Is Bosnia the end of the road for the UN? (expanded analysis)

Prof. Francis Boyle

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of Justice (1993-1994)

At the time of the 1994 Washington Agreements, the Pentagon said that what was really going on here was the slow motion carve-up of Bosnia-Herzegovina that would take about 15 years. Time is up.

Obituary for the Republic of Bosnia and Herzegovina (1992-1995)

Pursuant to the Dayton Accords, on 15 December 1995 the Republic of Bosnia and Herzegovina was carved up in Paris by the United Nations, the European Union Member States, the United States, and the many other states in attendance, despite the United Nations Charter, the Nuremberg Principles, the Genocide Convention, the Four Geneva Conventions and their two Additional Protocols, the Racial Discrimination Convention, and the Apartheid Convention, inter alia, as well as two overwhelmingly favorable World Court Orders this author won for the Republic on 8 April 1993 and 13 September 1993. This second World Court Order expressly prohibited such a partition of Bosnia by the vote of 13 to 2. Bosnia was sacrificed on the altar of Great Power politics to the Machiavellian god of expedience. In 1938 the Great Powers of Europe did the exact same thing to Czechoslovakia at Munich. The partition of that nation state did not bring peace to Europe then. Partition of the Republic of Bosnia and Herzegovina will not bring peace to Europe now.

This U.N.-sanctioned execution of a U.N. Member State violates every known principle of international law that has been formulated by the international community in the post-World War II era. This nihilistic carve-up of Bosnia indicates that the current regime of international law and organizations set up by the United States and Europe in direct reaction to the genocidal horrors of the Second World War is in the process of gradual but irretrievable disintegration. The unstopped genocide in Bosnia already served as the harbinger to the genocide in Rwanda. Bosnia will become the precedent for the perpetration of similar mass slaughters around the world in the future. The Dayton/Paris Accords shall always stand for the proposition that genocide pays. So much for the slogan: Never again!

(The author gave this interview on 23 June 1995, almost immediately before the genocidal massacre at Srebrenica, that he was then doing everything humanly possible to prevent.)

Is Bosnia the end of the road for the UN?

There have been many voices calling for the restructure of the United Nations, particularly of the representation of the non-First World states within the General Assembly, and the

operations of the Security Council consisting of the permanent five that largely utilize the UN for its own political and capital interests. The inept management of the conflicts in Bosnia by the UN have made those voices more vociferous, with some calling for the end of the United Nations.

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To the manipulations of Britain, Russia, France, and the US at the diplomatic table.

In this recent interview he outlines the background to the diplomatic negotiations in Bosnia, the corruption and amorality of the great powers, and how the greed and capital interest of the West, and its anti-Muslim actions will spell the end of the post-World War II political order.

Initially the scenario existed where the international players, or the so-called great players, wanted to keep Yugoslavia intact, but when it became obvious that this wasn't going to be the case, the West introduced a number of conferences and plans; first, the International Conference on Yugoslavia at the Hague, the Vance-Owen Peace Plan, the Owen-Stoltenburg Plan, the Washington Plan, the Five-Nation Contact Group Plan. If these plans violated established Human Rights, Racial Discrimination, and Apartheid Conventions and are perceived to be illegal according to international law, why have they been poorly conceived and attempted to be implemented?

The great powers have basically concluded that the Bosnians have lost The war, and of course, the reason the Bosnians lost the war was that the great powers at the Security Council imposed the arms embargo upon them. So when the signal was given by President Milosevic to attack Bosnia—and remember that he also took General Ratko Mladic who had destroyed Croatia and Vukovar, and put him in charge of the Bosnia operation–the Bosnian people were totally defenseless. So from the great power perspective, The Bosnians have lost the war and, as they see it, they need to work out some type of deal that will effectively recognize this. Hence, the creation of the plans and schemes that violate every known principle of international law.

When I was instructed by the Bosnian President Alija Izetbegovic to sue Britain in November 1993, I put out a statement at the UN announcing that the Owen-Stoltenburg Plan violated the Genocide, Racial Discrimination, and Apartheid Conventions–it clearly did. Anyone who knew anything at all about that plan would have understood that–and Cyrus Vance is an international lawyer, he should have known better. So any of the permanent members of the Security Council can be sued–and the Bosnian government is aware of this–for violating the Genocide Convention, the Racial Discrimination Convention and the Apartheid Convention. And I have no problems at all in suing all of them on the basis of these three conventions and I'm sure of winning those law suits. It's an open and shut case.

But the problem was that when President Izetbegovic instructed me to sue Britain, the Bosnians were threatened. The then Bosnian Foreign Minister Ljubijankic, who was later assassinated, was called in, basically threatened, and told that if the Bosnian government was to continue with the law suit, the humanitarian assistance that was being provided to the Bosnian people would be cut. They were pressured by the French, the Germans, and the Americans, as well as Owen and Stoltenburg, to drop the whole case. So that's the problem, where the great powers of Europe threaten to cut off humanitarian assistance to civilians–and the Bosnian people can only survive because of food brought in by the world community. When Bosnia goes to court to sort out its rights, which it has a perfect right to do, the so-called protecting powers threaten starvation for their people. Unfortunately, the Bosnians had to go along with this as they always have.

What are the historical connections between the Vance-Owen and Owen-Stoltenburg Plans and the Munich Pact from 1938?

First, there needs to be an understanding of the historical evolution. The Vance-Owen Plan would have carved up Bosnia into ten cantons on an ethnic basic, but would not have destroyed Bosnia as a state. When the Serbian President Slobodan Milosevic and the Bosnian Serb leader, Radovan Karazdic and his so-called parliament rejected the Vance-Owen Plan, the great powers then moved into the Owen-Stoltenburg Plan. The Owen-Stoltenburg Plan would have carved up the state itself–it would have destroyed the Republic of Bosnia-Herzegovina as an independent nation state.

Therefore, this plan is the modern day equivalent of the Munich Pact. It was designed to carve up a UN member state, and would rob Bosnia-Herzegovina of its United Nations membership–the main difference was that the carve-up was not taking place at Hitler's lair at the Berchtesgarten but this time the carve-up was taking place in Geneva, at United Nations headquarters and under the auspices and supervision of The United Nations, the European Union and the United States Government. So this time all the major powers of Europe and the United States were in on the carve-up of a sovereign member state of the United Nations.

The Vance-Owen Plan was bad, but the Owen-Stoltenburg Plan would have Been the end of Bosnia's statehood and would have turned Bosnia into a new Lebanon. The Owen Stoltenburg Plan would have been a total catastrophe—to carve up Bosnia into three pieces and rob it of its UN membership. It was clear that in Geneva during the so-called peace negotiations, that the whole purpose of the exercise was to destroy the Bosnian statehood so that the Muslim, Jewish and non-Serb or Croat population would simply be wiped
out. In historical terms, back in the 1930s the Jews were wiped out because they did not have a state of their own, and the only thing that has kept the Bosnians from completely being wiped out, fully and completely, has been their statehood and their UN membership. Owen, Stoltenburg, the UN, and everyone else knew that the only thing that would keep these people from going the way of history was their UN membership and statehood, so they had to get rid of it.

Indeed, Owen's lawyer admitted to me and our team–we have this on file with the World Court–that the suggestion to eliminate Bosnian statehood came from Karazdic, the war criminal. Karazdic suggested this notion to Owen and Stoltenburg and they approved it personally. Their lawyer then redrafted the documents to eliminate Bosnian statehood–we have all this on record, with witnesses, at the World Court. It reminded me of Hannah Arendt's comment on the Eichmann trial in Jerusalem, about the banality Of evil. That here were nameless, faceless bureaucrats operating in Geneva, destroying a sovereign member state of the United Nations, knowingly inflicting ethnic cleansing on a million-and-a-half to two million people and doing all of this by means of a word processor. And that is Literally what was going on. And the plan today, the so-called Contact Group plan, carves Bosnia up into two pieces. It will preserve the shell of the Bosnian state, although, effectively Bosnia will be carved up. So, all of the discussions in the Security Council about respecting the territorial integrity and political independence of Bosnia is nonsense. These men at the Security Council know exactly what they are doing–that was my assessment in dealing with them personally. They're still trying to carve Bosnia up, and the land that they have allocated to the so-called federation will make Bosnia an appendage of Croatia.

The Bosnian Muslims, and the Serbs, the Croats, and the Jews loyal to The Bosnian government, would have never survived the Owen-Stoltenburg carve-up if it had been implemented. The Contact Group carve-up was designed and drafted by the US State Department. It appears that if it were to be implemented, that those people would at least physically survive. But ultimately Bosnia would lose its independence. So it's a slight improvement but it still represents a violation of every known principle of international law including a violation of the UN Charter, a toleration of genocide and war crimes, condoning this type of behavior and again, it would be tantamount to the Munich Pact. It raises the question then, and everyone must consider this: what good is the United Nations? If the UN is not going to be prepared to defend a member state, but instead carve it up and destroy it, then obviously the United Nations has lost its utility, just as the League of Nations did when it could not confront Mussolini over what he did in Abyssinia in 1935. I remembered, when I was in Geneva with President Izetbegovic, that it was Haile Selassie that had come to Geneva in the same building to make a plea for the powers to save Abyssinia from the Italian fascist invasion and they didn't listen to him. Abyssinia was taken over and eventually the League was destroyed because it could not protect small states like Austria, Czechoslovakia, Abyssinia, and Poland from fascist invasions.

So if the UN is getting into the business of carving up UN member states then it's not a good sign for the integrity of the United Nations. It must be understood that this is all being supervised by the Secretary General of the UN–Boutros Boutros-Ghali–he knows what's going on–and at the direction of the United States, the United Kingdom, France and Russia–they're all in on it. And in the background the Clinton administration is posturing, and saying 'oh, isn't it terrible what the Europeans are doing'. This is all public relations–the US government was in on the carve-up just like everyone else.

The Washington Plan instigated a confederation between Croatia and Bosnia. Do the Serbs have a moral or legal right to set up a federation with Serbia proper–and this has been one of

their complaints–if the Bosnian government can federate with Croatia, why can't the Bosnian Serbs federate with Serbia?

This is public relations machinery at work again. The Washington Agreements were designed by the State Department to carve up Bosnia under the fiction of preserving the state of Bosnia, but effectively consigning these people to the control of Croatia. The federation with Croatia was imposed on the Bosnians–it's not something that they wanted. It was imposed on them, so the argument that the Serbs must have the same deal
Is just total hypocrisy. But the point is, that the Serbs have already been promised a confederation by the great powers. That's why the federation-confederation was set up between Croatia and Bosnia—to ultimately give the Serbs the same thing. The State Department and the Pentagon admitted that the Washington Plan was just a sophisticated carve-up under another name–I have the admissions on file. So the Washington Plan was another design for a carve-up, to a preservation of the fig-leaf of the republic of Bosnia-Herzegovina while effectively carving it up into two. And Karadzic is still holding out for his independent Serb state. If he were smart–which he is not–he'd go along with the carve-up plans and he'd probably get his state in five, ten, fifteen years from now–and that is what the ultimate agenda is within the Washington Plan. Just read through the documents that are being drafted by State Department lawyers–all you have to do is read through them and it's very clear that this is what the deal is. But most people don't read these documents, they're long, and they're complicated.

This highlights the problems within the management and respect of international law. You did win two world courts orders on behalf of the Bosnian government, but so far, neither respect nor implementation of those orders has occurred. What are the difficulties associated with the management and implementation of international law, and what are the ramifications for the international political order?

I think that at this point, if the UN and the great powers are prepared to let Bosnia go down when there are two World Court orders overwhelmingly in Bosnia's favour on all points, then it seems to me that we're at an end of the international legal order that was set up in the aftermath at the end of World War II.

"I think we've reached a historical era now where the West has proven its complete and total moral bankruptcy on Bosnia and has now forfeited any moral right to leadership that it might have had in terms of a commitment to principles like human rights, democracy, the rule of law, all of which they have subverted, undermined and destroyed in Bosnia." Francis Boyle

When we have the UN carving up a UN member state and violating every Known principle that the post-World War II order was expected to uphold, I believe that we're witnessing the eclipse of the international legal order, and I can assure everyone that that's the way that the Islamic world sees Bosnia. If Muslims had killed a quarter-of-a-million Christians and Jews, and Muslims had raped 30,000 Christian and Jewish women, this war would have been over three years ago. The West would have never tolerated it. But when it comes to Muslim people being massacred,

every known principle of international law has been violated by the permanent members of the Security Council, by the United Nations organization itself, and by all of Europe–they just do not care. Again, as I argued at the World Court, if the UN and the World Court cannot save Bosnia, then what good is the UN. What is left? I think that the answer is nothing. And the longer this goes on, the more that will become apparent. It's the same with NATO. What good is NATO? Again, the answer is nothing. Here we have the world's largest military alliance sitting around in Europe for 40 years with nothing to do. President Bush actually tried to revise the mandate of NATO to put it into a peace-keeping type operation to deal with regional threats in Eastern Europe. The first regional threat appears and what happens? Nothing. And it's destroying NATO from within, and without. I'm sure that we'll see more of this in-fighting at the UN and other types of international forum where the West has proven its total hypocrisy to the Third World and the Islamic world.

For what reasons are the UN and the US distorting the mandates that have been provided to them and why has there been the lack of effective mediation and conflict resolution in Bosnia?

It goes back to Machiavellian power politics, a situation that we saw a decade or so before World War I where there was a reestablishment of the triple entente between Russia, France and Britain. As they see it, Bosnia is not worth another world war. Of course, all three countries unquestionably suffered terribly during World War I. Paris was almost overrun by the Germans, the British lost an entire generation of men, and the Russian empire was dissolved. So their attitude is that the Bosnians are not worth fighting for, the UN Charter isn't worth fighting for, and above all, that as the Balkans is a nasty place there will need to be a strongman in charge of the Balkans. That strongman, of course, is Milosevic–the great powers can do business with Milosevic, and have done business with Milosevic and his predecessors, going back to Tito. Tito was the darling of the West as long as he was opposed to Stalin.

This is the doctrine of the policeman, that every region of the world needs a policeman to keep it under control and Milosevic is the policeman in the Balkans. So we're going to have some hand-wringing and some tears for the Bosnians but they will be sacrificed on the altar of great-power politics. It's really a reversion to pre-World War I mentality and pre-World War II behaviour.

