

Former Yugoslavia

The information below is based on the UN International Criminal Court for the former Yugoslavia's Landmark cases - Duško Tadić: first-ever trial for sexual violence against men¹

This trial of the former Bosnian Serb Democratic Party's local board president from Kozarac, northwestern Bosnia and Herzegovina, made history in many ways. It was the first international war crimes trial since Nuremberg and Tokyo.

Just as importantly, it was the first international war crimes trial involving charges of sexual violence. The trial proved to the world that the nascent international criminal justice system could end impunity for sexual crimes and that punishing perpetrators was possible.

The Trial Chamber found how after taking over the area of Prijedor, in northwestern of BiH, Serb forces confined thousands of Muslims and Croats in camps. In a horrific incident in the Omarska Camp, one of the detainees was forced by uniformed men, including Duško Tadić, to bite off the testicles of another detainee. In May 1997, the Trial Chamber found Tadic guilty of cruel treatment (violation of the laws and customs of war) and inhumane acts (crime against humanity) for the part he played in this and other incidents.

Two years later, on appeal, Tadic was additionally sentenced for grave breaches of the 1949 Geneva conventions: inhumane treatment and wilfully causing great suffering or serious injury to the body or health. In the Judgement, the Appeals Chamber set out that "Through his presence, Duško Tadić aided and encouraged the group of men actively taking part in the assault. Of particular concern here is the cruelty and humiliation inflicted on the victim and the other detainees". In January 2000 Tadić was sentenced to 20 years' imprisonment.

Incidents of sexual violence against men were examined in other cases before the Tribunal, including among others Češić, Mucić *et al.*, Todorović and Simić.

The information below is based on the UN International Criminal Court for the former Yugoslavia's Landmark cases - Mucić et al.: rape as torture²

The trial of four former members of Bosnian armed forces set a milestone in international justice by recognising rape as a form of torture, and as such both a grave breach of the Geneva Conventions and a violation of the laws and customs of war.

Three out of the four accused were charged with sexual violence against Bosnian Serb civilians kept in a prison camp in Čelebići in central BiH.

The Trial Chamber considered a number of sexual violence charges during the trial. Esad Landžo, a camp guard, forced two brothers to commit fellatio on each other in full view of other detainees, and placed a burning fuse around their genitals. He also placed a burning fuse around the genitals of another male detainee and forced him to run between rows of

¹ Full text available [here](#)

² Full text available [here](#)

prisoners.

Significantly, the ICTY also held Landžo's superior responsible for these acts. Zdravko Mucić, the camp commander, was found guilty of these and other crimes committed by his subordinates. The crimes were qualified as grave breaches and violations of the laws and customs of war.

A legal precedent was set in the adjudication of the rape charges committed by the deputy camp commander, Hazim Delić. Rape was qualified as a form of torture – the first such judgement by an international criminal tribunal.

When passing this judgement in 1998, the Trial Chamber considered "the rape of any person to be a despicable act which strikes at the very core of human dignity and physical integrity." The judges held that acts of rape may constitute torture under customary international law.

The ICTY Appeals Chamber upheld the findings of the Trial Chamber and sentenced Hazim Delić to 18, Zdravko Mucić to 9 and Esad Landžo to 15 years of imprisonment. A fourth accused, Zejnil Delalić, was acquitted on all counts due to lack of evidence.

The information below is based on the Final Report of the Commission of Experts established Pursuant to Security Council Resolution 780 (S/1994/674), issued on 27 May 1994³

3. Rape and other forms of sexual assault: interviewing victims and witnesses

241. A series of interviews was carried out by the Commission in Croatia and Slovenia in March 1994. ⁴ Among the 146 victim-witnesses from Bosnia and Herzegovina who were interviewed, 31 were women victims of rape, and two were suspected by the interviewer to have been victims themselves but were unwilling to speak of their own experience. One of the men from Bosnia and Herzegovina interviewed was a victim of sexual assault. This occurred in a detention facility. Among the women, 18 ⁵ were raped in their own homes, while 13 had been raped while in detention. Among the other men and women interviewed, there were 21 witnesses to additional cases of rape or sexual assaults. ⁶ This involves a total number of 55 persons who were either the victims of or witnesses to rape or sexual assault.

