Chapter 1

THE ICTY INVESTIGATIONS

Interview with Jean-René Ruez

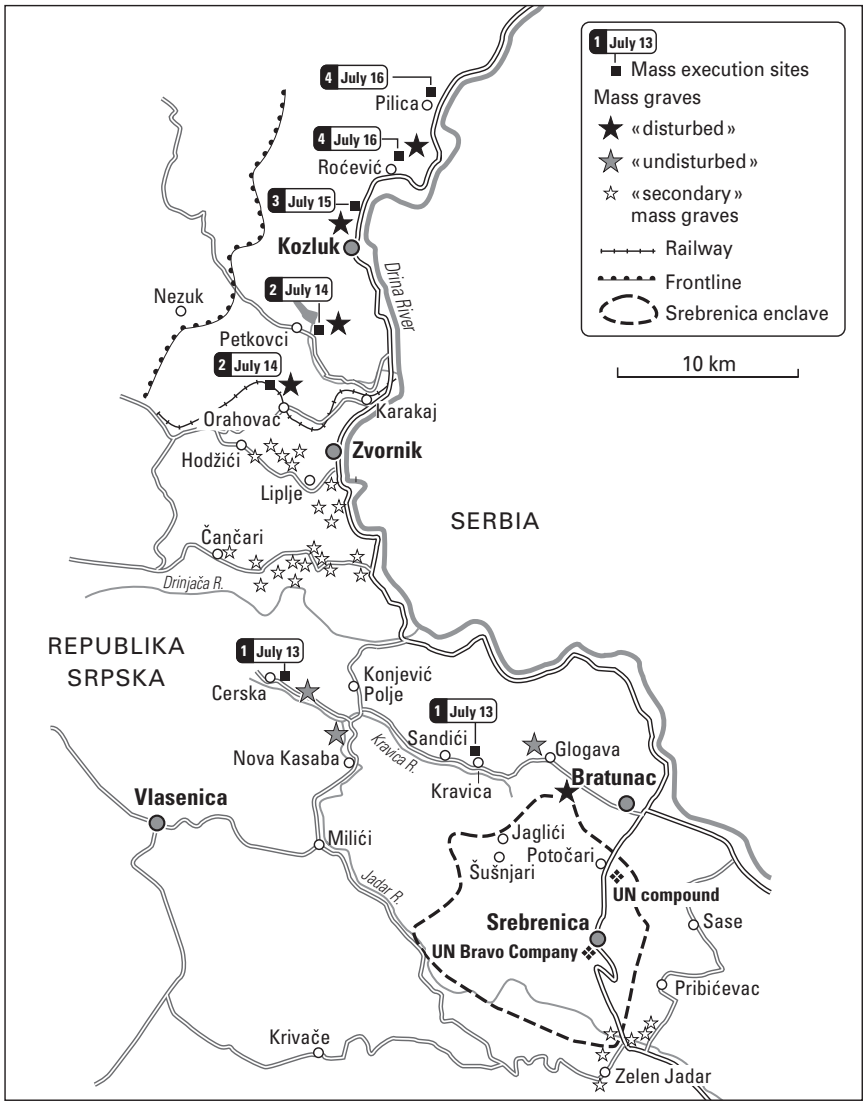
Isabelle Delpla (I.D.): Between 1995 and 2001, you led the inquiry into the July 1995 Srebrenica massacre. You have on several occasions presented the results of your investigation before the ICTY, in particular during the trial of General Krstić, commander of the Drina Corps of the Army of the Republika Srpska,[1] where your testimony lasted three days.[2] Could you provide a general idea of the scope, objectives, and principal findings of your investigation into these events? In particular, can you explain how the distinction between combatants and non-combatants—the foundation of international humanitarian law—was applied?

Jean-René Ruez (J.-R.R.): The inquiry began in Tuzla on 20 July 1995; in judicial terms, it was thus a *flagrante delicto* investigation. The ICTY investigation concerned the criminal events that followed the fall of the enclave on 11 July 1995. These introductory remarks set the limits of the criminal inquiry. The investigation therefore did not relate to the causes of the enclave's fall and no one was charged with the "crime of seizing a UN safe area." Nor did the investigation address air strikes or the reasons why they were not carried out.

"Krivaja 95" is the codename that was given by the Army of the Republika Srpska to the operation that aimed not to occupy the Srebrenica enclave, but rather to reduce it to the size of the town in order to make residents' living conditions so intolerable that the UN would be forced to evacuate the area.

Against the advice of his staff officers, Ratko Mladić nevertheless decided on 10 July to capture the town. This had not been part of the initial plan. When the Army of the Republika Srpska took Srebrenica on 11 July, the population fled in two directions: women, children, the elderly,

Notes for this chapter begin on page 39.



Map 6. Srebrenica: Execution sites and mass graves

and men who did not want to abandon their families or thought they had nothing to fear from General Mladić's forces set off toward a small industrial zone called Potočari, where the main UN base was housed in an abandoned factory. Around 25,000 refugees assembled in this area.