Milosevic is perceived by the US and the West as someone that they can do business with. Is this in terms of the arms trade, or economics, or other geopolitical factors?

In control and domination of the Balkans. And I'm not the only one saying this–you can read it in the pages of the newspapers, or on the Internet–they're all saying the West can do business with Milosevic, not only in respect to Bosnia, but in the whole region. He can keep it under his thumb and keep it under control. The Balkans is a volatile area–that's the assumption, and as far as the West is concerned there needs be someone there to keep it under control and Milosevic can do it. It's pretty much the replay of the Nixon doctrine. For example, the Shah of Iran was America's policeman in the Persian Gulf. That's the notion with Milosevic and whoever his successor might be. Putting aside the rhetoric, the continuity between the Bush and Clinton

administrations is striking. When Yugoslavia was about to fall apart, George Bush sent his Secretary of State, Jim Baker, to meet with Milosevic and make the statement that the United States supports the territorial integrity of Yugoslavia. Why? The policeman theory–the US needs Belgrade to keep the Balkans under control and that statement by Baker effectively was the green light to Milosevic to invade Slovenia, then to invade Croatia, and then to invade Bosnia. And then the arms embargo was put on. If you read the negotiated history of resolution 713 at the UN Security Council, it was not Belgrade's suggestion to implement the arms embargo over the former Yugoslavia, it was the United States', Britain's, France's and Russia's suggestion in order to facilitate Milosevic in his control and domination of the Balkans.

On the issue of the international arms embargo over the former Yugoslav republics, the UN General Assembly voted to lift the embargo, the US Congress voted to lift the embargo as well, yet it remains in place. Why has the international arms embargo not been lifted, and what is the relationship between the arms embargo, human rights and genocide According to the definition provided within the UN Charter?

First of all, the arms embargo was never imposed on Bosnia. Resolution 713 outlining the arms embargo was imposed on the former Yugoslavia. There is no Security Council resolution at all that says that the independent Bosnia is subject to an arms embargo. The situation consisted of the British, and the French and the Americans deciding to prevent the government of Bosnia–a government which not only represents Muslims, but Serbs, and Croats and Jews and others–from defending themselves from a genocidal assault by the Serbs, led by Milosevic, by Karadzic, and by Mladic.

This was a conscientious decision. It was the British Navy, the French Navy and the American Navy in the Adriatic and their Air Forces that made it quite clear that no weapons could go into Bosnia. They couldn't care less about the resolution–the resolution has nothing to do with it. Eventually Congress forced Clinton to pull out but the British and the French are still there policing this embargo. Again, this goes back to the Bush policy, which was to preserve Yugoslavia as an entity at all costs and if the Bosnians had to be sacrificed, then so be it. As the US sees it, they're just Muslims anyway, who cares–President Bush had just killed a quarter-of-a-million Muslims in Iraq and no-one cared, so why should anyone care about the dead Muslims in Bosnia. So, the great powers are working hand-in-glove with Belgrade. And with resolution 713, the great powers had to ask Belgrade to give them permission to put the arms embargo on because it was their idea, not Belgrade's. And Belgrade, after some procrastination, went along with this because they already had enough weapons. They had all the weapons that they would ever need and therefore the embargo was not going to hurt them, but hurt the Bosnians. That was the policy and all the great powers were in on this–the US, Russia, Britain, and France–they're all in on it and they all know exactly what they're doing. It's dirty. Again, when I was in Geneva with the Bosnian Presidency at the Owen-Stoltenburg carve-up, it was like a combination of Munich and Poland, and like watching the Jews go off to Auschwitz in cattle-cars. Even the State Department predicted that if the Owen-Stoltenburg Plan had been carried out, a million-and-a-half to two million Bosnians would be subjected to ethnic cleansing. And, despite this, the plan was still being pushed by Christopher. He and his Ambassador were there

pressuring President Izetbegovic to go along with this carve-up. It was so bad that it led to three State Department officials to quit in protest over a thoroughly duplicitous and unprincipled policy that was being pursued by Christopher, and with the full knowledge and approval of Clinton. Christopher then made some statements about how if the Serbs continued to bombard Sarajevo and other Bosnian cities that there might be airstrikes. Now imagine this–there we were in Geneva trying to negotiate a peace plan, which for all intents and purposes was really a carve-up, and at the same time Serb artillery, tanks and anti-aircraft weapons were pouring fire down on Sarajevo, on Tuzla, Zenica, Gorazde, and all the other Bosnian cities.

NATO airplanes were flying over Bosnia, watching all this going on, taking pictures and sending the reconnaissance photos back to NATO headquarters, to the UN and to Washington, London and Paris. Yet nothing is being done. And you can watch all this on CNN. Meanwhile, President Izetbegovic is told 'by the way, you have to sign this document that will carve Bosnia up and rob Bosnia of its UN membership'. This is what's going on here.

During the so-called peace negotiations in Geneva, we sent a letter to President Clinton asking for airstrikes against the Serb artillery, tanks and anti-aircraft weapons that were then raining death and destruction upon the innocent people of Bosnia. Christopher had only threatened to use airstrikes, so I suggested that we send a letter to Clinton and specifically ask for airstrikes.

So I drafted the letter which effectively asked 'how do you expect us to negotiate here when we are being bombarded. If you want reasonable good faith negotiations, then, at a minimum, we need airstrikes, we need some counter-power here because the Serb leaders aren't interested in negotiating with us'. I've been at peace negotiations–I was with the Palestinians in Washington and that was pretty bad, but nothing like this. These were not negotiations, these were diktats. There is no way that it can be anything but a diktat as long as the Bosnians cannot really do more to defend themselves than they currently are. And that's what the international community has been doing so far. The Owen-Stoltenburg Plan was a diktat. The Vance-Owen Plan was a diktat. The Contact Group plan was a diktat–all imposed on the Bosnians against their wishes. President Izetbegovic is not a Muslim fundamentalist who wants a mini-Muslim state in Bosnia. He is a very cultured, educated, old-world gentleman who would very much like to see a true European state. And he is up there in Geneva with the other members of the Bosnian presidency fighting for a true multi-cultural state. The irony for me is that the Bosnians are fighting for human rights, international law and democracy. That's what the Bosnians want–and the West, the US, Britain, Russia, and France are saying, 'you can't have that–we're not giving it to you. All you have is a little apartheid mini-Muslim state. That's all we're going to give you, there you go'. That's the greatest irony of all.

Speaking to the people of Bosnia, predominantly, they blame two people for the crisis. One is Slobodan Milosevic, the other is Boutros Boutros-Ghali.

The United Nations is an instrument, and in this sense, Boutros-Ghali is correct in stating that the UN can only act according to its mandate. He just does what the great powers tell him to

do–this is not to excuse the UN at all–but the UN is doing exactly what the Russians, the British, the French and the Americans want them to do.

But what Boutros-Ghali must be criticized for is for being so spineless and unprincipled for going along with the carve-up of Bosnia. And remember, his grandfather was the one who signed the treaty handing over Egypt to Britain, so Boutros-Ghali is in the pocket of the British and the Americans. They put him in that slot of Secretary-General against the wishes of the Africans. They wanted a black candidate, but the Americans and the British wanted someone that they could control, and that candidate was Boutros-Ghali. The UN is complicit through and through but again, he UN is just a tool and an instrument of the permanent members of the Security Council They are the ones behind this.

In 1993 when Boutros-Ghali flew into Sarajevo he stated that he could think of at least ten other regions in the world that had more urgent needs and concerns than Sarajevo, and how Bosnia is basically a white persons' war. For what purposes would he have made these statements and, indeed, are there other arenas around the world that are more 'deserving' than Bosnia?

There are many areas of conflict in the world that we in the West overlook. Bosnia was unique at that time because genocide was being perpetrated. This is the first case in the history of the post-World War II era where a formal determination of the existence of genocide was produced, and of the trigger of the Genocide Convention obligation. I Won that World Court ruling on April 8, 1992 and no-one did anything about it despite the existence within the UN Convention of the obligation to stop genocide. Later on, of course, the same thing happened in Rwanda and nothing was done there either–the UN did nothing, the United States did nothing, and indeed the UN made it worse by pulling troops out and allowing the genocide to happen again. What we are witnessing now is a degradation of any international commitments to any principles at all. That even when genocide stares the great powers in the face, they refuse to do anything to stop it. Genocide evolved out of the consensus after World War II that what happened to the Jewish people was atrocious and should never happen again. Yet the same type of backsliding, denial, abnegation of will power that we saw with the Jewish people is happening with the Bosnians and now the Rwandans. I take it that what has happened in Bosnia and Rwanda is a sign to any dictator in the world that it's possible to commit mass murder and genocide and get away with it–no-one's really going to do anything to stop the action unless oil or capital interest is involved. As Haris Silajdzic said in Geneva, 'if you kill one person you're prosecuted; if you kill ten people, you're a celebrity; if you kill a quarter-of-a-million people, you're invited to a peace conference'. That's the lesson of Bosnia, and that's exactly what has happened with Karadzic.

So the agenda for the United Nations in Bosnia and the former Yugoslavia is not to intervene at any cost–a number of public statements by General Michael Rose and Yasushi Akashi deliberately confuse, contradict and compromise the actions of the UN in Bosnia…

As a matter of fact, the UN has now withdrawn the air patrol over Bosnia that was imposed on the same day that I won the first World Court order. On that day it was announced that NATO was going to set up the air patrol over Bosnian air space. I was asked by the BBC what I thought about this and I stated that I hoped that those air planes weren't just going to
Fly over Bosnia and watch the raping, the killing, the murdering and the genocide that was going on, and just wave to the people without anything about it. Yet that is exactly what has happened.

Again, it's not a question of inefficiency with the UN. They know what they're doing and exactly why they're doing it. These people at the UN are not dumb, they are not inefficient, and they are not incompetent. What is being done in Bosnia is being done for a reason. To give you an example, whenever it appeared that NATO might be instigating airstrikes under the impetus of the Clinton administration, General Rose would send some of His own troops to be captured by the Serbs in order to abort the airstrikes. Why were all the UN troops taken hostage in the last month after the first set of UN airstrikes–why weren't they protected?

That's exactly what the UN wanted–they wanted them taken hostage so that further military action would be prevented, and then precipitate an excuse for the UN to pull out of Bosnia. That's why those UN peace-keepers were left at risk. And now, NATO has decided to pull back the patrol "If you kill one person, you're prosecuted. If you kill ten people, you're a celebrity; if you kill a quarter-of-a-million people, you're invited to a peace conference."

Bosnian Prime Minister, Haris Silajdzic, referring to the invitation of Bosnian Serb representative Radovan Karadzic to the Vance-Owen Peace Plan negotiations. over Bosnian airspace. Now they are just patrolling on the Adriatic Sea.

When the attack by the Serb airplanes occurred in Bosnia, nothing was done. Now NATO is pulling back what little ineffective military action they were taking. Apparently senior UN General Bernard Janvier has promised Karadzic that there will be no more NATO airstrikes and as a symbol of this understanding, the UN pulled back and effectively terminated the air patrol of Bosnia. And my guess is that the so-called Rapid Reaction Corps is being sent over there to extricate the UN–that's why Owen quit. Owen has always been a tool of the British Foreign Office and he has done exactly what his masters in London have wanted him to do. Now the great powers have decided that the time has come to pull out of Bosnia and have told Owen to get out of there. So Owen is out. Unless something remarkable happens between now and the end of this year, I suspect that the British and the French will probably withdraw from Bosnia.

The operations of the War Crimes Tribunal have been along the same lines of ineptitude as the resolutions that have been passed through the Security Council and the General Assembly. What exactly is the purpose of the War Crimes Tribunal and what are the problems that exist within its legal framework?

I don't mean to criticise any of the judges involved and I'm sure that they're men and women of good faith but essentially, the War Crimes Tribunal is an exercise in public relations by the

Security Council. The CIA has made detailed reports, the State Department has made detailed reports, they have their reconnaissance satellites and their airplanes–they know all about the war crimes in Bosnia. But in an effort to try to deflect public pressure upon them, the Security Council decided to set up the so-called War Crimes Tribunal to make it appear as if something is being done about the problem, whereas in fact what they are doing is negotiating with the very people whom they know are responsible for the war crimes. That's pretty much like negotiating with Hitler, Himmler and Goring, during World War II. The assumption by the great powers is that these are the reasonable people, they're the ones in power, so we have to broker some type of peace settlement with them because they're the only ones that we can deal with.

The tribunal was pushed by the Clinton administration. Again, total hypocrisy. Clinton took a very strong stand for Bosnia in the campaign. Once he assumed power he just continued the Bush policies. But there's a certain element of public relations. During the campaign he had to appeal to a certain constituency in the United States, the human rights lobby, and for them Bosnia is an important issue. So Clinton has to run around and make it appear as if something is really being done on Bosnia, and the installation of the tribunal gave this appearance. Again, I don't mean to criticize Justice Goldstone, I'm sure he's a well intentioned man. But it's the question of the parameters. There's no money for the tribunal, not much staff, there's not much investigation, so not much is going to happen. It's just like what happened with the Bassiouni commission to investigate war crimes. What happened? Sharif Bassiouni was put in charge of the commission to investigate war crimes in the former Yugoslavia. The UN gave him no money. He had to go out and find his own money. How can there be an effective investigation without money? Then he puts a report out that Boutros-Ghali buries in the ground. We haven't seen very much of that report. The UN buried the whole thing, on purpose.

Then the UN put Bassiouni out of business. Why? Because he was doing an effective job even with all the financial obstacles. And of course, when it was proposed that Bassiouni should be the chief prosecutor, the British objected because they couldn't control him–he might do an effective job–he might do something silly like indict Milosevic. Bassiouni has More than enough evidence at the court on Milosevic–do you think that they're going to indict him when they're trying to negotiate with him? This will not happen.

