

## TRANSCRIPT

# TALKING JUSTICE EPISODE FIVE: LESSONS FROM BOSNIA

*Host: Jim Goldston*

*Guests: Laura Silber and Refik Hodzic*

### **JAMES A. GOLDSTON:**

More than 100,000 people killed. More than three million forced to flee their homes. Cities under siege. Genocide. Between 1991 and 2001, the breakup of the Former Republic of Yugoslavia unleashed a series of brutal, ethnically based conflicts with horrors not seen in Europe since the end of World War II.

By May of 1993, a vicious three-way struggle was being waged in the Former Yugoslav Republic of Bosnia-Herzegovina, between Serbs, Croats, and Bosnian Muslims. Amid reports of mass rape, torture, and ethnic cleansing, the United Nations responded with an unprecedented decision to set up a new international criminal tribunal to try those responsible for atrocity crimes.

### **MADELEINE ALBRIGHT:**

Today we begin to cleanse the hatred that has torn apart the Former Yugoslavia. A few months again I said, “This will be no victor’s tribunal. The only victor that will prevail in this endeavor is the truth.” Truth is the cornerstone of the rule of law, and it will point towards individuals, not peoples, as perpetrators of war crimes. And it is only the truth that can cleanse the ethnic and religious hatreds, and begin the healing process.

### **JAMES A. GOLDSTON:**

That’s how Madeleine Albright, then United States ambassador to the United Nations, described the mission of the new International Criminal Tribunal for the Former Yugoslavia, or ICTY, in May of 1993. I’m Jim Goldston, executive director of the Open Society Justice Initiative. And you’re listening to *Talking Justice*, our monthly podcast, where today we’re asking whether the ICTY has delivered on its

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promise, and what that means for the future of international justice.

(MUSIC)

## **JAMES A. GOLDSTON:**

But first, some (TAPE SKIPS) more history. Laura Silber, now communications director with the Open Society Foundations, was, at the time, a journalist based in Belgrade reporting on the spiraling conflict. Laura, I wonder if you could tell us, what was it like on the ground in the Former Republic of Yugoslavia, in the spring of 1993?

## **LAURA SILBER:**

The war was getting worse. The conflict was deepening and becoming more complicated. There were prisoners held in camps that, really, were reminiscent of World War II detention camps, concentration camps. There were reports of mass rapes. There was hundreds of thousands of people on the move, fleeing within Bosnia, fleeing outside of Bosnia into Croatia, Serbia, and out into Europe. There was real sense of a conflict that was deepening with no end in sight.

There were peace talks going on all the time. There were various forms of talks that were taking place in Geneva. You had the leaders of the Bosnian Serbs, of the Bosnian Muslims and Croats, going to Geneva for weeks and months at a time while, on the ground, there was a real war, and a war that was getting even more intense.

## **JAMES A. GOLDSTON:**

So when the announcement was made that the United Nations was creating this tribunal to deal with the crimes in the Former Yugoslavia, did that come as a surprise?

## **LAURA SILBER:**

It didn't come as a surprise, but frankly, it seemed like an emotional response, and as a substitute for what was really needed, which was a peace agreement, an agreement to end the wars. And frankly, it seemed really unattainable. The idea of actually bringing the perpetrators of war crimes to justice at a time when they were ruling the roost really seemed unlikely, and a little bit fantastical.

## **JAMES A. GOLDSTON:**

If I can ask you now, looking back, with the benefit at— of hindsight, more than two decades later, at what the tribunal has done, did people on the ground then

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think that this would be possible?

### **LAURA SILBER:**

I think, Jim, it depends on who you're think about, about people on the ground. There was a cynicism, at the time, in Serbia, that this was the victor's justice. This was the Western idea. An anti-Serb, if you will, attempt. I think that they thought, and still think, many people in Serbia, that this was not justice.

If you look at the Bosnian Muslims, I think there's a feeling that it was too little too late, that some of the perpetrators were brought to justice, but it really took a long time. And I think with the Bosnian Croats there's an ambivalence, because there are Bosnian Croat still in the dock.

### **JAMES A. GOLDSTON:**

Thank you very much. That's Laura Silber, the communications director of Open Society Foundations.

### **LAURA SILBER:**

Thank you.