Most of the men gathered at a place called Šušnjari, in the northwest corner of the enclave, where they later decided to cross the lines, travers-

ing minefields in single-file formation. They included the soldiers of the twenty-eighth division of the Army of the Republic of Bosnia-Herzegovina as well as all able-bodied men who had not left for Potočari. It was not until the following day at noon that the tail end of the column finally left Šušnjari. The column was comprised of a mix of armed men and unarmed civilians. At this point, it was possible to consider every man as a "potential combatant though in civilian dress"—the previous day a general mobilization order had been issued to the entire male population of the enclave—or in any case as legitimate military targets to the degree that men were still carrying arms or were marching among soldiers.

This column reached the road intersection located at Konjević Polje. With the soldiers leading, around eight thousand crossed this sector in the evening of the 12th. I will say nothing further of the fate of this military column because it is not part of the inquiry: six thousand of them joined the Bosnian forces after breaking through the lines near Zvornik on 16 July, an episode that belongs to military history, not to the criminal record. Since we are unable to prove that they were murdered, those killed while seeking to flee the enclave must be considered as combat deaths and so are not counted among the victims who were executed while being held by the Army of the Republika Srpska.

Indeed, the ICTY inquiry, in conformity with international humanitarian law, does not judge military combat or the fate of combatants. It does, however, apply to the fate of non-combatants, whether originally soldiers or civilians; it applies, in other words, to all those who are not, or are no longer, in a position to fight.

After the head of the column passed through Konjević Polje, Serb forces closed the area, trapping the other refugees and runaways in the hills between Konjević Polje and Srebrenica (see map 6). On 13 July, this group decided to surrender to the Serb forces, enticed to do so by the fact that some Serb soldiers were wearing stolen blue helmets and claimed through megaphones that the UN and the International Red Cross were present.

At the same time, a process of forced transfer of the population that had sought refuge in Potočari began on 12 July using buses and trucks. In Potočari itself, troops created an atmosphere of terror, committing numerous murders while proceeding to separate men from women and children. Chaos reigned among the refugees. The evacuation was completed in the late afternoon of the 13th.

Widely known to the media, these events represent only the "tip of the iceberg." Next, the men were assembled in several places. This was Phase One of the extermination operation. Among others, these assembly points included Bratunac, Sandići, the soccer stadium of Nova Kasaba, and the Kravica hangar. At Bratunac, the executions began on the 12th with clubs,

axes, and throat-cutting. This was not a mass execution but rather a matter of sporadic murders. Summary executions also took place along the road between Konjević Polje and Sandići. At the road intersection of Konjević Polje, there were two assembly sites at which sporadic murders also took place. Correlations between several survivor accounts and our research shows that some men were even killed in mass graves previously dug for them, where they were subsequently buried, since we found bullets under the bodies. At Nova Kasaba, there were also sporadic executions, as well as some that were more systematic. At this stage, it is clear that, regardless of the men's initial status, they could no longer be considered combatants. Notwithstanding Mladić's claims that, in this area, only soldiers and runaways were killed in combat operations, many of the cadavers had their hands or arms tied behind their backs. The type of restraint used, especially in this southern zone, is a flexible metal band that is highly practical for tying someone up from behind and impossible to slip out of once attached. A group of at least five hundred individuals were taken into the Kravica hangar and executed using automatic weapons and offensive grenades. The crime scene technicians who minutely examined the site found blood, skin, and other human tissue as well as explosive residue on the walls. One hundred and fifty prisoners, their hands tied behind their backs and some with bound feet, were transported in three buses to the Cerska valley. All of them were shot along the roadside and their bodies covered by an excavator. Still other prisoners were transported to the Jadar River, where they were executed by being shot from behind.

Thus, by 13 July, numerous executions had begun taking place, but the process was still disorganized, even anarchical. In reality, you could sum things up by saying that anyone who wanted to pull a trigger that day had license to kill. The same day, Serb army leaders, realizing that not all of the prisoners could be executed in this way, decided to begin by assembling the prisoners in Bratunac. While this was being done, officers of the security branch of the Drina Corps moved more than thirty kilometers northward to the Zvornik zone to scout out detention and burial sites, which were in fact to serve as execution sites. The transfer of the prisoners was thus planned to begin on the night of the 13th to the 14th. No provision for food or drink was made for the prisoners. Records of security officer movements were found during searches of the headquarters of the Bratunac and Zvornik brigades, their drivers having failed to destroy these records. It is the drivers' log-books that enabled us to confirm that we had in fact found all of the crime scenes, since these sites matched those listed in the drivers's handwritten records. For lack of transportation, those who could not be relocated on the day of the 13th were executed on the spot.