In Geneva during the peace negotiations, President Izetbegovic had to go in and shake hands with Karadzic. I walked right past him–I wasn't going to shake his hand because he's a mass murderer and a criminal. And he has been given visas to come and negotiate in Geneva. And in New York. The State Department let Karadzic come to New York to the Vance-Owen carve-up negotiations, with a US visa. The State Department was obliged under the Geneva Convention to apprehend Karadzic. Eagleburger had already identified him a suspected war criminal. The US had an absolute obligation to apprehend Karadzic if he showed up in New York, and to open an investigation, and to prosecute–instead, they're giving him a visa and secret service protection in New York. And the same happened in Geneva–they're giving protection to war criminals. People who commit genocide. That's who the great powers are dealing with. That's who they're negotiating with, and they know it. They know it full well. This is not a question of

ineptitude and incompetence. Everyone knows exactly what they're doing and why they are doing it.

So when Lawrence Eagleburger accused Slobodan Milosevic and Radovan Karadzic of war crimes, and he is not the only one to make the accusations–the accusations have been made many times by leading political figures–is it another extension of the public relations And propaganda machine at work?

Pretty much–to make it appear that if nothing is being done effectively to stop the genocide, then at least there can be some condemnation because there is some public pressure here in the United States to do something. At this time the first reports were coming out of the death camps by Roy Gutman, the courageous reporter from Newsday. The US knew about these death camps but they weren't saying anything about them, and they weren't going to do anything about them. Then Gutman broke the story and it went out all over the world. Finally, amid the hemming and hawing the US said 'oh yes, we guess it is happening, we should condemn it'. The same thing happen to the Jews which is what led to the Genocide Convention. The theory was that if genocide ever happened again, that the world had an absolute obligation to stop it. That's what the Genocide Convention is all about.

And yet here in the United States, even Clinton refused to admit that genocide was going on in Bosnia. And that after I won the first World Court order determining that genocide was going on in Bosnia and that the Serbs must cease and desist, not only in Belgrade but also in Pale. The US and the UN refused to admit that genocide was going on even when they Knew all about it. They didn't want to admit to the obligation to stop it. And why? Again, as the great powers see it, these people are Muslim, they're throw-away people. If these people were Christians or Jews or whatever–different story. But since they're Muslims, who cares. It's the same attitude that the world took towards the Jews a generation ago. And indeed that's pretty much how it looks with the Bosnians–it was a repeat of the attempt to save the Jews back in the 1930s, except this time the Bosnians will go down fighting. Unlike everyone else who predicted that they were going to throw in the towel, they're going to fight.

I remember President Izetbegovic saying that he will die in Sarajevo. So if the Bosnians are going to go down, they're going to go down fighting. And that's what the inconvenience is for the great powers, that these little-bitty people are going to fight, they're not going to go quietly, and they're not going to sign some 'peace' document that puts them out of business completely.

In current world political affairs, there is one consistent factor in the conflicts in Bosnia, Chechnya, Nagorno-Karabakh, the Gulf war—a toleration by the West of atrocities committed against Muslim populations. An overriding agenda in the West is to actively deter Islamic fundamentalism and create mass hysteria to surround any political domain that comprises a 'Muslim' leadership.

Certainly if you look at it, that's what is happening, where the West seems to be going to war with the Muslim world. Just look around. The way that the Palestinians are being treated by the Israelis is tantamount to genocide–and indeed, I've offered to President Arafat to sue the Israelis at the World Court over this matter. Libya is being attacked and destabilized because of oil and the fact that Colonel Gaddafi will not take orders from the West.

Iran is under assault by the United States primarily at the beckoned call of the Israelis lobby the US. The entire Gulf is under the control of the United States. The US sits on top of all that oil–50 percent of the world's oil supply. And the US is keeping Iraq in near genocidal conditions–I've also offered to the Iraqi government to sue the permanent members of the Security Council to break the economic embargo that's designed to destroy them. Chechnya again is a situation where more Muslim people are being wiped out. After the Russian invasion, I tried to get some of the Islamic states to let me sue Russia to try to stop this, but none of them were prepared to go after the Russians. So this is the consistent pattern by the West of hostility toward the Islamic world, and it's only going to get worse not better. Bosnia is simply part of it in the grander scheme of things.

And we've also heard Owen and others say 'we don't want a Muslim state in Europe'. This is a continuation of the historic process of expulsion of Muslims from Europe going back to disintegration of the Ottoman empire and the subsequent mass transfers of people. This is the final cleansing and wiping out of a major concentrated population of Muslims in Europe and no-one really cares.

In 1991, the Gulf war contained its own version of geo-political hypocrisy for the purpose of Western capital interests. However, this period did see a level of consultancy and agreement amongst the great powers that failed to exist for decades, and was regarded as the pinnacle of the United Nations' achievements. Four years after the Gulf war, the talk about the end of the United Nations is being circulated. Will the friction that exists between Muslim countries and Christian countries ultimately lead to the dissolution of the United Nations, in the same way that the League of Nations dissolved over 50 years ago?

Of course, the Gulf war was simply an attempt by the United States to steal 50 percent of the world's oil resources using the UN as a pretext and a cover to do so. The problem with many of the Muslim nations is their leadership. It's not the Muslim people, it's their cowardly leaders. They know exactly what's going on. They are not prepared to take the West on behalf on any of these causes, they're divided, they're paralyzed, they're corrupt, and they're bought off for the most part by the West. This became clear to me when I was in Geneva, meeting with some of the Ambassadors from the Islamic Conference Organization during the Owen-Stoltenburg carve-up. I said to these Ambassadors 'gentlemen, your people will hold your leaders accountable if the Bosnians are carved-up and destroyed'. The Deputy Head of the ICO smiled and shrugged his shoulders and said 'but, what can we do?'. At that point it was clear to me that all the Muslim rulers around the world know exactly what's happening but are not prepared to take on the West over Bosnia, Palestine, Libya, Iraq, Chechnya, or anywhere else. And they have had the options available to them. In 1973 they had

an oil embargo and the leverage that went with it. In the speeches that I've given in Malaysia and Turkey, I've stated to the Muslim nations that if they want to save the Bosnians, they should impose an oil embargo on the West. But they can't do it now because the situation has changed. Because the US troops are now stationed in Saudi Arabia, Kuwait, Oman, Abu Dhabi, and Qatar. These rulers are no longer free. So this is the problem for the leadership. But for the people of the Muslim world, Bosnia is a critical issue.

They see the total hypocrisy of the West on human rights and international law, and the United Nations Charter and see that their leaders are not prepared to go to the matt on any of these issues. This is the typical colonial divide and conquer strategy, just as the Romans did, just as the British did, and what the Americans are doing today.

What type of future do you see for the republic of Bosnia-Herzegovina? The Bosnians are going to keep fighting. As for where this will lead to, I really can't say, but as long as the Bosnians keep fighting, the pillars of the post-World War II legal order are going to be shaken–the UN, NATO, and the World Court. With the total hypocrisy surrounding all of the international principles, these institutions will continue to be unmasked and will continue to be undermined. That's what I see happening if the current policies continue, but unfortunately it appears that this is going to be the case in the future. As for me, I am still prepared to return to the World Court and start suing the permanent members of the Security Council and break that arms embargo for the Bosnians. This is the most critical factor now as they need the heavy weapons to defend their people. This is their right under Article 51 of the UN Charter. It is also their obligation under the Genocide Convention. So I don't see the Bosnians going away when they are prepared to fight and die for human rights and democracy–that was my impression after talking with President Izetbegovic–he is not going to throw in the towel. So the conflict in Bosnia will continue and the longer it continues the more it is going to shake the foundations of the post-World War II order.

What type of future is there for the United Nations? None. As I see it, if this continues the way that it's going, then the UN means nothing, and it would be better to put it out of its misery, than a continuation of the current hypocrisy. By now, it should be clear to everyone that the UN is nothing more than the agent, and the instrument of those four permanent members operating in the Security Council and that it really has no independent or outside existence. The UN is pretty meaningless, so let's strip away the facade and the veneer and get down to the fiasco that's really happening here.

Could the United Nations become more meaningful and legally viable if there was reform in the Security Council itself?

The Security Council should be put out of business and all the functions for any maintenance of international peace and security should be transferred to the General Assembly by two thirds vote. In this sense, there would be the capacity to have some sort of democratic control but this suggestion is not on anyone's agenda.

The Security Council is like a star-chamber these days, where they no longer even meet in public. All matters are now transacted in private. It's just a little club of the most powerful members of the world to order around everyone else. That's what the Muslims saw in the Gulf. We are seeing, in a historical perspective, the perversion—total perversion–of every known principle of international law, and the international organizations and institutions that were set up after World War II. Now that this is being turned on its head, and especially if the war in Bosnia continues, I really don't anticipate the current order staying.

We've reached a historical era now where the West as it is, Europe, and the United States, has proven its moral bankruptcy–complete and total moral bankruptcy, initially in Bosnia and then later on Rwanda. The West has now forfeited any moral right to leadership that it might have had in terms of a commitment to principles like human rights, democracy, and the rule of law, all of which they have subverted, undermined and destroyed in Bosnia.

The Bosnian crisis, whatever comes of it will be a turning point in the way people now perceive the West, and of course, that perception is that all the West is interested in its their own pocket books and controlling the world with weapons–the West produces the best weapons in the world and it has become obvious to the world that the West doesn't care about principles. All the West cares about is oil, standards of living and developing the weapons necessary to keep those standards of living. That's it. And that is becoming more and more clear to the Third World. How the Third World will act on is unknown but I think that we are certainly at a major turning point in international relations.

The then Bosnian Foreign Minister Muhamed Sacirbey and several members of the RBIH Parliament asked me to do this expedited analysis of Dayton for consideration by the RBIH Parliament during their debate on Dayton and for the purpose of formulating a package of Reservations, Declarations and Understandings to Dayton in their Instrument of Ratification.

MEMORANDUM

TO: THE PEOPLE AND PARLIAMENT OF THE REPUBLIC OF BOSNIA AND HERZEGOVINA

FROM: PROFESSOR FRANCIS A. BOYLE

SUBJECT: THE DAYTON AGREEMENT

DATE: NOVEMBER 30, 1995

DEAR FRIENDS:

Introduction

1. I have now had the opportunity to study the Dayton documents. It is clear that Bosnia will lose 49% of its territory to the Serb aggressor forces. Even worse, however, the 30% of Bosnia now under control of the Government and the Armija will effectively cede its independence to NATO. NATO will become a belligerent occupation force that will be totally in control of the land where it is stationed. I can see why you might be prepared to give away 49% of Bosnia that you do not control. But I cannot understand why you would want to give away to NATO the 30% of Bosnia that you do control. In essence, the 30% of Bosnia that you do control will become the ward of NATO. You will have absolutely no independence at all. The NATO commander will have absolute dictatorial powers and the military force necessary to back up his decisions. The President, the Presidency and the
Government will become nothing more than a puppet regime that will have to do whatever NATO tells them to do.

2. Thus, after all these years, after all of your suffering, after all you have accomplished, you will be effectively surrendering 49% of your territory to the Serbs, 20% of your territory to Tudjman, and 30% of your territory to NATO. Of course this decision is for you to make, not me. But your Army was not defeated in battle. It controls 30% of the territory of Bosnia. It makes absolutely no sense for the Army to surrender to NATO under the terms of the Dayton Agreement. These conclusions become clear from an analysis of the following elements of the Dayton Agreement:

Proximity Peace Talks, Wright-Patterson Airforce Base, Dayton,
Ohio, November 1-21, 1995

General Framework Agreement for Peace in Bosnia and Herzegovina

3. The General Framework Agreement refers to "the Federal Republic of Yugoslavia," not the Federal Republic of Yugoslavia (Serbia and Montenegro). This is yet another concession to the rump Yugoslavia that basically implies that the Federal Republic of Yugoslavia is the successor-in-law to the former Yugoslavia.

4. Article I already refers to "Bosnia and Herzegovina" instead of the Republic of Bosnia and Herzegovina. It appearsfrom this phraseology that the Republic of Bosnia and Herzegovina will give way to something called "Bosnia and Herzegovina." In other words, the Serbs will have accomplished their objectives of dissolving the Republic of Bosnia and Herzegovina, while obtaining formal recognition of Republika Srpska.

5. Article III explicitly refers to Republika Srpska. This has been another Serb objective all along, to obtain formal recognition of Republika Srpska.

6. Article V. It is a bit strange and unprecedented for the Republic of Croatia and the Federal Republic of Yugoslavia to "fully respect and promote fulfillment of the commitments made" in the new Constitution of Bosnia and Herzegovina. In other words, Croatia and the rump Yugoslavia have basically been made guarantors for the Constitution of Bosnia and

Herzegovina. This is similar to what happened in Cyprus, where Turkey, Britain and Greece were guarantors. Of course the war ensued.

7. Article X says that the Federal Republic of Yugoslavia and the Republic of Bosnia and Herzegovina "recognize each other as sovereign independent states within their international borders." Yet, this language does not constitute formal diplomatic recognition. This can only be done by means of the two governments exchanging ambassadors with each other. This is confirmed by the next language found in Article X: "Further aspects of their mutual recognition will be subject to subsequent discussions." Hence there is still not the establishment of formal diplomatic relations between the Republic of Bosnia and Herzegovina and the Federal Republic of Yugoslavia. I doubt very
seriously that Milosevic will ever exchange Ambassadors with, and thus formally recognize, the Republic of Bosnia and Herzegovina, which will be dissolved under the terms of the Dayton Agreement.

8. Article XI. The fact that this Agreement enters into force upon signature simply indicates that Holbrooke decided to ram it through immediately and then present it as a fait accompli to the Parliament of the Republic of Bosnia and Herzegovina.

Annexes

Annex 1-A: Agreement on the Military Aspects of the Peace
Settlement

Article I. General Obligations

9. Obviously this Agreement attempts to treat NATO as if it were a "regional organization and arrangement" within the meaning of Chapter 8 of the United Nations Charter. But NATO is clearly not this. Rather, NATO is a collective self-defense arrangement organized under Article 51 of the Charter, which falls within Chapter 6. NATO has no authority under the terms of the United Nations Charter or the NATO Pact to engage in some type of international peace enforcement operation as described herein.

10. Arguably the United Nations Organization has authority to set up a peacekeeping operation such as UNPROFOR. But NATO does not.

