of big war criminals and the arrests of Radovan Karadžić and Ratko Mladić will show the effectiveness of searching of war criminals that are hiding among their own people.

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