Phase Two of the extermination operation began during the night of the 13th to the 14th July, when a first convoy headed north from Bratunac to Zvornik. The prisoners were informed that they were being transferred as part of an exchange and taken to schools in Grbavci and Petkovci. Those held at the Grbavci school were blindfolded and executed in nearby Orahovac. After a number of them were tortured, those held at the Petkovci school were executed at the bottom of a nearby dam. In Orahovac, the wounded and dead were gradually buried, some while still alive, by excavators and backhoes. At the Grbavci school, we found a large number of blindfolds at the surface. In the trenches, numerous cadavers also had blindfolds that, when compared to those found at the surface, enabled us to link the execution site with the burial site. At the dam, near Petkovci, we found spent cartridge cases and a very large number of cranial fragments, evidence that the killers often shot their victims in the head.

The evacuation of Bratunac continued into the night of the 14th to the 15th. Approximately 500 prisoners were transferred to the Roćević school, north of Zvornik. On the 15th, they were all executed not far away, near Kozluk. The same day, the prisoners remaining in Bratunac were taken to two public buildings in Pilica, the school and the cultural center. The approximately 1,200 prisoners held at the school were executed on the 16th at the Branjevo military farm and 500 more from the Pilica cultural center were executed that same afternoon. We later found the same type of residue in the cultural center as that found in the Kravica hangar.

The chronology of the "clean-up" operation on the ground—i.e., the burial of bodies—proceeded from the south northward. If you consider all of the crime scenes, they fall into a northern zone and a southern zone, where the executions were less organized, if equally systematic. In both cases, all of crime scenes were within the area assigned to the Drina Corps.

Next came Phase Three of the operation. During the Dayton negotiations in the Fall of 1995, it became clear to the Republika Srpska authorities that there would be inquiries into these events. The Drina Corps then launched an effort to camouflage evidence of their crimes that was logistically as great as the extermination operation itself. They cleverly—and even maliciously—left a small number of cadavers in the primary mass graves so that, if we found them, we would conclude that there had indeed been murders and that witnesses had thus probably told us the truth even if, instead of numbering in the hundreds or thousands, the victims numbered in the tens and twenties.

Nearly all of the primary mass graves were dug up in 1996 thanks to the efforts of Professor Bill Haglund who, as chief of the ICTY exhumation team, spearheaded this critical operation.[3] A fair number of the cadavers

were found with their hands tied behind their backs, and one victim had an artificial leg and vertebrae that were so fused together that he would not have been able to stand erect. The very fact that these individuals were executed obviously contradicts claims that the victims were combatants. At this point, we faced a serious problem, however: How could we be sure whether the bodies that we had located represented 10 percent or 90 percent of the total number of victims, since at each site eye-witnesses referred to hundreds of victims killed?

During this third phase of the Drina Corps's operation, primary mass graves were reopened with excavating equipment and the cadavers were transported in trucks toward more remote locations and dumped into twenty-six secondary gravesites spread throughout the zone controlled by the Drina Corps. All of these trenches were dug along similar lines, and they were obviously excavated by engineering units, since each is of the precise depth of a combat tank buried so that only its turret protrudes. Anywhere between one and four truckloads of bodies were dumped into each trench. Analysis of the objects found at these locations, such as cartridge cases, blindfolds, ligatures, and fragments of broken glass, along with examination of the soils and pollens, offer a cluster of clues that allow us to link the mass graves that we called *primary* to those that we termed *secondary.*

The teams of experts we sent to carry out the exhumations were multinational and made up of highly qualified archeologists. Their responsibilities ranged from preserving each body part and object that they uncovered to examining the excavator tracks in the trench bottoms, which allowed us to identify anomalies in the treads of individual machines.

With the exception of a handful of sites, the southern zone was also part of this effort to conceal evidence. One such exception was a site in the Cerska valley that went untouched. There are three possible reasons for this. The first is that the site contained only 150 bodies and that the officers deemed this too insignificant a number to be worth the trouble of reopening the trench. The second hypothesis is that because of a lack of organization during the day of 13 July, the security officers may well have been unaware of this particular execution site. The third hypothesis is that the site is so remote that they thought it would not be found. Indeed, we did not locate it using aerial imagery[4] but by cross-referencing witnesses' testimony.

Simply presenting these facts before the Tribunal, documented by maps and photographs, took up three days. For each visual document, one could present a large number of additional photographs to better explain all of the details of these crime scenes. In addition, there were reports from expert witnesses, including crime scene technicians and exhumation reports.

The military analysis constitutes a whole separate body of evidence concerning the situation. I should add to that the analyses of all of the transcribed radio interceptions at our disposal. It is the whole array of these nested "Russian dolls," one fitting into the other, that gives an overall picture of the situation. As the indictments show, there were many crime scenes, especially when one considers that, during the investigation, we only examined situations in which a "large number" of victims had been assassinated. Let us just say that there was a period of several years where we would not have even traveled to a site with fewer than a hundred bodies, due to a lack of time and resources.