11. 2(a). "Neither Entity shall threaten or use force against the other Entity, and under no circumstances shall any armed forces of either Entity enter into or stay within the
territory of the other Entity without the consent of the government of the latter and of the Presidency of Bosnia and Herzegovina." In other words, the Bosnian Armija cannot attack the Srpska Army under any circumstances.

12. 3. "Both Entities shall be held equally responsible for compliance herewith…" In other words, the Federation of Bosnia and Herzegovina and Republika Srpska are being treated as if

they were de facto independent states. The Republic of Bosnia and Herzegovina is nowhere to be found here.

Article II. Cessation of Hostilities

Article III. Withdrawal of Foreign Forces

13. This seems to require the withdrawal of military forces of the Republic of Croatia and the rump Yugoslavia within thirty days. And yet the Republic of Croatia and the rump Yugoslavia are not parties to this Annex. Rather, the only parties to this Annex are the Republic of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, and the Republika Srpska. But there are side letters to that effect which will be discussed below.

Article IV. Redeployment of Forces

14. There is established here a zone of separation between the forces that is four kilometers wide, that is two kilometers on either side of an agreed cease-fire line. Only IFOR is permitted in this agreed cease-fire zone of separation. In other words, this is a de facto carve-up of the Republic of Bosnia and Herzegovina along the cease-fire line that will be policed by IFOR.

III. Phase II, page 7

15. Here the document refers to "Inter-Entity Boundary Line". So it is clear that they are talking about a boundary line here. In other words, once again, both Entities are being treated as if they were de facto states requiring the demarcation of boundary line.

16. 4. General, page 8. Notice here that IFOR will demarcate the boundary line between the two Entities. So, once again, you have NATO/IFOR formally demarcating a border, thus creating two de facto independent states.

V. Phase III, page 9

17. 6. "…the IFOR has the right and is authorized to compel the removal, withdrawal, or relocation of specific Forces and weapons from, and to order the cessation of any activities in, any location in Bosnia and Herzegovina…" In other words, IFOR is going to run the entire country of Bosnia and Herzegovina. The rest of paragraph 6 gives IFOR the right to use military force toward that end.

18. Basically, therefore, IFOR will be in charge of the entire country, with the right to use military force anywhere it wants. It is hard to see what will be left then of the formal independence of the Federation of Bosnia and Herzegovina, let alone the Republic of Bosnia and Herzegovina.

Article VI. Deployment of the Implementation Force, page 11

19. The Security Council is supposed to establish IFOR acting under Chapter 7 of the United Nations Charter, which deals with enforcement action. Nevertheless, NATO still has no authority or competence to do this. Rather, it is simply a collective self-defense arrangement organized under Article 51, which is in Chapter 6.

20. 3. IFOR can be called upon to assist the conduct of free and fair elections, to assist humanitarian organizations, to deal with refugees, etc. Page 12. In other words, it appears that IFOR will be drawn in to provide the military muscle necessary to do everything else in Bosnia and Herzegovina. This is directly contradictory to what Clinton is saying publicly about the limited role of NATO.

21. 5. Basically, the IFOR commander can do whatever he wants in Bosnia and Herzegovina. And paragraph 6 gives him the right to use military force. In other words, all of Bosnia and Herzegovina is going to be run by IFOR.

22. Page 13. Basically, IFOR will become the belligerent occupant of Bosnia and Herzegovina, with all the rights, privileges, and immunities thereof. And the IFOR commander has the right to use military force basically at his discretion.

23. Under these conditions, therefore, I do not understand how IFOR cannot get involved in so-called nation-building in Bosnia and Herzegovina.

24. Basically, under the terms of this Agreement, NATO will become the belligerent occupant of Bosnia and Herzegovina. It will therefore have the obligation under the Hague Regulations to maintain law and order. Consequently, the Bosnian government will be giving up whatever independence it currently exercises over the 30% of Bosnian territory that it now controls, as well as permanently surrendering away control over the 49% of Bosnian territory assigned to Republika Srpska. Under these circumstances, the President, the Presidency and the Parliament will become nothing more than a puppet regime that will have to do whatever ordered by IFOR.

Article VIII. Establishment of a Joint Military Commission

25. It seems to me that the Joint Military Commission will become the de facto government of Bosnia. Notice, however, that the Commission shall function as nothing more than a consultative body for the IFOR commander. Therefore, the IFOR commander runs all of Bosnia for all intents and purposes.

Article XII. Final Authority to Interpret

26. Basically, the IFOR commander has the legal authority to do whatever he wants to do. So in essence this Agreement is setting up a military dictatorship in Bosnia under the control of the IFOR commander. Appendix B to Annex 1-A: Agreement Between the Republic of Bosnia and

Herzegovina and the North Atlantic Organization (NATO) Concerning the Status of NATO and its Personnel

27. Basically, NATO personnel will be immune from the jurisdiction of the Republic of Bosnia and Herzegovina for whatever they might do. This NATO operation will be a law unto itself. Agreement Between the Republic of Croatia and the North Atlantic Treaty Organization (NATO) Concerning the Status of NATO and its
Personnel

28. I have not read this document. Agreement Between the Federal Republic of Yugoslavia and the North Atlantic Treaty Organization (NATO) Concerning Transit
Arrangements for Peace Plan Operations

29. I have not read this document.

Annex 1-B: Agreement on Regional Stabilization

30. This Agreement is between the Republic of Bosnia and Herzegovina, the Republic of Croatia, the Federal Republic of Yugoslavia, the Federation of Bosnia and Herzegovina and Republika Srpska.

Article II(i)

31. Notice that this only talks about a military liaison mission between the chiefs of the armed forces of the Federation of Bosnia and Herzegovina and the Republika Srpska. In other words, the Army of the Republic of Bosnia and Herzegovina disappears. And the Armies of the Federation and Srpska are treated as Armies of de facto independent states. There is no joint command, only coordination, which will never happen.

32. Article IV, page 4. These arms ratios are totally inequitable. Basically, the rump Yugoslavia will have 75% plus the 10% given to Republika Srpska for a grand total of 85% of the baseline. The Republic of Croatia will have 30% of the baseline, whereas the Federation will have 20% of the baseline. I do not see how these ratios can create a stable peace in Bosnia or in the Balkans.

Annex 2. Agreement on Inter-Entity Boundary Line and Related
Issues.

33. The establishment of an inter-entity boundary line between the Federation and Srpska will probably become permanent.

Article V. Arbitration for the Brcko Area

34. Basically this puts the Brcko area on ice for the next year. Again, the whole purpose of this Dayton Agreement was for Clinton to get something in writing so that he could put the whole

Bosnia issue on ice for the next year in order to move forward with his presidential election campaign without interference.

35. Also, right now I think it might be unlikely for the President of the International Court of Justice to appoint a third arbitrator when Bosnia has a case pending before the World Court against the rump Yugoslavia. Of course if and when Bosnia is forced to withdraw this lawsuit, then perhaps the President of the Court might be willing to discharge this obligation. They should have provided for some other alternative here besides the ICJ
President.

Annex 3. Agreement on Elections

36. Page 2. Quite frankly I do not see how there can be real elections within nine months after entry into force of this Agreement under the current conditions. This requirement is a joke. All the Pale Serbs have to do is stall. The elections will never go forward in Republika Srpska in accordance with these requirements and under these conditions.

Article III. The Provisional Election Commission

37. It is for the Commission to impose penalties “against
any person or body that violates such provisions.” But obviously
this means nothing without IFOR enforcement.

Article IV. Eligibility

38. “By Election Day, the return of refugees should already be underway, thus allowing many to participate in person in elections in Bosnia and Herzegovina.” This is a ridiculous statement. How can anyone take this at face value.

39. There is absolutely no way anyone is going to be able to organize democratic elections in Bosnia within the next ten months.

Annex 4. Constitution of Bosnia and Herzegovina

40. Continuation. It does appear from the language used here that the continuity of the state as an international legal person will continue, including Bosnia’s membership in the United Nations Organization. Of course the Serbs will be able to claim that “the Republic of Bosnia and Herzegovina” no longer exists and that this Agreement explicitly recognizes Republika Srpska. But unlike previous versions, this language appears to protect the legal existence of the State and its U.N. membership. The first draft language given by Holbrooke to President Izetbegovic on 5 November 1995 would have dissolved the Republic of Bosnia and Herzegovina as a state under international law. So much for his good faith. It was just as bad as what Owen tried to do at the Owen-Stoltenberg negotiations.

41. Article III. Responsibilities of and Relations Between the Institutions of Bosnia and Herzegovina and the Entities. Obviously, Defense is omitted from this list on purpose. Therefore, the central institutions will have no competence to deal with matters related to the defense of the State. Therefore, under paragraph 3, below, the two entities have responsibility for “defense”. Hence, the two entities–the Federation and Srpska– will become de facto independent states.

42. Effectively, then, the institutions of the currently- existing Republic of Bosnia and Herzegovina will go out of existence, and a limited number of institutions with limited competence might take their place. All other institutions must be agreed upon by Republika Srpska, which will never happen.

43. Article IV. Parliamentary Assembly. The House of Peoples will never work here because the Serb Delegates from Republic Srpska will simply absent themselves as a block on instructions from Pale.

44. Since the Pale Serbs can veto the operations of the House of Peoples, then they can also veto the operations of the Parliamentary Assembly.

45. Since the Pale Serbs can order their delegates to the House of Peoples to absent themselves, there will never be a quorum in the House of Peoples. Since there will never be a quorum, the House of Peoples cannot act lawfully, and therefore the Parliamentary Assembly cannot act lawfully. Thus nothing will get done against the wishes of the Pale Serbs.

46. These other provisions do not change the situation. Since the Pales Serbs have the right to prevent quorum, then no business can be transacted at all against their wishes.

47. Once again, by voting as a block, the delegates or members from Republika Srpska can effectively prevent any business from being transacted by the Parliamentary Assembly against their wishes.

48. Paragraph 4. Powers. Notice that the Parliamentary Assembly does not have the competence to actually levy, raise, or appropriate taxes or revenues. It can only do the “deciding upon the sources and amounts of revenues for the operations… .” In other words, it has no independent source of income. For this reason, it will be completely meaningless. It will be very similar to the first Articles of Confederation here in America that failed precisely for this reason. It was replaced by the Constitution of the United States of America that gave the Federal Congress the right to raise money by means of taxation, duties, imposts, etc. Without the power to tax, this Parliamentary Assembly will have no effective powers at all.

49. Article V. Presidency. Section 2(d) effectively gives the Pale Serbs a veto power over the operations of the Presidency. In other words, the Presidency will be able to do nothing against their wishes. It simply will not be able to operate.

50. Thus the Pale Serbs will even be able to prevent the Presidency from conducting the foreign policy of Bosnia and Herzegovina. Therefore, even that limited competence can be effectively forestalled by the Pale Serbs.

5. Standing Committee

51. Under this provision, the Bosniac member of the Presidency has control over the Bosnian Armija. The Croat member of the Presidency has the control over the HVO. And the Serb member of the Presidency has control over the Srpska Army. It does not appear that there will be any type of joint command or general staff for these three armies. Thus, the Srpska Army will remain intact as it currently is. If so, then that would undermine the paper guarantee of refugees and displaced persons to return to their homes. Why would a Bosniac or a Croat want to return to their homes under the occupation of the Srpska Army that is being commanded by the successors to Mladic and Karadzic? That refugee would have to be insane.

52. The rest of the language in 5(a) guarantees the de facto partition of Bosnia and Herzegovina.

53. The Standing Committee on Military Matters only has authority "to coordinate," not to command. Therefore, the three armies (Armija, HVO, Srpska) will remain intact as is.

Article VI. Constitutional Court

54. This so-called protection in here giving the Constitutional Court the jurisdiction to decide on a "special parallel relationship" will not help. The Constitutional Court would certainly have to permit a "special parallel relationship" between Republika Srpska and the Republic of Serbia that is identical to the Confederation Agreement between the Republic of Croatia and the Federation of Bosnia and Herzegovina. But the conclusion of such a Confederation Agreement between Republika Srpska and the Republic of Serbia will be tantamount to a de facto, but not de jure, absorption of Republika Srpska by the Republic of Serbia. In other words, you will have a de facto, but not de jure, Greater Serbia that would include 49% of the territory of the Republic of Bosnia and Herzegovina.

55. It is also clear that the Constitutional Court has no authority to interfere when the Pale Serbs absent themselves so as to prevent the establishment of a quorum in the House of Peoples. Thus, there is no way the Constitutional Court can force the House of Peoples and therefore the Parliamentary Assembly to function and operate against the wishes of the Pale Serbs.

Article VII. The Central Bank

56. This provision provides that the Central Bank's responsibility "will be determined by the Parliamentary Assembly." But since the Pale Serbs have a veto power over the operations of

the Parliamentary Assembly, this Central Bank will never be able to do anything effectively. That is made clear by the next sentence which makes it clear that the Central Bank cannot for a period of six years “extend credit by creating money.” And it can
only get that authority when expressly granted by the Parliamentary Assembly, which will never occur because of the Pale Serb veto power. Thus there will be a Central Bank in name only.

Article VIII. Finances

57. Basically, the Parliamentary Assembly will have no effective authority to raise revenue against the wishes of the Pale Serbs. Likewise, the Pale Serbs will simply refuse to
provide the required one-third of the revenue of the Parliamentary Assembly. The fact that the Parliamentary Assembly must rely upon the Federation and Republic Srpska for its revenue is a fatal defect here. Once again, it is similar to the arrangement under
the American Articles of Confederation whereby the Central Government had to rely upon the States to provide revenues to it. They never did it, which is why the Articles were replaced by the U.S. Constitution.

Article XII. Entry Into Force

58. “1. This Constitution shall enter into force upon signature of the General Framework Agreement as a constitutional act amending and superseding the Constitution of the Republic of Bosnia and Herzegovina.” This procedure is obviously unconstitutional under the current Constitution of the Republic of Bosnia and Herzegovina. Indeed, this new Constitution is not even required to be submitted to the Parliament of the Republic of
Bosnia and Herzegovina. For all intents and purposes, this new Constitution has come into effect immediately in accordance with its terms without the approval of the Parliament of the Republic of Bosnia and Herzegovina and without following the amendment
procedure in the current Constitution of the Republic of Bosnia and Herzegovina. In other words, under the terms of this Constitution, the Republic of Bosnia and Herzegovina, its Parliament, and all its institutions have basically gone out of existence as of November 22, 1995. That is the reason why they got rid of the name “Republic of Bosnia and Herzegovina” in Article I.

