

CASE STUDY

FACTUAL BACKGROUND:

Prijedor Municipality is located in northwestern Bosnia and Herzegovina. According to the 1991 census, it had a total population of 112,543: 49,351 (43.9%) identified themselves as Muslims; 47,581 (42.3%) identified themselves as Serbs; 6,316 (5.6%) identified themselves as Croats; 6,459 (5.7%) identified themselves as Yugoslavs; and 2,836 (2.5%) were identified as other nationalities. The Municipality is situated along one of the main east-west travel corridors in the former Yugoslavia. It was considered a strategic location by Serbian leaders because that corridor linked the Serbian-dominated area of the Croatian Krajina in the west with the Republic of Serbia in the east.

In 1991, after Slovenia and Croatia declared independence from Yugoslavia and war broke out, it appeared increasingly likely that Bosnia and Herzegovina would also declare its independence. Bosnian Serb leaders, however, wanted Bosnia and Herzegovina to remain a part of Yugoslavia. As time went by, and it became clear they would not be able to hold Bosnia and Herzegovina in the Yugoslav federation, the Bosnian Serb authorities, led by the Serbian Democratic Party (SDS), began in earnest the creation of a separate Serbian territory in Bosnia and Herzegovina.

As viewed by the SDS leaders, a major problem in the creation and control of the Serbian territory was the significant Bosnian Muslim and Bosnian Croat population that also lived in the areas being claimed. Thus, a significant aspect of the plan to create a new Serbian territory was the permanent removal or "ethnic cleansing" of nearly all of the Bosnian Muslim and Bosnian Croat population, allowing for the presence of only a small number of non-Serbs who would agree to the conditions for living in a Serb-dominated State.

During the early morning hours of 30 April 1992, Serbian forces seized physical control of the town of Prijedor. The takeover initiated a series of events that, by year's end, would result in the death or forced departure of most of the Bosnian Muslim and Bosnian Croat population of the Municipality. Immediately after the takeover of Prijedor town, severe restrictions were imposed on all aspects of life for Bosnian Muslims, Bosnian Croats and some other non-Serbs, including freedom of movement and the right to employment. The effect of those restrictions was the containment of Bosnian Muslims and Bosnian Croats in the villages and areas in the Municipality where they lived. Beginning in late May, those areas were then subjected to extremely violent, large-scale attacks by the Serb military, paramilitary, and police forces. The Bosnian Muslims and Bosnian Croats who survived the initial artillery and infantry attacks were seized by the Serb forces and transferred to camps and detention facilities established and operated under the direction of the Bosnian Serb authorities.

Between 24 May 1992 and 30 August 1992, Bosnian Serb authorities in the Prijedor municipality segregated, detained and confined more than 6,000 Bosnian Muslims, Bosnian Croats and other non-Serbs from the Prijedor area in the Omarska, Keraterm, and Trnopolje camps. In Omarska camp the prisoners included military-aged males and political, economic, social and intellectual leaders of the Bosnian Muslim and Bosnian Croat population. There were about 37 women detained in the camp. At the times alleged there existed an armed conflict.

The prisoners were generally confined in four locations: the administration building where interrogations took place and most of the women were confined; the garage or hangar building; a building known as the 'white-house', where virtually every prisoner was tortured or severely beaten; and a cement courtyard area between the buildings known as the 'Pista'. There was another small building known as the 'red-house' where prisoners were taken, but rarely emerged alive.

Living conditions at Omarska camps were brutal and inhumane. The two camps were operated in a manner that resulted in the physical debilitation or death of the non-Serb prisoners. There were not any, so to speak, Serb detainees at Omarska and those who were were accused of collaborating with the non-Serb enemies. The general living conditions were abject. Prisoners were crowded together so badly in the various rooms of both camps, that often they could not sit or lie down. There were little or no toilets or facilities for personal hygiene. The inadequate supply of water the prisoners received at both camps was usually foul. They had no change of clothing, no bedding, and virtually no medical care. The prisoners were fed starvation rations once a day. In addition, in Omarska, they were given approximately three minutes to get into the canteen area, eat, and get out. The trip to the canteen was often accompanied by beatings and other abuse.

Interrogations were conducted on a daily basis at the Omarska and Keraterm camps. Severe beatings, killings, sexual assault, and other forms of physical and psychological abuse were commonplace at Omarska and Keraterm. Non-Serbs who were considered as extremists or to have resisted the Bosnian Serbs were often killed. In addition, Bosnian Muslim and Bosnian Croat political and civic leaders, intellectuals, and the wealthy, were especially subjected to malicious beatings, torture, and/or killed. The camp guards and others who came to the camps used all types of weapons and instruments to beat and otherwise physically abuse the prisoners. At a minimum, hundreds of prisoners, whose identities are known and unknown, did not survive the camps.

Mancic was a young police officer in Prijedor municipality prior to the conflict and held the position, which was functional equivalent of the commander of the Omarska camp. During June 1992, he was replaced by another person and thereafter held responsibility as a deputy commander of the camp. Prosecution argued that as a commander, he was in a position of authority superior to everyone in the camp. As a deputy commander, he was in a position of authority superior to everyone in the camp other than the camp commander. Given his position, he allegedly played a significant role in maintaining the functioning of the camp and he made only the limited attempts to prevent crime and alleviate the suffering of detainees.

Defence counsel of Mancic argued that Mancic was a young policeman without rank and he had no official function, no specific responsibility assigned to him. Mancic never participated in alleged crimes. On the contrary, he wanted to help some people, in particular, his Muslim brothers-in-law.

PLEASE PROVIDE ANSWERS TO THE FOLLOWING:

- (1) IDENTIFY CRIMES WHICH WERE COMMITTED (i.e. indicate applicable provisions of the ICTY Statute) and justify whether the elements of respective crime are fulfilled (e.g. existence of armed conflict, etc.)
- (2) SUGGEST AN APPROPRIATE FORM OF RESPONSIBILITY FOR THE ACCUSED and, while drafting the judgment, consider an adequate sentence.
- (3) ASSESS THE FOLLOWING ALLEGATION OF JCE USED IN THE INDICTMENT OF CHARLES TAYLOR. WOULD YOU (AS JUDGES) ACCEPT OR REJECT SUCH JCE? (please offer some arguments for or against)

“The RUF* and the AFRC** shared a common plan, purpose or design (joint criminal enterprise) which was to take any actions necessary to gain and exercise political power and control over the territory of Sierra Leone, in particular the diamond mining areas. The natural resources of Sierra Leone, in particular the diamonds, were to be provided to persons outside Sierra Leone in return for assistance in carrying out the joint criminal enterprise.”

*RUF = Revolutionary United Front

**AFRC = Armed Forces Revolutionary Council, group of Sierra Leone soldiers that allied itself with the RUF

Allegations serving as an explanation to the above JCE: RUF was a group of Sierra Leone rebels exiled in Liberia, invaded Sierra Leone to overthrow the government. The RUF was supported and financed by Liberian president Taylor and the corrupt Sierra Leone government was unable to put down the rebellion. The RUF soon controlled eastern Sierra Leone and began plundering area diamond mines and terrorizing the local population. Charles Taylor profited extensively exchanging arms and supplies for Sierra Leone diamonds.