I.D.: The difficulty that an outsider may have in understanding the nature of such investigation, which is essentially a criminal one, is due to the distance separating it from more familiar models in such contexts—that of historical investigations drawing on the archives of the Nuremberg trials, for example, or NGO investigations. Your presentation clarifies this difference, if only through the investigative powers conferred upon you. The inquiry reveals a state crime that used the apparatus of the state (the army) and public tools and buildings (schools and so forth). It seems that, for investigating into this state crime, your inquiry also draws upon the resources of the state. Here, I am referring to your use of aerial photographs and the transcripts of intercepted radio communications prepared by the Army of the Republic of Bosnia-Herzegovina. This might lead one to revise one's vision of international criminal justice as an expression of an international civil society that is independent of states.

In order to clarify the nature of this inquiry and the kinds of evidence it yielded, could you be more specific about what place you occupied as a police chief relative to the teams of specialists and experts who participated?

J.-R.R.: I need to make it clear that I cannot take a personal position on this matter because it relates to an ongoing judicial process.

Given the sheer scale of the drama, the situation was new. Nobody before us had had to soil their hands with this kind of work. The role of a police chief is that of coordinator. He is not supposed to be a one-man band who plays all of the instruments himself. He has to use what he knows in order to surround himself with people who can bring their own expertise to bear and thereby cover the many facets of such a situation. We are engaged in a judicial inquiry whose goal is to produce trials before an international court. Some trials have already taken place, and others are in progress or will be in the future. The role of the leader of the investigating team is therefore to try to understand what happened, to give a direction to the inquiry, and subsequently to assemble experts who will

contribute to efforts to find out the truth. And finally, once we think we have reached a reasonable stage in that search and thus are in a position to bring charges, we have to supply technical evidence in support of them.

I.D.: What kinds of organization and skills does such an investigation require?

J.-R.R.: Whether the head of a group leads two people or ten people, his role does not change. However, if he lacks sufficient resources or manpower, he will end up having to act as a one-man band instead of a conductor. In the beginning of this inquiry, I must confess, we had two rather than ten people. It was not until 1998 that the international court assembled what might reasonably be called an "investigative team" as defined by the ICTY—that is, a team that includes a coordinator, a judicial counselor, several investigators, analysts, a full-time interpreter and a secretary.

As far as skills are concerned, they depend on the situation that is facing you.

First of all, we needed people to conduct interviews, which comprise the initial mass of information. During the summer of 1995, there were 25,000 refugees scattered among I do not know how many refugee centers in Tuzla alone. There were 6,000 of them at the air base and the others were scattered among the refugee centers in the city and surrounding villages.

A second massive source of information was the database of the War Crimes Commission directed by Mirsad Tokača, which contained an inventory of 600 accounts.

Furthermore, a huge effort to compile witnesses' accounts had been undertaken by the Tuzla police and AID, the Agency for Information and Documentation—that is, the Bosnian secret service. So we had to analyze this pre-existing data to select high-priority witnesses.

When we arrived in the area at the end of July, we had thus identified a population of 1,200 potential witnesses, with half-page to one-page interview summaries available for each of them.

To reconstruct the facts, you have to approach them from several directions at once, beginning with what happened at Potočari on 12 and 13 July. Potočari is crime scene number one. Next, we need to know what was happening during the forced transfer. In reality, there are hundreds of situations, hundreds of eye-witnesses and events. Next, there are those who survived in the woods and crossed the lines on their own before winter 1995. Finally, there is the very small number who survived the mass executions.

One further source of information came from the witnesses located by the press. I have always said that the press constituted a small army of

extra investigators who compensated for the insufficient personnel available for the inquiry. I want to take this opportunity to praise all of the journalists who worked on this subject. It is shocking to compare certain journalists in Nice who, when I was a police chief there, larded their articles with information that could only be of use to the bad guys, with journalists in Bosnia, who first briefed ICTY investigators about the information they had gathered before calling their editorial offices.

The sheer mass of the data is colossal. If a single one of the crime scenes we are discussing had been in Paris, London, or New York, it would obviously have become an affair of state. In 1995, for example, there were three hundred Belgian investigators assigned to the Dutroux inquiry alone. At the same time, there were only ninety people in the prosecutor's office, just thirty of them with police experience, to cover all criminal aspects of a conflict that had begun in 1992 and was ongoing at the time, since the war was not over then and nobody knew when it would end.

But let me return to your question. Once crime scenes are located, you must surround yourself with experts; nobody in the world can singlehandedly deal with the mass of information that comes out of this kind of investigation. Three kinds of expertise are required to manage a project of this type.

