

War Crimes Experts Discuss Rwanda, Bosnia

CNN Diplomatic License, 14 August 1994

RICHARD ROTH, Diplomatic License: After World War II, the infamous phrase, 'We were just following orders' was used to explain acts of genocide. As CNN's Jim Clancy was told this week, similar stories are being heard in Rwanda.

JIM CLANCY, Correspondent: The local leaders would order every Hutu villager to kill Tutsis, this farmer told us. If you refused, you would be killed. Hutus who married Tutsis were forced to kill their wives and children. It was a story we heard over and over in the prison. I was forced to kill by my local leaders, but the local leaders have their own version.

This deputy mayor said hundreds of people joined the killing with joy. Wearing ceremonial dress and carrying their traditional weapons, they chanted and sang on their way to the slaughter.

ROTH: To continue our discussion here on the prosecution of war crimes - one person with a link to the past, the other to the recent past. Joining us from Chicago is Cherif Bassiouni, the leading expert on war crimes allegedly committed in the former Yugoslavia. The man who has done much of the research that the prosecutor, Judge Goldstone, will now move on. And here in the studio with me, a chief U.S. prosecutor at the Nuremburg trials, Benjamin Ferencz, and the founder of the Pace Peace Center.

Professor Bassiouni, let me start first with you. Can Judge Goldstone still do the job? He's coming on so late in the prosecution with the tribunal for the former Yugoslavia. What's the status of the investigations?

CHERIF BASSIOUNI, Intl. War Crimes Prosecutor: Well, I think he can do the job. He's going to need a great deal more resources than he has available in every possible respect. He needs space, personnel, financial resources, assistance from governments, a variety of things ranging from the simple tools of assistance with forensic investigations to

scientific evidence. We're dealing with a very large victimization scale there, approximately 200,000 to 250,000 people killed, maybe as many as 50,000 people tortured, and as many as 20,000 women raped.

ROTH: Let me ask- before we continue on that, I want to ask Benjamin Ferencz here, after the Nuremburg trials in which you prosecuted many war criminals, did you ever think the world would see something like that again as we've seen in Rwanda and in Bosnia?

BENJAMIN FERENCZ, Former Prosecutor, Nuremburg Trials: No. I had hoped that the world would have created the legal structures which would have made that impossible. Unfortunately, that is not the case. And so, we're still seeing those crimes in various parts of the world, and it's high time for the international community to react forcefully to make it clear that genocide will no longer be tolerated.

ROTH: James Bone?

JAMES BONE, Times of London: Mr. Ferencz, at Nuremburg, of course, you prosecuted the leaders of the German government, the Nazi government. Yet in Bosnia it seems that we're more likely to see low level people prosecuted, and we just heard John Shattuck say that in the case of Rwanda, they want to prosecute high level people. What are the difficulties of prosecuting the leaders for acts that their followers commit?

Mr. FERENCZ: The difficulties depend upon the determination of the international community. The Security Council has authority to direct the use of all necessary means to do whatever is necessary in order to maintain peace in the world, and the commission of crimes against humanity on a scale which we're talking about here is a definite threat to the peace, so that if the Security Council decides it wants to act on it, it can do so. It can force all nations to cooperate as they're legally bound to do under the charter and it can also hold as accomplices anyone who aids the criminals in escaping justice.

ROTH: Professor Bassiouni, did you see this cooperation? I know you didn't see it from all the countries, the major powers, Britain and some other countries in the last few weeks. Are we beginning to see cooperation with the investigation into Yugoslavia, or is

there still the budget shortfall?

Mr. BASSIOUNI: I think there's still a budget shortfall. I still think there is a lack of political will. I still think that the priorities are to have peace irrespective of justice, and the trouble with that to link back to

what Mr. Ferencz said is you cannot compromise justice. Politics is a field in which you can make compromises, but you cannot make compromises in justice, and that's why it's important to have a permanent institution, a permanent international criminal court, not these ad hoc tribunals which can be manipulated where in one case, you see the emphasis is on the leadership and in the other case the emphasis is not on the leadership in order to achieve different political results.

Mr. BONE: Mr. Bassiouni, if I may just remind our viewers, you were at one point a candidate for the prosecutor's job in Yugoslavia, and you were prevented from getting that job by Britain and France who feared that you might indict some of the leadership and thus interfere with the peace process. Now that you're no longer involved in an official capacity, do you think it's appropriate in the case of Yugoslavia to indict some of the leadership like Radovan Karadzic or General Mladic, the Bosnian Serb leaders now?

Mr. BASSIOUNI: Well, I think that what you have is a situation, a very large-scale victimization. The tribunal is not going to be in a position to prosecute tens of thousands of cases. So naturally, it will have to make some type of selection. The question is what type of a selection? Will the tribunal prosecute like the Germans did just border guards and let the head of state go free when you know the decisions originated at the head of state level? The answer to that is if there's going to be a tribunal dealing only with a small number of cases, then you have to make a selection of those who gave the orders first. They bear the larger brunt of responsibility.

ROTH: Mr. Ferencz, I'm sure a lot of viewers seeing the horrors in Rwanda would like to know what's going to happen to the people who committed these crimes now in the Nuremberg trials. Many Nazi criminals were hung- or hanged, and that's not going to happen apparently in the Bosnian trials. What do you think should be done?

Mr. FERENCZ: It's not going to happen because the death penalty is excluded under the rules of the ad hoc tribunal which exists now for Yugoslavia, and it's not likely to be changed. But if the danger is still there, as Professor Bassiouni says, if they try to trade justice for peace, they will have neither peace nor justice. What has got to happen is the determination of the international community that never again will these crimes be tolerated, the leaders will be held responsible, superior orders is no excuse. These were general principles declared at Nuremburg and affirmed unanimously by the entire United Nations.

ROTH: You saw it 50 years ago. The world is seeing it again. We have run out of time. We thank you for coming in Benjamin Ferencz, a chief U.S. prosecutor at the Nuremburg trials and Cherif Bassiouni, professor DePaul University in Chicago. Thank you.

War crimes this week, Haiti maybe next week. For the U.N. it's a crisis every week. The organization is known for its peacemaking skills. The big crisis in the United States other than health care and crime is the baseball players strike which does cross borders into Canada.

INTERVIEWER: Will the Secretary General offer to mediate to step in in the U.S. baseball players' strike?

AHMED FAWZI, U.N. Spokesman: As I have said time and time again, the Secretary General is always in favor of the peaceful resolution of conflicts. I'm not sure, however, whether the U.S. baseball players' strike falls within the purview of peacekeeping and the United Nations charter.