242. Among the 77 victim-witnesses from Croatia who were interviewed, 11 were women

³ Full text available [here](#)

⁴This investigation of rape and other sexual assaults was conducted by the Commission with 11 teams of female lawyers (from Finland, the United States, Canada, Bangladesh and Ireland), who conducted interviews, and 8 female (and 2 male) mental health specialists (from the United States), who worked to support the process. The professional members of the teams volunteered their time to this investigation. This is the first time that such an investigation has been conducted in time of war by women seeking to determine the facts about rape and other forms of sexual assault (see annex IX.A). It is noteworthy that, notwithstanding the understandable fears and apprehensions of the victims and witnesses, 223 of them voluntarily agreed to speak to the Commission's team of interviewers. Every member of the team first approached interviewees with expressions of human solidarity and concern. Invariably to such traumatized victims, the mere fact that a United Nations body tangibly expressed its concern for them was comforting and uplifting. Almost all interviewees expressed their appreciation to the interviewers in the warmest ways. If nothing else, this unique investigation brought some human comfort and support to these victims. During the last few days of interviewing, the Commission's field officers received an average of 15 calls a day from victims and witnesses wanting to meet an interviewer. Unfortunately, the investigation had to be concluded on 31 March, because the Commission had to end its work on 30 April 1994. Phase I of the investigation took place in Croatia. Phase II took place in third countries, such as Slovenia and Austria. It was not possible to conduct an investigation in the territory of the Federal Republic of Yugoslavia, as the Commission had requested from that Government. Interviews which provided information about other violations of international humanitarian law are dealt with in other relevant chapters of the present report. Investigations were also conducted in Austria and Sweden for the Commission, but their results are not included in the present summary because of special confidentiality considerations.

⁵One victim reported an attempted rape in her home.

⁶This number does not include rapes witnessed by rape victims themselves.

victims of rape. Six of the men from Croatia who were interviewed were victims of sexual assault. In the case of the men, all but one of these violations occurred in a detention context. However, seven of the women had been raped in their own homes. These women were victims of multiple and/or gang rapes involving up to eight soldiers. Four women were raped while in detention, among them was a woman who was detained in her own home for six months and raped almost daily. Among the other men and women interviewed from Croatia, nine were witnesses to additional cases of rape or sexual assault. This involves a total number of 27 persons who were either the victims of or witnesses to rape or sexual assault.

247. The third pattern of rape involves individuals or groups sexually assaulting people in detention because they have access to the people. Once the population of a town or village has been rounded up, men are either executed or sent off to camps, while women are generally sent off to separate camps. Soldiers, camp guards, paramilitaries and even civilians may be allowed to enter the camp, pick out women, take them away, rape them and then either kill them or return them to the site. Reports frequently refer to gang rape, while beatings and torture accompany most of the reported rapes. Survivors report that some women are taken out alone, and some are taken out in groups. Though this is the general pattern, there are also many allegations that women are raped in front of other internees, or that other internees are forced to sexually abuse each other. In camps where men are detained, they are also subjected to sexual abuse. During the Commission's interviewing process 15 people were interviewed whose major allegations related to the same detention camp. Some witnesses were men, and all of the women victims had been raped. The women were sometimes gang raped by, or in the presence of, the camp commander. Guards from the external ring of security around the camp (who apparently did not enter the camp in the course of their work) and soldiers who were strangers to the camp would be allowed access to the camp for rape. One of the victim-witnesses interviewed saw a woman die after being in a coma for a week as a result of about 100 sadistic rapes by guards. Sexual assaults were also practised against men: one witness saw prisoners forced to bite another prisoner's genitals. In addition, 10 of those interviewed had witnessed deaths by torture and seven of the group had survived or witnessed mass executions (there or in other camps). Another incident related in an interview involved prisoners lined up naked while Serb women from outside undressed in front of the male prisoners. If any prisoner had an erection, his penis was cut off. The witness saw a named Serb woman thus castrate a prisoner. Another ex-detainee told of suffering electric shocks to the scrotum and of seeing a father and son who shared his cell forced by guards to perform sex acts with each other.

250. Common threads run through the cases reported whether within or outside of a detention context:

- (d) Victims may be sexually abused with foreign objects like broken glass bottles, guns and truncheons. Castrations are performed through crude means such as forcing other internees to bite off a prisoner's testicles.