First are the medico-legal experts, who manage all aspects of exhumation, which is unfortunately a fundamental dimension of this case. In addition to what is called the "scientific police" analysis of the execution sites, each crime scene is a gigantic mass grave. Without a body, you have no crime, and this inquiry began as a crime without any bodies. At the end of 1996, once Bill Haglund's team had exhumed all of the primary mass graves, *Newsweek* magazine ran a story with the well-chosen headline, "Genocide Without Corpses."[5] Only around five hundred bodies had been located and autopsied by the end of 1996, whereas 80 percent of the major crime scenes had been dealt with. This first phase of the exhumations had nevertheless demonstrated that the mass grave sites had been reopened as part of a cover-up effort and that most of the bodies they had contained had been concealed and very probably removed to another location (see map 6).

So we had to launch a search in 1997 for the secondary mass graves.

All of this was done in stages, just as when you are building a house. First you have to dig the foundations, which is the reconstruction of the events, then build the walls—that's the crime-scene analysis—and it's only once the basic facts have been fully established that you can build the roof, which is to say begin to assign responsibility and develop charges. We only launched the "hunt for the perpetrators" in early 1998. That's where the process of seeking documentation and material evidence comes in.

What tools do we use? Well, we use the classics: basically, search and seizure. We searched the headquarters of the Bratunac and Zvornik brigades. We also undertook a massive weapons seizure operation that kept us busy throughout the fall of 1997 and part of the winter of 1998. Thirty-five hundred weapons were seized and all of them tested ballistically using comparative firing tests. So we went into micro-details, because finding what the Americans call the "smoking gun" can be very useful in implicating a brigade and indicting particular individuals. In short, it shows the necessity of exploring every avenue. But there are leads in an inquiry that get dropped because they are dead ends. This arms seizure, which produced no useful findings, concerned two brigades, a special forces unit known as the "Drina Wolves" and other brigades located elsewhere. Unfortunately, the analyses of the weapons that we seized led nowhere because of weapons transfers within the Army of the Republika Srpska between 1995 and 1998. Time works against investigations and the collection of incriminating evidence. All time lost to an inquiry is time gained for the perpetrators. Time alters material objects, bodies, testimonies, and memories.

Dealing properly with the mountain of documents recovered through searches requires military analysis aiming to determine which units were involved and what was the chain of command. The investigator in charge of this was Richard Butler, an American, and he was therefore the chief witness for the prosecution concerning military aspects of the extermination operation.

A series of different analysts also worked on criminal analysis, which involves reconstructing the crimes. Criminal analysis is essential in this type of case. The chronology of the events has to be gleaned from what is at first a morass of information, sifting through piles of testimonials that all point in a single direction: horrible things happened. Next, things have to be organized along a timeline. For that, you must try to separate the wheat from the chaff since, unfortunately, there is some chaff among the witnesses' accounts, no matter how honest they are. This is understandable given the working of human psychology.

The next step was to analyze transcripts of the radio communications intercepted by the Army of the Republic of Bosnia-Herzegovina. These transcripts are helpful in reconstructing the facts and in identifying which units were involved, allowing us to trace who played what role in the chain of command and thereby identify perpetrators.

The multinational character of the investigating team was important in allowing us to avoid being accused of bias for or against one warring party or another. The team included, at various times, a Pakistani, a Swede, a Norwegian, Americans, Australians, Britons, a South African, and a Cana-

dian. Unfortunately, however, there was a rapid turnover rate, and we had few permanent staff members.

Another important element of our fieldwork was the work of many teams of crime scene technicians. It was important that they be able to remain on the sites for extended periods, but for security reasons, the teams had to arrive on the sites in the morning and leave before nightfall. Returning the next day to an unguarded site carried the risk that it had been booby-trapped during the night, meaning we had to completely start over in terms of security measures. This created considerable slow-downs. What is more, the investigation was directed from the Netherlands but concerned crime scenes were in the Republika Srpska, with all that that implies—flying to and from, purchasing airline tickets, keeping up with paperwork—and all that overseen by the investigators themselves.

So, there you have a catalogue of all of the skills that have to be coordinated in order to produce a credible overall report.

I.D.: And what about the American satellite imagery? In August 1995, Madeleine Albright showed some photographs that could have given the impression that there was knowledge of the massacre even as it was occurring.

J.-R.R.: That's a good point. But we have to completely stop using the term "satellite image." The official term is "imagery taken by aerial reconnaissance platforms." In other words, these were U2 images. On this subject, we need to shatter a few illusions. In what concerns imagery, things are at once complicated and simple. The U2 spy planes are a 1960s technology. Inside of the image, which covers a thirty-by-thirty kilometers zone, everything can potentially be seen. You can zoom in up to a certain point. So theoretically, anybody in possession of a particular image knows what happens in that zone. In practice, though, it is impossible to read an image if you do not already know what you are looking for and if you do not cross-reference it with field observations.