Annex II. Transitional Arrangements

1. Joint Interim Commission

59. Notice here that the “Parties” established the Joint Interim Commission to implement the Constitution of Bosnia and Herzegovina. But the Parties are the Republic of Bosnia and Herzegovina, the Republic of Croatia, and the Federal Republic of
Yugoslavia. Why should Croatia and the rump Yugoslavia have anything to say about the implementation of the Constitution for Bosnia and Herzegovina?

4. Offices

60. It appears that this language allows for the continuation of “governmental offices, institutions, and other bodies of Bosnia and Herzegovina” to operate “in accordance with applicable law” until superseded. Notice, however, that these offices and institutions are no longer operating in accordance with the Constitution of the Republic of Bosnia and Herzegovina. Also, it is not clear that this transitional provision would apply to the Parliament of the Republic of Bosnia and Herzegovina. The title “offices” would not seem to include Parliament itself.

Annex 5. Agreement on Arbitration

61. Basically, this Agreement requires arbitration between the Federation of Bosnia and Herzegovina and the Republika Srpska. The Republic of Bosnia and Herzegovina has nothing to do with it. Therefore, pursuant to this Agreement, the Federation and Srpska are being treated as if they were de facto independent states.

Annex 6. Agreement on Human Rights

62. Article I treats the Federation of Bosnia and Herzegovina and Republika Srpska as if they were de facto independent states with obligations under international human rights treaties.

63. Article III(2): “The salaries and expenses of the Commission and its staff shall be determined jointly by the parties and shall be borne by Bosnia and Herzegovina.” In other words, the Pale Serbs have a veto power over the operation of the Commission. Hence I doubt very seriously that this Commission will ever come into existence. Moreover, it is clear that the salaries and expenses will not be paid for by the Federation of Bosnia and Herzegovina and Republika Srpska. Rather, it says they will be paid for by “Bosnia and Herzegovina,” which cannot generate its own revenue. If they were serious about the Commission, they would require the expenses to be paid for by the Federation and Republika Srpska.

64. So this entire Annex on Human Rights Implementation and Machinery looks fine on paper. But since there is no provision for effective financing, I doubt very seriously that it will ever come into effective and meaningful operation.

Annex 7. Agreement on Refugees and Displaced Persons

65. Article I. This says nothing at all about who will be responsible for paying compensation to refugees for “any property that cannot be restored to them.”

Commission for Displaced Persons and Refugees

66. “2. The salaries and expenses of the Commission and its staff shall be determined jointly by the Parties and shall be borne equally by the Parties.” So here it is required that the Federation and Republika Srpska pay the expenses, as opposed to “Bosnia and Herzegovina” which is the case for the Human Rights Commission. Nevertheless, these matters must be “determined jointly by the Parties.” In other words, the Pale Serbs have been given a veto power over the establishment and operation of the Commission. Hence, I doubt very seriously that it will ever be able to operate effectively.

67. Article XII(2). The Commission has the power to award “just compensation as determined by the Commission.” But there is
no effective mechanism here for this compensation to be paid. For example, there is no requirement that the Federation or especially Republika Srpska pay such compensation. If this provision were to have any meaning, clearly Republika Srpska would be required to pay “just compensation” for all the property it has destroyed.

68. Paragraph 6. This language about compensation bonds means nothing. There is no obligation here by anyone to honor these compensation bonds.

69. Article XIV. Property Fund. Once again, there is no fixed capital contribution for this Fund. So I doubt very seriously that anything will come of it, let alone the so-called compensation bonds.

70. Basically, this Fund will depend upon grants from the international community.

Annex 8. Agreement on Commission to Preserve National Monuments

71. Article III: “The salaries and expenses of the Commission and its staff shall be determined jointly by the Entities and shall be borne equally by them.” In other words, once again the Pale Serbs have a veto power over the function of this Commission. So it probably will never get off the ground.

72. This is a joke and a half that Republika Srpska has agreed to protect national monuments when in fact it has done everything possible to destroy them throughout Bosnia. This Annex is the height of hypocrisy and absurdity.

Annex 9. Agreement on Establishment of Bosnia and Herzegovina
Public Corporations

73. In the Preamble, notice that the Republic of Bosnia and Herzegovina is no longer even mentioned. Under the new regime, the Republic of Bosnia and Herzegovina will disappear. Hence, the Federation and Republika Srpska are being treated as if they were
de facto independent states here.

74. Article II(5). "Within 30 days after this Agreement enters into force, the Parties shall agree on sums of money to be contributed to the Transportation Corporation for its initial budget. …" In other words, once again, the Pale Serbs have a veto power over the operation of this Transportation Corporation, which means that it will probably never come into effective operation. This is nothing more than a mere paper corporation.

75. Article III. Other Public Corporations. This Article is the height of cynicism. Effectively it recognizes that the only public corporation set up was the transportation corporation, which is only on paper. There is not even an obligation to set up any other types of public corporations to deal with utilities, energy, post and communications. The establishment of these public corporations is subject to the veto power of the Pale
Serbs, so they will never be set up.

Annex 10. Agreement on Civilian Implementation of the Peace
Settlement

76. Article V. Final Authority to Interpret. "The High Representative is the final authority in the theater regarding interpretation of this Agreement on the civilian implementation of the peace settlement." In other words, the High Representative will basically run Bosnia and Herzegovina as he or she sees fit with respect to non-military matters. IFOR will have the power and authority to do whatever it wants with respect to military matters. Hence, there will be no real sovereign authority or control left to the Federation of Bosnia and Herzegovina or any of the Central Authorities for "Bosnia and Herzegovina." The President, the Presidency, the Government, and the Parliament will constitute merely a puppet regime devoid of any real independence from NATO.

Annex 11. Agreement on International Police Task Force

77. Under this Annex it appears that the United Nations Organization is basically going to take over and assume supervisory jurisdiction for all domestic law enforcement activities within Bosnia. Therefore, the Bosnian government will basically lose control over this attribute of State sovereignty as well.

Agreement on Initialling the General Framework Agreement for Peace
in Bosnia

Letter by Granic to Kinkel, November 21, 1995

78. Notice that in this letter the Republic of Bosnia and Herzegovina no longer exists. Granic for Croatia does not agree to respect "the sovereignty, territorial integrity and political independence of" the Republic of Bosnia and Herzegovina.

79. The same applies to the other letters by him.

Letter by Milutinovic to Kinkel of 21 November 1995

80. Notice that the Federal Republic of Yugoslavia does not agree to respect "the sovereignty, territorial integrity and political independence of" the Republic of Bosnia and Herzegovina. The same applies to the other letters by him.

81. Concerning the letter by Granic to Boutros Ghali of 21 November 1995, I doubt very seriously that the Republic of Croatia "shall strictly refrain from introducing into or otherwise maintaining in Bosnia and Herzegovina any armed forces or other personnel with military capability." The undoubted violation of this Agreement would arguably create a material breach of the Dayton Agreement that the Republic of Bosnia and Herzegovina could rely upon to pull out of the Dayton Agreement. The same argument applies to Granic's other letters to the same effect.

82. Concerning the letter by Milutinovic to Boutros Ghali of 21 November 1995, I doubt very seriously that "the Federal Republic of Yugoslavia shall strictly refrain from introducing into or otherwise maintaining in Bosnia and Herzegovina any armed forces or other personnel with military capability." Arguably, the breach of this commitment, which undoubtedly will occur, will be a material breach of the entire Dayton Agreement that would give justification to the Republic of Bosnia and Herzegovina for pulling out of this Agreement. The same rationale would apply to the other letters by Milutinovic to that effect.

Letter by Izetbegovic to Christopher, November 21, 1995 on Confidence Building Measures

83. Notice that the Republic of Bosnia and Herzegovina no longer exists.

Milosevic Letter to Christopher of November 21, 1995

84. Notice that he does not undertake any obligation to develop confidence building measures between the Federal Republic of Yugoslavia and the Republic of Bosnia and Herzegovina.

85. Notice also that the establishment of formal diplomatic relations are not called for by this Agreement, which would require the exchange of Ambassadors between the Federal Republic of Yugoslavia and the Republic of Bosnia and Herzegovina. Indeed, this Agreement does not even call for the exchange of Ambassadors between the Federal Republic of Yugoslavia and "Bosnia and Herzegovina." So in other words, Milosevic has not even recognized "Bosnia and Herzegovina," let alone the Republic of Bosnia and Herzegovina. Indeed, there is no good reason for him to do so since the Republic of Bosnia and Herzegovina will go out of legal existence and Bosnia and Herzegovina will no longer function as a unified State. So why should he recognize them? He has gotten what he wanted, including half of Bosnia.

Security Council Resolution 1021 (1995)

86. Notice that in the second preambular clause there is no longer any reference to preserving the territorial integrity and political independence of the Republic of Bosnia and Herzegovina.

87. Notice also that in the third preambular clause it refers directly to “the Federal Republic of Yugoslavia” instead of to “the Federal Republic of Yugoslavia (Serbia and Montenegro).”

88. The phraseology of these two preambular paragraphs are significant victories for the rump Yugoslavia. In other words, the Republic of Bosnia and Herzegovina disappears, and the Federal Republic of Yugoslavia becomes the successor-in-law to the former Yugoslavia.

89. Notice that under paragraph 1(b) the embargo on the delivery of heavy weapons, ammunition therefore, mines, military aircraft and helicopters “shall continue to be prohibited until the arms control agreement referred to in Annex 1b has taken effect…” In other words, the delivery of heavy weapons to the Bosnian government will still be prohibited indefinitely. So the real thrust of the arms embargo against the Bosnian government will continue into force. So the Bosnian Army still cannot obtain the heavy weapons it needs to defend its People and their Land.

90. Subparagraph (c) is so loaded with conditions that I doubt very seriously that the heavy arms embargo against the Bosnian government will ever terminate. It is completely meaningless.

91. So under this resolution, the arms embargo on heavy weapons against the Bosnian government will stay in effect indefinitely. There is no commitment to a date certain that that arms embargo against heavy weapons will ever terminate.

Security Council Resolution 1022 (1995)

92. Notice that in the second preambular paragraph, the traditional reference to preserving the territorial integrity and political independence of the Republic of Bosnia and Herzegovina has disappeared.

93. Notice that in the fourth preambular paragraph, there is no longer a reference to “the Federal Republic of Yugoslavia (Serbia and Montenegro),” but rather simply to “the Federal Republic of Yugoslavia.” In other words, the Federal Republic of Yugoslavia is being treated as if it were the successor-in-law to the former Yugoslavia despite the General Assembly resolution and action to the contrary.

94. Once again, these language changes are significant victories for Milosevic. In other words, Milosevic got his way at the Security Council as well as at Dayton.

95. Under paragraph 1, therefore, the economic sanctions against the rump Yugoslavia "are suspended indefinitely with immediate effect…" Thus, whereas the arms embargo against the Bosnian government with respect to heavy weapons continues into effect indefinitely, the rump Yugoslavia gets economic sanctions against it suspended immediately on an indefinite basis, though subject to provisions "of paragraphs 2 to 5 below." So in other words, Milosevic gets everything he wants and the Bosnians get nothing but a promise in the future. This is a real piece of dirty work by the Security Council.

96. The provisions keeping sanctions on the Bosnian Serbs mean nothing since the whole source of leverage was over Milosevic and Serbia.

97. Paragraph 5 of the resolution basically frees up the frozen Serb assets held around the world for Milosevic to go after.

Conclusion

98. The above comments speak for themselves and require no further elaboration from me. It is for you to decide where to go from here, whether to accept the Dayton Agreement or reject it. In the event you decide to reject the Dayton Agreement, then I am fully prepared to return to the World Court immediately for the purpose of obtaining an official order against this carve-up of the Republic of Bosnia and Herzegovina and for the purpose of breaking the heavy weapons arms embargo against the Bosnian Armija that will still continue in effect for quite some time. I cannot decide this matter for you. It is your future that is at stake. It is your State. It is your Destiny. It will be your Children and Grandchildren who will have to live with this decision.

May God always be with you.

Rebuttal to Stoltenberg: Norway's Stoltenberg to the Hague for Bosnian / Srebrenica Genocide

Professor Francis A. Boyle

General Agent for the Republic of Bosnia and Herzegovina with Extraordinary and Plenipotentiary Powers Before the International Court of Justice (1993-1994) Lawyer and Spokesperson for the RBIH Presidency at the Owen-Stoltenberg Negotiations in Geneva (1993) Attorney for the Mothers of Srebrenica and Podrinja

Paragraph 55 of the 13 September 1993 World Court Order provides conclusive proof of the fact that the Owen-Stoltenberg Plan would have destroyed Bosnia's Statehood and robbed the Republic of Bosnia and Herzegovina of its Membership in the United Nations Organization:

55. Whereas the Security Council of the United Nations in resolution 859 (1993) of 24 August 1993 which, inter alia, affirmed the continuing membership of Bosnia-Herzegovina in the United Nations,…

At the very outset of the Owen-Stoltenberg negotiations in Geneva, on 29 July 1993 around 7:30 p.m. then Foreign Minister (later Prime Minister now President) Haris Silajdzic asked me to analyze the Owen-Stoltenberg Plan for President Izetbegovic. After working all night to prepare a formal Memorandum on the Plan for the President, and with a heavy heart, I informed Bosnia's Foreign Minister at breakfast around 8 a.m. Geneva time: "Briefly put, …they will carve you up into three pieces, destroy your Statehood, and rob you of your U.N. Membership." At the end of our lengthy conversation, Foreign Minister Silajdzic instructed me: "You brief the press, I will tell the President!" Pursuant to his instructions, I immediately proceeded to explain to the world news media that the Owen-Stoltenberg Plan called for Bosnia to be carved up into three ethnically based mini-states, for Bosnia's Statehood to be destroyed, and for Bosnia to be robbed of its Membership in the United Nations Organization. I distributed my Memorandum dated 30 July 1993 to the world's news media in support of my conclusions.

