

The concept of international justice will be on trial, too

Пише: Simon Jenkins
среда, 23 јул 2008 12:48

Serbs will now look to The Hague for a kind of closure, but it is always better for a nation to seek atonement within itself

The capture of Radovan Karadzic is unqualified good news. Despite yesterday's queue of Balkan pundits eager to destroy any hope of his getting an unadulterated trial, he was half the duumvirate that oversaw the worst atrocities committed on European soil in half a century. The other half, Ratko Mladic, is still on the run.

Quite what Karadzic's defence might be is obscure, unless it is that brutality, revenge and the fog of war have long been commonplace in the Balkans. It is not an argument that will appeal to the thousands of Muslim and Croat victims of his fraudulent Serbian Republic of Bosnia-Herzegovina. Atrocities also committed against Serbs by Croats, notably in Krajina, in no way excuse the systematic Serb killings, especially in Sarajevo and Srebrenica.

That Karadzic and Mladic have roamed free for 13 years since their indictment by The Hague tribunal in 1995 has been a disgrace both to the international rulers of Bosnia, including Britain's Paddy Ashdown, and to Serbia itself. But now, with a newly elected government in power, a sort of closure is in sight.

Visitors to Belgrade during the 1990s were baffled by the contrast between the European civility of its Serb citizens and their blank refusal to see wrong in what was happening in their name in the federated states of Bosnia and Kosovo. It was like the dismissive attitude of many Britons to colonial peoples in Africa and Asia. After the fall of Tito's communism, the Yugoslav cosmopolis disintegrated into its former parts. The release of hatred was appalling.

All who care for peace in the Balkans must now hope that Serbia can put the past behind it. It has paid an awful price for voting for Milosevic in 1990, including the recent loss of Kosovo and Montenegro. It has had to watch regional neighbours such as Slovenia, Croatia and Bulgaria join the European Union while its European credentials remained beyond the pale.

This year the Serbs rejected, admittedly by a narrow margin, a return to introspective chauvinism, electing a president and government of pro-western inclinations. The early capture

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of Karadzic may well have been precipitated by the prospect of European enlargement coming to a halt after the Irish veto. Serbs may not desperately want the EU, but they desperately want to be loved.

Not only Karadzic and Serbia are now on trial. So is the concept of international justice at The Hague, reduced to bureaucratic farce by the handling of Slobodan Milosevic in 2002. That trial was supranational jurisdiction at its most flatulent and inert, a monument to the maxim that slow justice is no justice. The prosecution case took three years, and by the end in 2006, both the judge and the defendant were dead.

What the court really achieved in the case of Milosevic and the 44 other Serbs brought to trial must be moot. He died in captivity, but the process did much to stir fury among the Serbs that Croats and Kosovans - who could be no less cruel in their ethnic cleansing - had got off lightly at The Hague.

The case for war crimes justice in its present internationalised form remains in question. A burgeoning army of jurists points out that "international" crime against humanity is a meaningful concept and that many countries lack the security or the competence to conduct criminal trials, which is true. They also claim that the prospect of a Hague indictment deters the worst of dictators from the worst of atrocities, though it is hard to see this deterrence in practice.

Defenders of the international criminal court in The Hague also protest its infancy. As the lawyer Geoffrey Robertson has written: "It has been a long and difficult struggle, legal, political and diplomatic, to hold political and military leaders accountable for crimes against humanity." The concept of impunity for atrocities within sovereign states is now an acknowledged wrong but, says Robertson, it is one that will take time to establish.

This defence is wearing thin. It may well be that the world needs a lofty tribunal to enforce agreed standards of behaviour in war, and to call dictators to account. But every murder is a crime against humanity. The glamour of Nuremburg still hovers over a process that has become bureaucratic and trespasses on conflicts that should be dealt with nationally. It is tempting to add that international lawyers who so conspicuously fail to put their professional house in order can hardly expect sceptical statesmen to give them free rein.

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The existence of The Hague is said to have complicated peace negotiations in Zimbabwe, Congo, Uganda and Sudan. Leaders are reluctant to step down from power without a promise of immunity from extradition to a Dutch jail. Meanwhile, war trials in Latin America, Iraq and Cambodia have taken place within the jurisdiction of the relevant states, where they are regarded as more satisfactory than under the aegis of formerly imperialist Europeans.

It is always better for a nation to seek atonement within itself, as many Serbs wanted in the case of Milosevic. He was handed over in 2002 by Serbia 's leaders in the hope of vast subsidies from EU membership, which did not materialise. Local justice might be rougher and tougher, but it compels warring parties to confront their past actions on their own territory, and before their own people. Such domestic "restorative justice" is a surer way to reconciliation. Karadzic should have faced his own people. His removal to The Hague is about barter not justice.

This tragedy is the outcome of a process of Balkanisation, in which the west was a bumbling but willing partner - as it is in Iraq and Afghanistan. The arrival of western troops and politicians in a country appears to be the inevitable precursor to partition. Governments that resist decentralisation within their own borders become ardent defenders of "plucky little" Kurdistan, Kosovo and Montenegro, and doubtless one day plucky Helmand, Waziristan and Baluchistan. It is the easiest way to be "doing something".

The best that can be said for such partition is that it brings short-term peace. In this case, Serbia has played ball. It has served its time in purgatory and its long-term stability is crucial to the future of the Balkans. The west now has a clear interest in opening up its trade and helping it on to its feet. That cannot begin too soon.

The GUARDIAN, 23 July 2008