The imagery was above all an enormous help in narrowing our search for the sites because the witnesses we were dealing with were not from the area. They were victims of the ethnic cleansing of 1992 in northeastern Bosnia. They had been displaced to Srebrenica and often knew nothing about their new surroundings. It was impossible with these witnesses to establish distances between the various crime sites. They often did not even know where they were, not to mention the fact that they were blindfolded and in a state of panic, wondering whether they were going to be exchanged or killed. In such cases, aerial imagery is a critical asset because it enables you to develop an understanding of numerous features. After

all, it's the "story" unfolding through the investigation that allows you to make sense of the image, not the other way around. The image in itself often makes no real sense and can even become a source of interpretative errors. This was true in Srebrenica, was confirmed in Kosovo, probably held for Iraq, and will continue to be the case elsewhere. In fact, what is intelligence? It is the analysis of all of the available information. Anybody who claims to come up with any sort of truth based on a single source of information, whether that be a witness or a technical source, will inevitably have three out of four chances of being wrong.

Here is a typical example. When Madeleine Albright showed pictures of the mass grave trenches at Nova Kasaba to the UN General Assembly, she associated them in complete good faith with the preceding picture, that of the Nova Kasaba soccer stadium. On the photo dating from 13 July, you see large groups of prisoners in a soccer stadium in Nova Kasaba. Then on the photographs taken from nearby that were shown to the UN General Assembly, you see the mass graves. The logical conclusion for anybody seeing these pictures is that you have people in the stadium then you have mass graves so the people are in the mass graves. In fact, that is not the case at all; although the exhumations were not done in Nova Kasaba until the end of 1998, we have known since August 1995 that it was not an execution site but rather an assembly site. According to the accounts we obtained, there were only individual killings, and the prisoners held there were transferred to Bratunac. The bodies found in the mass graves shown in those pictures were connected with other executions that took place in the area.

This is proof that intelligence, no matter how technologically advanced, cannot be disconnected from human reality—that is, testimony followed by verification in the field, in situ, in order to fit the pieces together. If the pieces are not put together, believing that a single piece of the puzzle gives an overall picture is the best way to make an error sooner or later.

For a variety of reasons, no images of a number of other aspects of these events were available. One of the reasons that imagery was available in 1995 is that there were around thirty UN soldiers being held hostage by General Mladić, either voluntarily or against their will. You could therefore logically assume that a huge intelligence effort would be concentrated on the area. Why indeed was there a transfer of prisoners from Bratunac to Zvornik? It's because General Mladić and his aides were not fools: they had to suspect that, given the situation, intelligence assets would be highly focused on the area. It is also worth noting that a U2 flight is like a space shuttle flight and demands a fair amount of time to prepare. And, of course, U2s are not continuously in the air. So there are days, particular dates, when there are holes in the image data and then these images

are after all just snapshots. Furthermore, a country only provides what it wants to provide, within the limits of what it deems necessary. It is understandable that they do not unveil their full intelligence capacities just to satisfy the wider public.

I.D.: My next question concerns the relationship between judicial truth and historical truth. In the end, the investigation, with its various levels of expertise and, in particular, its military analysis, primarily resulted in charges being brought against military personnel—this despite the fact that, in the judgments handed down by the ICTY, the role played by civilians in some executions appears in the background. This pattern of indictment contrasts with that found in other regions of Bosnia where significant massacres took place—in Prijedor, for example. There, charges were filed against both civilians and police officers. In this regard, it should be noted that no civilian leader from the Srebrenica region was charged in connection with the 1995 massacre. Some ICTY judges, among them Judge Schomburg, publicly expressed their surprise that Miroslav Deronjić, political leader of Bratunac, was not among those charged in the 1995 massacre. What does this pattern of indictment reflect? The nature of the operation itself? Or is there a gap between the findings of the inquiry and the charges that resulted from it in point of the determination of responsibility, civilian or military?

J.-R.R.: In order for such an operation to proceed, you have to have at least a minimal level of collusion between military, police, and civilian authorities. We should have pursued them all, but it did not happen, first of all because an investigation does not necessarily produce a completely successful outcome. If Miroslav Deronjić was not charged with the massacre of 1995, it is because the evidence was not sufficient for us to prove his awareness and participation, i.e., to bring together enough evidence to establish his individual responsibility within the operation. A large meeting—what is known as an indictment review meeting—is held in the prosecutor's office to determine which indictments should be brought before the court. There, the least charges against individuals are relentlessly debated. It stands to reason that the prosecutor has no intention of embarking on trials that are lost before they begin.

It is inaccurate to say that no civilians were indicted, since President Radovan Karadžić was. However, no police officers were charged, although we know that the police played a role, albeit a secondary one. In reality, it was a military operation, and it was masterminded by the security branch of the army. Prudence is called for here as some of those indicted are currently being tried in The Hague. Of course, with so much informa-

tion on this subject having been revealed during the Krstić trial, and more recently in the joint trial of Popović, Beara, Nikolić, Borovčanin, Miletić, Gvero, and Pandurević, it is now clear that security officers supplied the backbone of this operation, including the security branch of the general staff directed by Colonel Beara and, above him, General Tolimir, who was in charge of both intelligence and security. Ratko Mladić obviously sat at the top of this pyramid.[6]

Let us quickly go over the list of those who were indicted, keeping in mind that many of them were charged after my departure in 2001.