Several hours later, I received an urgent telephone call from Muhamed Sacirbey, Bosnia's Ambassador to the United Nations Headquarters in New York, asking me what he should do: "Convene an emergency meeting of the Security Council! Tell them they are stealing our U.N. Membership! Distribute my Memorandum! Try to stop it!" The net result of Ambassador Sacirbey's prodigious efforts in New York was Security Council Resolution 859 (1993) that guaranteed Bosnia's Membership in the United Nations despite the Machiavellian machinations of Owen and Stoltenberg in Geneva.
At the time everyone in Geneva knew full well that if Bosnia were to lose its U.N. Membership, then the Bosnian People would go the same way that the Jewish People did starting in 1939. Indeed, that was the entire purpose of the exercise in Geneva by Owen, Stoltenberg, and their lawyer Szasz: Implementing the "final solution" to the inconvenient "problem" presented by the gallant resistance to genocide mounted by the People and the Republic of Bosnia and Herzegovina since March of 1992. But in the late summer of 1993 the Bosnians refused to go the same way the Jews did in 1939!

During the course of this second round of provisional measures proceedings before the World Court in July and August of 1993, I had requested the World Court to rule against the legality of the Owen-Stoltenberg carve-up of the Republic of Bosnia and Herzegovina on the grounds that this partition would subject 1.5 to 2 million more Bosnians to "ethnic cleansing," which I had already argued to the Court was a form of genocide. In response, the World Court did rule against the legality of the Owen-Stoltenberg Plan in Paragraph 42 of its Second Order by means of the following language:

…whereas, on the other hand, in so far as it is the Applicant's contention that such "partition and dismemberment", annexation or incorporation will result from genocide, the Court, in its Order of 8 April 1993 has already indicated that Yugoslavia should "take all measures within its

power to prevent commission of the crime of genocide", whatever might be its consequences;…

In other words, by a vote of 13 to 2, the World Court effectively prohibited the Owen-Stoltenberg carve-up of Bosnia because it would result from acts of genocide, which were already prohibited by its 8 April 1993 Order. Nevertheless undeterred, thereafter Owen and Stoltenberg continued to plot their tripartite carve-up of Bosnia under the new rubric of the so-called "Contact Group Plan" with the full support of the United States, Britain, France, Russia, the United Nations, the European Union and its other member states.

In this second Order of 13 September 1993, the World Court then indicated that its first Order of 8 April 1993 was so sweepingly comprehensive that it did not need to be supplemented, but only "should be immediately and effectively implemented":

59. Whereas the present perilous situation demands, not an indication of provisional measures additional to those indicated by the Court's Order of 8 April 1993, set out in paragraph 37 above, but immediate and effective implementation of those measures;

Notice here the World Court's express finding of fact that the situation in the Republic of Bosnia and Herzegovina was "perilous." In other words, the rump Yugoslavia was currently perpetrating even worse acts of genocide against the People and the Republic of Bosnia and Herzegovina than the Serbs had been doing as of 8 April 1993. The very existence of the Republic of Bosnia and Herzegovina was in jeopardy.

Furthermore, it becomes crystal clear from reading through this second Order of 13 September 1993 that the World Court was indirectly criticizing the member states of the U.N. Security Council for having refused to fulfill their obligation "to prevent" the ongoing genocide in Bosnia. Pursuant to its own terms the World Court's first Order of 8 April 1993 was transmitted to the Security Council. The World Court noted in Paragraph 54 of the second Order of 13 September 1993 that the Security Council duly "took note of" its first Order in Resolution 819 (1993) of 16 April 1993. But the Serb acts of genocide against the Bosnians continued apace "…despite many resolutions of the Security Council of the United Nations…" to the great harm of the Bosnian People, as the World Court expressly found in Paragraph 52 of its second Order of 13 September 1993. In other words, in the opinion of the World Court, the Security Council had failed to adopt prompt and effective measures to terminate the ongoing genocide against the People and the Republic of Bosnia and Herzegovina, and especially despite its first Order of 8 April 1993.

In accordance with its own terms, this second World Court Order of 13 September 1993 was also transmitted to the U.N. Secretary General for transmission to the U.N. Security Council. It is obvious from reading through this second Order that the World Court was calling upon the member states of the U.N. Security Council to immediately and effectively implement its first Order of 8 April 1993 against the rump Yugoslavia in order to stop the ongoing genocide against the People and the Republic of Bosnia and Herzegovina. This the member states of the Security

Council were required to do under the terms of both the Genocide Convention and the United Nations Charter. But despite this second, even stronger Order by the World Court on 13 September 1993, the Security Council and its Permanent Members refused to do anything to stop the Serb genocide and aggression against the People and the Republic of Bosnia and Herzegovina for the next two years until the Fall of 1995.

Letter From Professor Francis Boyle, Lawyer representing Mothers of Srebrenica

BEFORE THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA (ICTY)
MOTHERS OF SREBRENICA AND PODRINJA ASSOCIATION
V.
UNITED NATIONS OFFICIALS AND OTHERS
(FOR THE SREBRENICA MASSACRE)
CRIMINAL COMPLAINT AGAINST BOUTROS BOUTROS-GHALI,
KOFI ANNAN, YASUSHI AKASHI, BERNARD JANVIER,
RUPERT SMITH, HERVÉ GOBILLIARD, JORIS VOORHOEVE, CEES NICOLAI,
THOMAS KARREMANS, ROBERT FRANKEN, THORVALD STOLTENBERG,
CARL BILDT, DAVID OWEN, MICHAEL ROSE, THEIR SUBORDINATES,
SLOBODAN MILOSEVIC, RADOVAN KARADZIC,
RATKO MLADIC, AND OTHERS
NOTICE OF THE EXISTENCE OF INFORMATION CONCERNING SERIOUS
VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW
WITHIN THE JURISDICTION OF THE TRIBUNAL
REQUEST THAT THE PROSECUTOR INVESTIGATE THE ABOVE-NAMED
UNITED NATIONS OFFICIALS, THEIR SUBORDINATES, AND OTHERS
FOR SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW
AND PREPARE INDICTMENTS AGAINST THEM PURSUANT TO
ARTICLES 18(1) AND 18(4) OF THE ICTY STATUTE

The Honorable Carla Del Ponte
Prosecutor
International Criminal Tribunal for the Former Yugoslavia
Churchillplein l
2517 JW The Hague
P.O. Box 13888
2501 EW The Hague
Netherlands

Dear Madame Del Ponte:

I am the Attorney of Record for the Mothers of Srebrenica and Podrinja Association, which is headquartered at Sakiba Zere 9, in Vogosca, Bosnia and Herzegovina. The Mothers of

Srebrenica and Podrinja Association is a Bosnian human rights, non-governmental organization whose members consist of survivors and next-of-kin of the genocidal massacre at Srebrenica in the Republic of Bosnia and Herzegovina during July of 1995. The genocidal massacre at Srebrenica was the single greatest human rights atrocity perpetrated in Europe since the genocidal horrors inflicted by the Nazis during the Second World War. Approximately 10,000 Bosnian Muslim men, boys, and women were systematically exterminated during just a few days by the Bosnian Serb Army (BSA) under the direct command of Slobodan Milosevic, Radovan Karadzic, Ratko Mladic, and others. During this time, the above-named United Nations Officials, their subordinates, and others deliberately and maliciously refused to do anything to stop this genocidal massacre at the U.N.-declared "safe area" of Srebrenica despite having the legal obligation, the legal and political authority, and the military power to do so. Indeed, the above-named United Nations Officials, their subordinates and others deliberately and maliciously interfered with, prevented, and impeded those individuals who wanted to do something to stop the genocidal massacre at Srebrenica and its environs during July of 1995. This was because the fall and genocidal massacre at Srebrenica during July of 1995 were part of a longstanding COMMON CRIMINAL PURPOSE AND PLAN by the United Nations Organization and the above-named United Nations Officials, their subordinates, and others to carve-up and destroy the Republic of Bosnia and Herzegovina, a Member State of the United Nations Organization.

Pursuant to ICTY Statute article 7(1), we hereby accuse the above-named United Nations Officials, their subordinates, and others of planning, preparing, conspiring, instigating, complicity, and otherwise aiding and abetting, in the planning, preparation, conspiracy, complicity, and execution of crimes referred to in articles 2 to 5 of the ICTY Statute as follows:

Article 2–Grave breaches of the Geneva Conventions of 1949
against persons and property protected thereunder, including but not limited to:

(a) willful killing;
(b) torture or inhuman treatment,…
(c) wilfully causing great suffering or serious injury to body or health;
(d) extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly;

…

(f) wilfully depriving a prisoner of war or a civilian of the rights of fair and regular trial;
(g) unlawful deportation or transfer or unlawful confinement of a civilian;
(h) taking civilians as hostages.

Article 3–Violations of the laws or customs of war, including but not limited to:

(a) employment of poisonous weapons or other weapons calculated to cause unnecessary suffering;

(b) wanton destruction of cities, towns or villages, or devastation not justified by miliary necessity;
(c) attack, or bombardment, by whatever means, of undefended towns, villages, dwellings, or buildings;
…
(e) plunder of public or private property.

Article 4–Genocide, defined as "(2)…any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

(a) killing members of the group;
(b) causing serious bodily or mental harm to members of the group;
(c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
…

The Bosnian Muslim population of Srebrenica was a national, and an ethnical, and a religious group, that was deliberately targeted for destruction "as such." In addition to violating ICTY Statute article 4(2)(a), (b), and (c), the genocidal massacre at Srebrenica also involved the following punishable acts under article 4(3):

(a) genocide;
(b) conspiracy to commit genocide;
…
(d) attempt to commit genocide;
(e) complicity in genocide.

Article 5–Crimes against humanity, committed in armed conflict and directed against the Bosnian Muslim civilian population of Srebrenica:

(a) murder;
(b) extermination;
…
(d) deportation;
(e) imprisonment;
(f) torture;
(g) rape;
(h) persecutions on political, racial and religious grounds;
(i) other inhumane acts.

These criminal practices perpetrated against the Bosnian Muslim population of Srebrenica were both widespread and systematic throughout the Srebrenica enclave and its environs during July of 1995.

Pursuant to Statute article 7(3), we also charge the above-named United Nations Officials for their so-called "command responsibility" for all of the above-mentioned criminal acts that were committed by their subordinates:

3. The fact that any of the acts referred to in articles 2 to 5 of the present Statute was committed by a subordinate does not relieve his superior of criminal responsibility if he knew or had reason to know that the subordinate was about to commit such acts or had done so and the superior failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.

All of the above-named United Nations Officials either knew or had reason to know that their subordinates were about to commit acts referred to in articles 2 to 5 of the Statute. Nevertheless, all of the above-named United Nations Officials failed to take the necessary and reasonable measures to prevent such criminal acts by their subordinates, as well as to punish the perpetrators thereof.

For the reasons explained in more detail below, we respectfully submit that Statute article 18(1) requires you to initiate an investigation into our Complaint against the above-named United Nations Officials, their subordinates, and others for their role in the genocidal massacre at Srebrenica. We respectfully submit that under article 18(1), this Complaint establishes a "sufficient basis to proceed" toward the indictment of the above-named United Nations Officials, their subordinates, and others for the genocidal massacre at Srebrenica. Furthermore, we also believe that there currently exists a prima facie case for their guilt.

Therefore, pursuant to article 18(4) of the Statute, we request that you prepare the appropriate indictments against the above-named United Nations Officials, their subordinates, and others, and transmit these indictments to a Judge of the ICTY Trial Chamber for confirmation. If confirmed by the Judge, we request that pursuant to Statute article 19(2), you request the Judge to issue orders and international warrants calling for the arrest, detention, surrender and transfer to the Tribunal of the above-named United Nations Officials, their subordinates, and others. We also request that you ask the confirming Judge to freeze the worldwide financial assets of the above-named United Nations Officials, their subordinates, and others so that the Mothers of Srebrenica and Podrinja Association might receive some small degree of reparations for the terrible harm that the above-named United Nations Officials, their subordinates, and others deliberately and maliciously inflicted upon them and their deceased next-of-kin at Srebrenica and its environs during July of 1995.

I. THE COMMON CRIMINAL PURPOSE AND PLAN BY THE UNITED NATIONS TO CARVE-UP AND DESTROY THE REPUBLIC OF BOSNIA AND HERZEGOVINA, A U.N. MEMBER STATE

The fall and genocidal massacre at Srebrenica during July of 1995 were part of a longstanding COMMON CRIMINAL PURPOSE AND PLAN by the United Nations Organization and the above-named United Nations Officials, their subordinates, and others to carve-up and destroy the Republic of Bosnia and Herzegovina, a Member State of the United Nations Organization. You

should be able to verify that at the request of the Office of the ICTY Prosecutor, and with my consent, I was officially designated to be an Expert Witness in the Blaskic (”Lasva Valley”) Case, No. IT-95-14-T, involving the prosecution of a Bosnian Croat General for grave breaches of the Geneva Conventions, violations of the laws or customs of war, and crimes against humanity. The ICTY Prosecutor’s Office asked me to testify as your Expert Witness on the evolution of the so-called Bosnian Peace Plans. Therefore, my qualifications and expertise to speak on the following matters have already been officially determined, authenticated and certified by the ICTY Prosecutor’s Office itself.

In order to substantiate the existence of the above-mentioned COMMON CRIMINAL PURPOSE AND PLAN by the United Nations Organization, the above-named U.N. Officials, their subordinates, and others to carve up and destroy the Republic of Bosnia and Herzegovina–a U.N. Member State–that culminated inevitably, deliberately and maliciously in the fall and genocidal massacre at Srebrenica in July of 1995, I have prepared a detailed chronological history of the so-called “Bosnian Peace Process,” extending from September of 1991 to January of 1995. This Chronology can be found in the Appendix to this Complaint. I hereby incorporate this Chronology/Appendix by reference and as an integral part of this Complaint against the above-named United Nations Officials, their subordinates, and others. The evolution of this entire sordid and criminal history can be found in the Chronology/Appendix.