### **JAMES A. GOLDSTON:**

This April, 23 years after it was created, the Hague-based ICTY handed down a 40-year prison sentence in the case of its highest profile surviving defendant, Radovan Karadzic, former leader of Bosnia Serbs. The tribunal found Karadzic guilty of ten out of 11 counts, including on the charge of genocide. Karadzic was held responsible for one of the war's most infamous crimes, the massacre of over 8,000 Muslim men and boys from the town of Srebrenica, after it fell to Bosnian Serb forces in the summer of 1995. Now, after indicting more than 160 persons, and hearing often harrowing testimony from hundreds of witnesses, the ICTY is completing its last trials and appeals. But has it achieved its goals? Which, according to the 1993 UN Resolution which created it, were to bring to justice those responsible for atrocities, to provide redress to the victims, and to contribute to the restoration and maintenance of peace.

(MUSIC)

### **JAMES A. GOLDSTON:**

I'm joined now by Refik Hodzic, director of communications at the International Center for Transitional Justice. Refik's been closely involved in the search for justice and peace in the Former Yugoslavia, particularly in Bosnia-Herzegovina,

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where he worked as the local spokesman for the Hague-based tribunal for eight years, between 2000 and 2010. Refik, welcome to *Talking Justice*.

## **REFIK HODZIC:**

Thank you, Jim.

## **JAMES A. GOLDSTON:**

Refik, you are an expert on— the situation in the— Former Yugoslavia professionally, but also, this is something very personal for you, because your family was from the city of Prijedor in Northern Bosnia, is that right?

## **REFIK HODZIC:**

Yes. Proudly a member of working class family from— a small industrial town, Prijedor.

## **JAMES A. GOLDSTON:**

As I understand it, you were— you were not in Bosnia at this time, but you had family there. And I'm wondering if you could just say a little about, in 1991, '92, '93, as the conflict was developing, what were your impressions? What was happening? And how did you learn about it from family members there?

## **REFIK HODZIC:**

From our perspective, we basically got cut off from Prijedor, and news from Prijedor, in April '92, when the Serbian Democratic Party and its paramilitaries took over the town. And that is where all phone access was cut. And the— the news we got would be from relatives we had in Croatia, nearby Croatia, who— who were hearing of all these things happening.

But it was entirely surreal— to us to hear of, for instance, concentration camps opening. We thought that this was just misinformation, that people were really blowing things out of proportion. It would be six months later, when people started trickling into refugee camps in Croatia, and when the camps— Omarska, Trnopolje, Keraterm, were disbanded, that we would learn of the full— extent of the horror that unfolded in Prijedor.

And one thing that was, I would say, on everyone's mind— and I will completely honest here, nobody was thinking, really, about getting justice. There was no real expectation of that. Everyone was hoping for some sort of military intervention that would actually stop this, that— that would, let me be completely blunt, punish the— the perpetrators of— of these crimes.

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## JAMES A. GOLDSTON:

So the tribunal was seen as beside the point?

## REFIK HODZIC:

No, no, that— nobody could actually hope or imagine for something like this happening, because there was no precedent. Nuremburg and— and Tokyo were too far in the past that anyone would actually expect this to happen. So when— when the news started coming through— that— that these were discussions taking place, there was, as you— you can just imagine. All that we wanted to hear at that time was that there will be justice. We all realized it was something huge, something that— that everyone wanted to see happen, that it was actually happening.

## JAMES A. GOLDSTON:

So this spring, the tribunal issued its verdict and imposed a sentence in the case of Radovan Karadzic. What did that signify for you after so much time?

## REFIK HODZIC:

I don't know how long your podcast is, but I could— (LAUGH) speak for hours on this. I think that— that first of all, the expectations that we built up over time were centered on this notion that somehow justice to be delivered in The Hague was going to transform our society, that— that by taking a— away people like Karadzic— by— examining exactly what they've done, and documenting and presenting this evidence in public would, in a way, make everyone go, "See what we've done," and, in a way, repent and ask for forgiveness.

And there would be forgiveness, and we would start healing these wounds and moving forward together. In fact, what happened was that the tribunal did what, in reality, it could only do, and that is put some of these people on trial. Give them a fair trial in accordance with international standards, which meant, in some cases, that trials would go on for five years or longer.