I cannot go into detail about individuals whose trials are presently underway. Dražen Erdemović is a simple case because he pled guilty to participating in the 16 July 1995 execution of 1,200 prisoners at the Branjevo military farm as a member of the tenth sabotage detachment. His cooperation with the prosecutor's office was taken into consideration and he was sentenced to five years in prison. He supplied critical information, even if it mostly related to the participation of his own unit. In fact, this unit was the principal armed force of the security branch in charge of carrying out sabotage and assassination behind the lines and it was linked to the army's intelligence services. Furthermore, he enabled us to discover a crime scene that we previously knew nothing about, the massacre of 500 prisoners at the cultural center in Pilica. Despite General Krstić's denial, the prosecutor was able to prove that he was commander of the Drina Corps as of 13 July and not starting from the 20th as he had claimed as part of his defense. He was sentenced on appeal to thirty-seven years for aiding and abetting genocide and for crimes against humanity. Dragan Obrenović, who had been deputy commander of the Zvornik brigade, pleaded guilty and was sentenced to seventeen years in prison, a sentence which he did not appeal. Dragan Jokić, commander of the engineering unit of the Zvornik brigade, did not plead guilty even though his immediate superior had done so and was sentenced to nine years in prison, confirmed in appeal. Momir Nikolić, the intelligence and security officer of the Bratunac brigade, also "pled guilty." He appealed his sentence, which was reduced to twenty years. Vidoje Blagojević, commandant of the Bratunac brigade, did not plead guilty and received a sentence of eighteen years' imprisonment, reduced to fifteen years in appeal.

The case of Milorad Trbić, deputy commander of a battalion but above all assistant to Drago Nikolić for the Zvornik brigade, was referred to the authorities of Bosnia-Herzegovina. On 16 October 2009, the Court of Bosnia-Herzegovina sentenced Milorad Trbić to thirty years' imprisonment, verdict upheld in appeal.

The following individuals were sentenced in 2010 and their case is on appeal: Colonel Ljubiša Beara, the key character in the entire operation,

present at every phase of the process and chief of the security branch of the general staff headquarters of the Army of the Republika Srpska, was sentenced to life imprisonment. Lieutenant Colonel Vujadin Popović, likewise a key figure because he was responsible for the security branch of the Drina Corps, was also sentenced to life imprisonment. Drago Nikolić, chief of security of the Zvornik brigade, also charged with personal participation in executions, was sentenced to thirty-five years' imprisonment; Vinko Pandurević, commander of the Zvornik brigade who, on 15 July 1995, sent a highly significant memorandum to his headquarters. This is the sole written document that mentions the existence of prisoners, otherwise referred to as "packages" in other radio communications. He was sentenced to thirteen years' imprisonment. And Colonel Ljubomir Borovčanin, commander of a special police brigade of the Republika Srpska, a military unit not to be confused with the special police companies that belonged to the police and as such were under the authority of the Ministry of Interior. Borovčanin in particular had to answer for the massacre in the Kravica hangar and was sentenced to seventeen years' imprisonment.

Then there are General Radivoje Miletić, chief of operations and training administration in the general staff of the Army of the Republika Srpska, sentenced to nineteen years' imprisonment and General Milan Gvero, Mladić's assistant for morale, legal, and religious affairs in the general staff of the Army of the Republika Srpska who was sentenced to five years' imprisonment.

The trial of the following individuals is ongoing: General Zdravko Tolimir, head of the security and intelligence branches at the general staff of the Army of Republika Srpska; President Radovan Karadžić, who was arrested in July 2008.

General Ratko Mladić, chief of the Army of Republika Srpska, who was arrested in May 2011, is awaiting trial in the ICTY.[7]

So that is where ICTY indictments stand today. In principle, they should not change with respect to this institution, although there is obviously a whole host of other individuals who have been or may yet be identified as having participated in the operation. They are basically the executors, the "trigger-men." Fourteen of them, members of the special police battalion, have been prosecuted by the Court of Bosnia-Herzegovina in Sarajevo for their involvement in the Kravica warehouse massacre.[8] Seven of them have been convicted and received sentences reaching as high as forty-two years' imprisonment.

As for the police authorities, the answer is that the inquiry did not bring evidence before the prosecutor that they participated in organizing the massacre or that they conducted executions themselves. No evidence was forthcoming, then, that allowed police officials to be charged and provided the prosecutor a reasonable chance of winning at trial. It is as simple

as that. In fact, the police authorities did everything they could to stay on the sidelines. That said, they could have been scrutinized more closely by the inquiry but they were not, given their secondary role in what was essentially a military setting.[9]

As for politicians, the future will decide. In the case of Deronjić—apart from his contacts with Beara and Karadžić, apart from his knowledge of the situation—the prosecutor's office was unable to show that he had participated in planning or carrying out the operations. It was a military operation. Clearly, from a historical perspective, the ties between the army, the police and the political personalities are certainly more interwoven but for our purposes we need to have enough evidence to prove the individual criminal responsibility of the accused.