That being said, on March 19, 1993, this author was appointed General Agent with Extraordinary and Plenipotentiary Powers “to institute, conduct and defend against any and all legal proceedings” for the Republic of Bosnia and Herzegovina before the International Court of Justice by His Excellency President Alija Izetbegovic while attending the so-called Vance-Owen negotiations in New York. These negotiations were jointly sponsored by the United Nations Organization and the European Community. While we were in New York together, President Izetbegovic asked for and received my advice and counsel on the Vance-Owen Plan.

Radovan Karadzic also participated in the Vance-Owen negotiations in New York. As then Bosnian Foreign Minister (later Prime Minister) Haris Silajdzic commented about Karadzic’s U.N./E.C./U.S. invitation to New York for this purpose: “If you kill one person, you’re prosecuted. If you kill ten people, you’re a celebrity; if you kill a quarter-of-a-million people, you’re invited to a peace conference.”

The so-called Vance-Owen Plan is set forth in U.N. Doc. S/25479 of 26 March 1993. I hereby incorporate this document by reference and as an integral part of this Complaint. The United Nations Organization, the above-named U.N. Officials, their subordinates and others forced the Government of the Republic of Bosnia and Herzegovina to “accept” the Vance-Owen Plan by means of threats, duress, coercion and compulsion in violation of the most basic norms of public international law.

On March 20, the author instituted legal proceedings on behalf of the Republic of Bosnia and Herzegovina before the International Court of Justice in The Hague against the rump Yugoslavia for violating the 1948 Genocide Convention. In the design and execution of this World Court

Lawsuit, my two most important immediate objectives were: (1) to break the genocidal arms embargo that the Security Council and especially its Permanent Members had illegally imposed against the Republic of Bosnia and Herzegovina, a U.N. Member State, in gross violation of Bosnia's "inherent right" of individual and collective self-defense recognized by article 51 of the U.N. Charter; and (2) to stop the genocidal Vance-Owen carve-up of the Republic of Bosnia and Herzegovina, a U.N. Member State. On April 8, 1993, the author won an Order for provisional measures of protection from the World Court against the rump Yugoslavia that was overwhelmingly in favor of Bosnia and Herzegovina.

Generally put, the World Court ordered the rump Yugoslavia immediately to cease and desist from committing all acts of genocide in the Republic of Bosnia and Herzegovina, whether directly or indirectly by means of its surrogate Bosnian Serb military, paramilitary, and irregular armed units, as follows:

52. For these reasons,

The COURT,

Indicates, pending its final decision in the proceedings instituted on 20 March 1993 by the Republic of Bosnia and Herzegovina against the Federal Republic of Yugoslavia (Serbia and Montenegro), the following provisional measures:

A. (1) Unanimously,

The Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) should immediately, in pursuance of its undertaking in the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948, take all measures within its power to prevent commission of the crime of genocide;

(2) By 13 votes to 1,

The Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) should in particular ensure that any military, paramilitary or irregular armed units which may be directed or supported by it, as well as any organizations and persons which may be subject to its control, direction or influence, do not commit any acts of genocide, of conspiracy to commit genocide, of direct and public incitement to commit genocide, or of complicity in genocide, whether directed against the Muslim population of Bosnia and Herzegovina or against any other national, ethnical, racial or religious group;

IN FAVOUR: President Sir Robert Jennings; Vice-President Oda; Judges Ago, Schwebel, Bedjaoui, Ni, Evensen, Guillaume, Shahabuddeen, Aguilar Mawdsley, Weeramantry, Ranjeva, Ajibola;

AGAINST: Judge Tarassov;

B. Unanimously,

The Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) and the Government of the Republic of Bosnia and Herzegovina should not take any action and should ensure that no action is taken which may aggravate or extend the existing dispute over the prevention or punishment of the crime of genocide, or render it more difficult of solution.

In his Declaration attached to the World Court's Order of 8 April 1993, the late Judge Tarassov from Russia provided a most authoritative interpretation of Paragraph 52A(2) of the Court's Order:

…In my view, these passages of the Order are open to the interpretation that the Court believes that the Government of the Federal Republic of Yugoslavia is indeed involved in such genocidal acts, or at least that it may very well be so involved. Thus, on my view, these provisions are very close to a pre-judgment of the merits, despite the Court's recognition that, in an Order indicating provisional measures, it is not entitled to reach determinations of fact or law….

As this author told the world's news media from the floor of the Great Courtroom of the Peace Palace in The Hague immediately after the close of the World Court's proceedings wherein this Order was handed down, I fully agreed with Judge Tarassov in the following sense: This Order was indeed a pre-judgment on the merits that genocide had been inflicted by the rump Yugoslavia against the People and the Republic of Bosnia and Herzegovina, both directly and indirectly by means of its surrogates in the Bosnian Serb military, paramilitary, and irregular armed units.

The unanimous ruling in Paragraph 52A(1) indicated that the World Court believed there was more than enough evidence to conclude that the rump Yugoslavia itself had inflicted genocide against the People and the Republic of Bosnia and Herzegovina. The 13 to 1 ruling in Paragraph 52A(2) indicated that the World Court believed there was more than enough evidence to conclude that the rump Yugoslavia was legally responsible for the atrocities inflicted by the Bosnian Serb military, paramilitary, and irregular armed forces against the People and the Republic of Bosnia and Herzegovina. The 13 to 1 ruling in Paragraph 52A(2) also indicated that the World Court believed that there was more than enough evidence to conclude that these surrogate Bosnian Serb military, paramilitary, and irregular armed forces had inflicted acts of genocide, conspiracy to commit genocide, direct and public incitement to commit genocide, and complicity in genocide, against the People and the Republic of Bosnia and Herzegovina.

As the Lawyer for the entire Republic of Bosnia and Herzegovina and for all of its People, I had expressly asked the World Court to protect all of the national, ethnical, racial and religious groups in Bosnia from acts of genocide perpetrated by the rump Yugoslavia and by its surrogate Bosnian Serb military, paramilitary, and irregular armed forces, which the World Court did do in Paragraph 52A(2) of this Order. Of course, the first and foremost victims of this genocide were the Bosnian Muslims, but also came those Bosnian Croats, those Bosnian Serbs and those Bosnian Jews, inter alia, who supported the Republic of Bosnia and Herzegovina. However,

most of the evidence of genocide that I submitted to the World Court concerned acts of genocide against Bosnia's Muslim population, to which the Bosnian Parliament awarded the name "Bosniaks." So the World Court went out of its way to protect by name "the Muslim population of Bosnia and Herzegovina" from acts of genocide by the surrogate Bosnian Serb military, paramilitary, and irregular armed forces in Paragraph 52A(2) of this 8 April 1993 Order.

Only the late Judge Tarassov from Russia objected to this express protection of Bosnian Muslims by name in his separate Declaration: "The lack of balance in these provisions is the clearer in view of the way in which the Court has singled out one element of the population of Bosnia and Herzegovina." Once again, I agree with Judge Tarassov in the sense that the overwhelming weight of the evidence did indeed call for the World Court to protect the Bosnian Muslims from genocide expressly by name. This entire World Court Order of 8 April 1993 was so completely unbalanced against the rump Yugoslavia and its surrogate Bosnian Serb military, paramilitary, and irregular armed forces because the evidence of their genocide against the People and the Republic of Bosnia and Herzegovina and, in particular, against the Bosnian Muslims, was so overwhelming.

The unanimous World Court ruling in Paragraph 52B was also a victory for the People and the Republic of Bosnia and Herzegovina. I had expressly asked the World Court to impose this protective measure upon both Bosnia and the rump Yugoslavia, which the Court did indeed do. My calculation was that the rump Yugoslavia would definitely violate this measure, whereas Bosnia would obey it. I felt it would be difficult to imagine how the victim of genocide could aggravate or extend the dispute over genocide with the perpetrator of genocide, or render that dispute more difficult of solution.

By voluntarily asking for the imposition of this measure upon both Bosnia and the rump Yugoslavia, I intended to entangle the rump Yugoslavia into a full-scale breach and open defiance of the most comprehensive World Court Order that I could obtain. This is exactly what happened. The rump Yugoslavia paid absolutely no attention whatsoever to the entirety of this 8 April 1993 Order. Whereas, by comparison, Bosnia obeyed this self-imposed requirement of Paragraph 52B not to aggravate or extend the dispute over genocide, or render it more difficult of a solution.

By means of obtaining the measure set forth in Paragraph 52B, inter alia, I intended to prepare the groundwork for harsher Security Council sanctions against the rump Yugoslavia. I also hoped to pave the way for a then already anticipated second round of provisional measures at the World Court in which I intended to expand the basis of my original Application/complaint against the rump Yugoslavia beyond the fixed parameters of the 1948 Genocide Convention. I needed to do that in order to break the genocidal arms embargo against Bosnia and also to stop the proposed genocidal carve-up of the Republic pursuant to the so-called Vance-Owen Plan, and then later, its successor, the Owen-Stoltenberg Plan.

By issuing this Order on 8 April 1993 the World Court necessarily and overwhelmingly rejected the bald-faced lies put forward by the rump Yugoslavia's Lawyer Shabtai Rosenne from Israel,

that the bloodshed in Bosnia was the result of a civil war for which the rump Yugoslavia was in no way responsible. The World Court also overwhelmingly rejected Rosenne's argument that President Izetbegovic was not the lawful President of the Republic and therefore could not lawfully institute this lawsuit against the rump Yugoslavia and appoint me as Bosnia's Lawyer to argue this genocide case before the World Court. The World Court also overwhelmingly rejected Rosenne's request that provisional measures along the lines of those found in Paragraphs 52A(1) and (2) be imposed upon Bosnia because there was no evidence that the Government of the Republic of Bosnia and Herzegovina had committed genocide against anyone. Many of these settled "issues" are still misrepresented by the rump Yugoslavia and its supporters around the world today despite the fact that they were decisively resolved by the World Court as long ago as 8 April 1993.

The World Court's Order of 8 April 1993 was an overwhelming and crushing defeat of the rump Yugoslavia by Bosnia on all counts save one: The World Court said nothing at all about the arms embargo, presumably because the Genocide Convention itself says nothing at all about the use of force to prevent genocide. Nevertheless, in this regard, the World Court did state quite clearly in Paragraph 45 of its 8 April 1993 Order that in accordance with the requirements of article I of the Genocide Convention "…all parties to the Convention have thus undertaken 'to prevent and to punish' the crime of genocide…" The implication was quite clear that in the opinion of the World Court all 100+ states that were parties to the Genocide Convention had an absolute obligation "to prevent" the ongoing genocide against Bosnia. Therefore, although technically the World Court directed its 8 April 1993 Order against the rump Yugoslavia, the Court was telling every other state in the world community, including and especially the Permanent Members of the Security Council, that each had an obligation "to prevent" the ongoing genocide against the People and the Republic of Bosnia and Herzegovina.

The World Court continued in Paragraph 45 with the following language: "…whereas in the view of the Court, in the circumstances brought to its attention and outlined above in which there is a grave risk of acts of genocide being committed…" (Emphasis added.) In other words, the World Court went as far as it could consistent with its Rules of Procedure toward definitively ruling that acts of genocide were actually being committed by the rump Yugoslavia and its surrogate Bosnian Serb armed forces against the People and the Republic of Bosnia and Herzegovina. At the time, this "grave risk of acts of genocide" language set forth in Paragraph 45 of the 8 April 1993 Order was as close as the World Court could go to rendering a pre-judgment on the merits of the dispute, as pointed out by the late Judge Tarassov in his Declaration.

Several hours after I had won this World Court Order for Bosnia, on 8 April 1993 the Clinton administration announced the imposition by NATO of a complete air interdiction zone above the Republic of Bosnia and Herzegovina whereby NATO jet fighters would shoot down any Serb jets, planes, and helicopters. The Serbs were no longer able to murder the Bosnians from the sky! Later that day around sunset Hague time I was interviewed live by the BBC and asked to give my opinion on this so-called "no-fly zone" over Bosnia that was announced earlier in the day from Washington, D.C. and NATO Headquarters in Brussels: "…I certainly hope that the

NATO pilots do not fly over Bosnia, watch the genocide, rape, murder, torture and killing go on, take pictures, send them back to NATO Headquarters, Washington, London and Paris, and then do nothing to stop it." Yet, most tragically of all, that is exactly what happened until the Fall of 1995.

In accordance with its own terms, an original copy of this 8 April 1993 Order was transmitted "to the Secretary-General of the United Nations for transmission to the Security Council." In other words, the World Court officially informed the Secretary-General, the U.N. Secretariat, U.N. Officials and Bureaucrats including the above-named individuals and their subordinates, as well as the member states of the U.N. Security Council (1) that genocide was currently being inflicted by the rump Yugoslavia and its surrogate Bosnian Serb armed forces against the People and the Republic of Bosnia and Herzegovina; and also (2) that the member states of the Security Council had an absolute obligation under the Genocide Convention "to prevent" this ongoing genocide against Bosnia. According to article 94(2) of the United Nations Charter, the Security Council is supposed to enforce such World Court Orders.

As I had anticipated, the rump Yugoslavia paid absolutely no attention whatsoever to the World Court's 8 April 1993 Order, and immediately proceeded to violate each and every one of its three provisional measures. But instead of punishing the rump Yugoslavia, the U.N. Secretariat (including the above-named individuals and their subordinates) and the Security Council's Permanent Members — the United States, Britain, France, Russia, and China — decided to punish Bosnia, the victim, by imposing upon it the so-called Owen-Stoltenberg Plan as the successor to the Vance-Owen Plan, which had been rejected by the so-called Bosnian Serb Parliament. The Owen-Stoltenberg Plan would have carved-up the Republic of Bosnia and Herzegovina–a U.N. Member State–into three ethnically based mini-states, destroyed Bosnia's Statehood under international law and practice, and robbed Bosnia of its Membership in the United Nations Organization. Furthermore, in accordance with an internal study prepared by the United States Department of State, this proposed tripartite partition of Bosnia would have subjected approximately 1.5 to 2 million more Bosnians to "ethnic cleansing," which I had already argued to the World Court was a form of genocide. Both in fact and in law, the Owen-Stoltenberg Plan incarnated an agreement by the rump Yugoslavia and the Republic of Croatia to divide and partition the People and State of the Republic of Bosnia and Herzegovina between these two more powerful states along ethnic, racial, and religious lines.