At the same time, on the ground, the ideology of Karadzic was never questioned. It was allowed to live on in various manifestations of political parties, including those that are now in power in Republika Srpska, which have fully rehabilitated his ideology, his role— public institutions are being named after him, the separation of peoples is still a strategy, and a goal. Republika Srpska government is talking about secession, and so on and so forth.

There's no acknowledgment of— of the crimes that have been committed in terms of e— not even asking for forgiveness but, actually, just stating that yes, this happened, so maybe we should talk about this. So these trials somehow ended up— being almost an isolated island in a sea of denial and— and a continuation of politics that have given birth to these crimes.

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## **JAMES A. GOLDSTON:**

Was that inevitable? Were some of us naive in placing too much hope and burden on the criminal justice process? Or could it have been carried out in a different way?

## **REFIK HODZIC:**

I think that, first of all, Bosnian people were naive by placing all their expectations in the criminal justice process, and because of two— main reasons. One was the international community strategy in Bosnia. Instead of making the— the— the transitional justice process with all of its elements, from— the truth about what happened to victims' well-being to reform of institutions, as a package with criminal justice, a priority, they basically said, "Oh, it's enough that we put some of these people on trial and forget about this. Let's talk about co— economy and— and EU integrations, and so on," which allowed for the political discourse to continue.

The second element was the atrocious political ineptness of the Bosnian Muslim political leadership, which— grabbed this fact that— that— that it had so many victims as the backbone of its id— identity, and— and looking for The Hague to, sort of, deliver this new political reality in the country, when this was impossible for a court to achieve without all these other elements. So in that context, we get the judgment of Karadzic in April, with these huge expectations that, inevitably, was going to fail in terms of meeting what the country needs in terms of transformation.

## **JAMES A. GOLDSTON:**

You've written that the Karadzic trial represents, in some way, the end of, or the drawing to the close of, the era of criminal justice, suggesting there are implications here for international justice more broadly perhaps? For the international criminal court? For other tribunals?

## **REFIK HODZIC:**

What I was trying to say is, especially to political leaders— now— that Karadzic has been sentenced, let's try for— for once, to forget about this man and— erase him from our discourse, and try to erase the legacy of his crimes. And in order to that, we have to turn to these other things, acknowledgement, reparations, reform, and not expect criminal justice to do all this.

But, in a way, I want a true Bosnia, which is probably the most criminal justice-heavy transitional justice context that we know, to also send a message internationally that without these other elements, we are placing so much burden on the likes of the ICC and what criminal justice can do, that they are inevitably set up to fail.

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Because— without operating in that vacuum, without a serious human rights policy, if you want, or a transitional justice policy, these trials cannot deliver what is expected. And in not delivering what is expected, even what they deliver starts being questioned as whether of any social value whatsoever, when the social value is huge.

## **JAMES A. GOLDSTON:**

So there are, as you well know, special courts, hybrid courts, being considered or set up in other places in the world today, in Central African Republic, in South Sudan. Do you have any confidence that the international community is absorbing the lessons from the ICTY's experience in the Former Yugoslavia and applying them anew?

## **REFIK HODZIC:**

I have great fears that there is much of this— cookie-cutter approach, box-ticking. I hate the term, “Let's have some justice.” Bosnia has such rich lessons in the fact that even 20 years after the fact, we still have today cases of police officers, high-ranking, being picked up for war crimes. Twenty years later, after working 20 years in the police in the country which supposedly has dealt with its war crimes perpetrators.

Which means if you don't reform the institutions, what— what value does justice have for a victim— that has to live in a community policed by perpetrators? If we have put a handful on them on trial for some sort of signal? So I would say study Bosnia. Study the mistakes that were made there, and don't repeat them. But if you ask me for my honest assessment, I have more concern than hope that that will be the case.

## **JAMES A. GOLDSTON:**

Refik Hodzic, thank you so much for coming in today and talking to us.

## **REFIK HODZIC:**

It was a great pleasure to.

## **JAMES A. GOLDSTON:**

A powerful blend of personal history and sage advice from Refik Hodzic of the International Center for Transitional Justice. As the world confronts the challenge of justice for grave crimes in other places, will the lessons of the Former Yugoslavia and of the ICTY be heeded? I'm Jim Goldston, executive director of the Open Society Justice Initiative. Please join me next month for another edition of *Talking Justice*.

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