Regarding the question "who did what?" I will not answer it because the inquiry is still ongoing and other trials are either scheduled or may later be brought before the courts in Bosnia-Herzegovina. In 2001, the units that had participated were identified (the Bratunac and Zvornik brigades as well as the special police brigade of Borovčanin, the role of which has been addressed during his trial). As for determining which units were involved, things have continued to move forward and the structure and specific role of the different units has been more fully presented in the trial of Popović, Beara, Nikolić, Borovčanin, Miletić, Gvero, and Pandurević. In 2001, there were things we were confident about but that we did not use during the trials. It is all still fairly delicate: we can only assert what we can substantiate. That is the problem with an investigation, a prosecutor, a court: even when you have the most intimate certainty, it makes no difference to anybody else. It cannot be presented as a fact in a trial. Let us take an example: the "Scorpions." This unit was apparently under the direct command of Belgrade and was present in the region, participating in the murder of six teenagers. We learned this in 2005 through channels that I will not discuss here. Other discoveries may be made in the future. I am not going to discuss other possible leads in detail but there are many.

It is not really my place to say how all of this background sorts itself out regarding the pieces of evidence that will allow the prosecutor to use his arguments to lead to a conviction. Unfortunately, everyone who was in the zone in question—not just the soldiers but also the paramilitaries—in principle had the opportunity of participating in the execution of prisoners. There must have also been volunteers for the job. Some things are clear from the intercepted radio communications. It takes a lot of people to commit mass executions but there was fighting going on at the same time. There was the Žepa offensive mounted by the Army of the Republika Srpska as well as the column of runaways, some of whom split off to lead a diversionary attack on Zvornik. From a military point of view, it

was a confusing time. So the inquiry will always be "in progress" in terms of identifying all those who participated in murdering the prisoners.

Given that some archives have been destroyed, however, the only way to make progress now is through the outcomes of the indictments and possible guilty pleas, not further investigation. In this area, there is nothing worse than someone who refuses to plead guilty because his attitude does not help the truth to come out. If an individual pleads guilty, on the other hand, it enables us to confirm the veracity of the facts and, if he is really in good faith, he can in this way contribute new evidence to the proceedings. This will of course need to be verified and corroborated. One cannot simply settle for "yes, it is true, I am the one who did it."

Translated from French by Ethan Rundell

Notes

1. Editors' note: see the initial and appeal indictments and judgments of Krstić at the ICTY website under the heading "The Cases": http://www.icty.org/action/cases/4, last accessed on 8 December 2011.
2. Editors's note: http://www.icty.org/x/cases/krstic/trans/en/000313it.htm; http://www.icty.org/x/cases/krstic/trans/en/000314ed.htm; and http://www.icty.org/x/cases/krstic/trans/en/000315it.htm, last accessed on 8 December 2011.
3. Editors's note: On the excavations conducted by the ICTY investigation, see the testimony of Dean Manning at the Krstić trial, 26 May 2000: http://www.icty.org/x/cases/krstic/trans/en/000526it.htm, last accessed on 8 December 2011.
4. Editors's note: on the role of aerial imagery, see below.
5. Editors's note: Stacy Sullivan, "Genocide Without Corpses," *Newsweek*, 4 November 1996.
6. Editors's note: see the text of the judgment in the trial of Popović, Beara, Nikolić, Borovčanin, Miletić, Gvero, Pandurević, dated 10 June 2010. This judgment contains a synthetic presentation of the military and civilian structures involved, available at http://www.icty.org/x/cases/popovic/tjug/en/100610judgement.pdf, last accessed on 8 December 2011.
7. Editors's note: it should be noted that the cases of Milošević, Perišić, Stanišić, and Simatović at the ICTY have also included charges for the Srebrenica crimes in 1995.
8. Editors's note: see the decision of this court in the cases of Miloš Stupar et al. (http://www.sudbih.gov.ba/files/docs/presude/2009/Stupar_Milos_Second_Instance_Verdict.pdf) and Petar Mitrović (http://www.sudbih.gov.ba/files/docs/presude/2009/Petar_Mitrovic_Second_Instance_Verdict.pdf) (Kravica cases). See also Vaso Todorović's case (http://www.sudbih.gov.ba/files/docs/presude/2008/Vaso_Todorovic_-_Prvostepena_presuda.pdf). Last accessed on 8 December 2011.
9. Editor's note: for a presentation of the role of the civilian police (MUP), see the judgment of Popović et al., p. 55 and sq., available at http://www.icty.org/x/cases/popovic/tjug/en/100610judgement.pdf, last accessed on 8 December 2011.