Therefore, soon after my return from The Hague, the author set out to break the genocidal arms embargo against Bosnia and to stop this genocidal carve-up of the Republic of Bosnia and Herzegovina by drafting a Second Request for Provisional Measures of Protection to the International Court of Justice on behalf of Bosnia. Pursuant thereto, on July 26, 1993, the author spent the day at United Nations Headquarters in New York publicly briefing large numbers of Ambassadors, as well as privately briefing the Non-Aligned member states of the Security Council and the most helpful and supportive President of the Council Ambassador Diego Aria from Venezuela, about this Second Request to the International Court of Justice for an Interim Order of Protection on behalf of the Republic of Bosnia and Herzegovina. In that location and on that day, as Bosnia's Lawyer I publicly threatened to sue the Permanent

Members of the Security Council over the arms embargo. As I said at that time and place, the Security Council's arms embargo against the Republic of Bosnia and Herzegovina had aided and abetted genocide against the Bosnian People.

The five Permanent Members of the Security Council–United States, United Kingdom, Russia, France, China–bear special responsibility for aiding and abetting genocide against the People and the Republic of Bosnia and Herzegovina in violation of the 1948 Genocide Convention and U.N. Charter article 51. I would have been happy to have sued the Permanent Members of the Security Council for Bosnia, and had offered to do so on more than one occasion to the Bosnian Presidency. The same condemnation can be applied as well to all those U.N. member states that had served on the Security Council from 1992 through 1995 and had routinely supported the continuation of this genocidal arms embargo against Bosnia. The same condemnation can be applied as well to all the above-named United Nations Officials and their subordinates.

That evening, the author flew to The Hague and filed this Second Request for Interim Protection at the World Court on 27 July 1993. The very next day, 28 July 1993, the author flew to Geneva in order to serve as the Legal Adviser to President Alija Izetbegovic, then Foreign Minister (later Prime Minister) Haris Silajdic, and all of the Members of the collective Presidency of the Republic of Bosnia and Herzegovina during the so-called Owen-Stoltenberg negotiations, as well as advising the Leaders of the Bosnian Opposition Parties who also attended these negotiations. By U.N./E.U. invitation both Slobodan Milosevic and Radovan Karadzic participated in the genocidal Owen-Stoltenberg negotiations in Geneva.

There I personally disrupted the Owen-Stoltenberg Plan to carve-up the Republic of Bosnia and Herzegovina into three pieces, to destroy Bosnia's Statehood, to rob Bosnia of its Membership in the United Nations Organization, and to subject 1.5 to 2 million more Bosnians to "ethnic cleansing," which is a euphemism for genocide. In addition, President Izetbegovic had also instructed me to negotiate in good faith over the so-called "package" of proposed documents with the Owen-Stoltenberg U.N. Lawyer Paul Szasz.

During the course of these negotiations at U.N. Headquarters in Geneva, the Owen-Stoltenberg U.N. Lawyer Paul Szasz admitted to me that the Owen-Stoltenberg Plan to destroy the Statehood of the Republic of Bosnia and Herzegovina–a U.N. Member State–was originally the suggestion of Radovan Karadzic, an acknowledged war criminal. Szasz further admitted that Karadzic's suggestion to destroy Bosnia's Statehood was then personally approved by David Owen and Thorvald Stoltenberg. Szasz further admitted that he then redrafted the documents accordingly. Genocide by word-processor! I filed documents proving these assertions with the International Court of Justice in the case file of Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia (Serbia and Montenegro)), General List No. 91, which I hereby incorporate by reference as an integral part of this Complaint. See also F.A. Boyle, The Bosnian People Charge Genocide 235-51 (Aletheia Press: 1996).

Specifically in this regard, in order to support my second Request for Provisional Measures of 27 July 1993, on 7 August 1993 I filed with the World Court as part of Bosnia's case file against the rump Yugoslavia (Serbia and Montenegro) a twenty-page Communication dealing with the Owen-Stoltenberg Plan. I hereby incorporate by reference and as an integral part of this Complaint my Communication to the World Court of 7 August 1993. I hereby repeat, re-affirm and re-assert each and every fact, claim, charge, allegation, and statement found in my 7 August 1993 Communication to the Court in this Complaint against the above-named United Nations Officials and their subordinates.

My 7 August 1993 analysis of the Owen-Stoltenberg Plan was based upon the "Second Internal Draft of 29 July 1993." A later version of the Owen-Stoltenberg Plan can be found in S/26337/Add.1 (23 August 1993). Subsequent variants of and successors to the Owen-Stoltenberg Plan–all of which were fully supported by the above-named United Nations Officials and their subordinates–were even more reprehensible from an international law perspective, and especially under the terms of the Genocide Convention and the Racial Discrimination Convention.

On 16 August 1993, Bosnia's U.N. Ambassador Muhamed Sacirbey sent a letter to the President of the U.N. Security Council, containing a Letter of 11 August 1993 from President Alija Izetbegovic, outlining the President's formal "objections" to (that is, rejection of) the Owen-Stoltenberg Plan. Pursuant to Ambassador Sacirbey's request, these documents were circulated to the Members of the Security Council in U.N. Doc. S/26309 of 16 August 1993. I hereby incorporate these Letters by reference and as an integral part of this Complaint. Nevertheless, the above-named United Nations Officials and their subordinates continued to support and to impose the Owen-Stoltenberg Plan upon the People and State of Bosnia and Herzegovina despite its manifestly genocidal and racist consequences.

The author then argued the Second Request for provisional measures of protection for Bosnia and Herzegovina before the World Court on 25 and 26 August 1993. The author then won the Second Order of Provisional Protection on behalf of Bosnia from the World Court on 13 September 1993. Generally put, this second World Court Order demanded that the Court's first Order of 8 April 1993 "should be immediately and effectively implemented," as follows:

61. For these reasons,

THE COURT

(1) By 13 votes to 2,

Reaffirms the provisional measure indicated in paragraph 52 A (1) of the Order made by the Court on 8 April 1993, which should be immediately and effectively implemented;

IN FAVOUR: President Sir Robert Jennings; Vice-President Oda; Judges Schwebel, Bedjaoui, Ni, Evensen, Guillaume, Shahabuddeen, Aguilar Mawdsley, Weeramantry, Ajibola, Herczegh; Judge ad hoc Lauterpacht;

AGAINST: Judge Tarassov; Judge ad hoc Kreca;

(2) By 13 votes to 2,

Reaffirms the provisional measure indicated in paragraph 52 A (2) of the Order made by the Court on 8 April 1993, which should be immediately and effectively implemented;

IN FAVOUR: President Sir Robert Jennings; Vice-President Oda; Judges Schwebel, Bedjaoui, Ni, Evensen, Guillaume, Shahabuddeen, Aguilar Mawdsley, Weeramantry, Ajibola, Herczegh; Judge ad hoc Lauterpacht;

AGAINST: Judge Tarassov; Judge ad hoc Kreca;

(3) By 14 votes to 1,

Reaffirms the provisional measure indicated in paragraph 52 B of the Order made by the Court on 8 April 1993, which should be immediately and effectively implemented.

IN FAVOUR: President Sir Robert Jennings; Vice-President Oda; Judges Schwebel, Bedjaoui, Ni, Evensen, Tarassov, Guillaume, Shahabuddeen, Aguilar Mawdsley, Weeramantry, Ajibola, Herczegh; Judge ad hoc Lauterpacht;

AGAINST: Judge ad hoc Kreca.

In his Dissenting Opinion attached to this second World Court Order of 13 September 1993, the late Judge Tarassov from Russia once again provided a most authoritative interpretation of its meaning and significance:

….

Given that requests for the indication of provisional measures have been submitted by both Parties in new proceedings and given the numerous communications on which those requests are based, regarding acts which allegedly relate to the crime of genocide and which have purportedly been committed in this inter-ethnic, civil conflict in Bosnia and Herzegovina by all ethnic groups against each other, the Court's decision to make an order ascribing the lion's share of responsibility for the prevention of acts of genocide in Bosnia and Herzegovina to Yugoslavia is a one-sided approach based on preconceived ideas, which borders on a pre-judgment of the merits of the case and implies an unequal treatment of the different ethnic groups in Bosnia and Herzegovina who have all suffered inexpressibly in this fratricidal war. I, as a judge, cannot support this approach. …

….

…While the one-sided, unbalanced Order of the Court might not necessarily be 'an obstacle to a negotiated settlement,' it will obviously not facilitate its successful completion. …

Once again, I fully agreed with the late Judge Tarassov's characterization of this second World Court Order of 13 September 1993 in the following sense:

It was indeed completely "one-sided" and "unbalanced" in favor of Bosnia and against the rump Yugoslavia and its surrogate Bosnian Serb armed forces. This second World Court Order clearly did ascribe "the lion's share of responsibility" for the atrocities in Bosnia to the rump Yugoslavia and its surrogate Bosnian Serb military, paramilitary, and irregular armed forces. This second Order clearly represented a "one-sided approach" by the World Court in favor of Bosnia against the rump Yugoslavia and its surrogate Bosnian Serb armed forces. Moreover, this second Order clearly accorded the Bosnian Muslims "unequal treatment" because of the Order's reaffirmation of their express protection by name. The World Court had indeed developed the "preconceived ideas" that the Bosnian Muslims were the primary victims of Serb genocide against the People and the Republic of Bosnia and Herzegovina precisely because of the overwhelming evidence I had submitted to that effect starting on 20 March 1993 when I originally filed the lawsuit. Finally, this second World Court Order of 13 September 1993 was even more of "a pre-judgment on the merits of the case" than was the first Order of 8 April 1993.

Immediately after the receipt of this second World Court Order, the Serbian Ambassador sat down dejectedly in the Hall of the Peace Palace just outside the Great Courtroom and was asked by the world news media what he thought about the new Order: "It is even worse than the first one!" The world news media then asked me what I thought about his comment: "It is the first truthful statement they have ever made here at the World Court."

In order to render this second Order, the World Court once again necessarily and overwhelmingly rejected the bald-faced lies put forward by Rosenne and in addition now by three Serb lawyers who had joined him, that what was happening in Bosnia was a civil war for which the rump Yugoslavia bore no responsibility. Once again, the World Court overwhelmingly rejected Rosenne's argument that President Izetbegovic was not the legitimate President of the Republic of Bosnia and Herzegovina entitled to have me argue these proceedings before the World Court in his name and in the name of the Republic. Finally, the World Court once again overwhelmingly rejected the request by Rosenne to impose a proposed provisional measure against Bosnia along the lines of Paragraph 52A(1) of its 8 April 1993 Order because there was still no evidence that the Republic of Bosnia and Herzegovina had committed genocide against anyone.

This second World Court Order of 13 September 1993 was a crushing and overwhelming victory for Bosnia against the rump Yugoslavia on all counts but one: The World Court once again refused to say anything directly about the arms embargo, presumably because the Genocide

Convention itself said nothing about the use of force to prevent genocide. Nevertheless, in Paragraph 50 of this second Order the World Court quoted verbatim article I of the 1948 Genocide Convention and then expressly held: "…whereas all parties to the Convention have thus undertaken to prevent and to punish the crime of genocide;…" Once again, the World Court was telling all 100+ states parties to the Genocide Convention, including and especially the Permanent Members of the Security Council, that each had an obligation "to prevent" the ongoing genocide in Bosnia, and this time by means of the "immediate and effective implementation" of its 8 April 1993 Order as called for by Paragraph 59 of this second Order, inter alia, which will be quoted in full below.

These preliminary conclusions become perfectly clear by means of a detailed examination of the next several paragraphs of this second World Court Order of 13 September 1993:

51. Whereas, as the Court recorded in its Order of 8 April 1993, the crime of genocide "shocks the conscience of mankind, results in great losses to humanity … and is contrary to moral law and to the spirit and aims of the United Nations", in the words of General Assembly resolution 96 (1) of 11 December 1946 on "The Crime of Genocide";

52. Whereas, since the Order of 8 April 1993 was made, and despite that Order, and despite many resolutions of the Security Council of the United Nations, great suffering and loss of life has been sustained by the population of Bosnia-Herzegovina in circumstances which shock the conscience of mankind and flagrantly conflict with moral law and the spirit and aims of the United Nations;…

In accordance with its own Rules of Procedure, during the two provisional measures phases of these proceedings the World Court could not technically render a final Judgment on the merits that the rump Yugoslavia and its surrogate Bosnian Serb armed forces had committed acts of "genocide" against the People and the Republic of Bosnia and Herzegovina expressly by use of that word. But in Paragraphs 51 and 52 of this second Order, the World Court did the next best thing:

The crime of "genocide" is a legal term of art that is based upon the existence of certain factual predicates as set forth in part by the General Assembly in Resolution 96(1) on "The Crime of Genocide." In Paragraphs 51 and 52 of this second Order the World Court found the existence of several factual predicates to "The Crime of Genocide" in accordance with the General Assembly's Resolution even though the Court was prevented at this stage of the proceedings from ruling that "genocide" itself had actually been committed by the rump Yugoslavia and its Bosnian Serb surrogates by using that precise word. In other words, as far as the World Court was concerned, Bosnia had already won this lawsuit on the merits and had only to continue through to the merits stage of the proceedings in order to obtain a pre-ordained final Judgment on the merits in Bosnia's favor against the rump Yugoslavia for genocide.

In Paragraph 51 of the second Order the World Court expressly referred to the crime of genocide as something that "shocks the conscience of mankind, results in great losses to

humanity…and is contrary to moral law and to the spirit and aims of the United Nations,'" quoting from the U.N. General Assembly Resolution 96(1) on "The Crime of Genocide." Then in Paragraph 52 the World Court does expressly make the finding of fact that "…great suffering and loss of life has been sustained by the population of Bosnia-Herzegovina." This language is stronger than "great losses to humanity" found in the General Assembly's Resolution on "The Crime of Genocide" that the Court had quoted in the immediately preceding paragraph. In other words, the World Court rendered a formal finding of fact that a predicate to the crime of genocide–"great losses to humanity"–had been exceeded by the "great suffering and loss of life" sustained by the Bosnian People.

Paragraph 52 then continued: "…great suffering and loss of life has been sustained by the population of Bosnia-Herzegovina in circumstances which shock the conscience of mankind…" Notice that the World Court used the precise language taken directly from the General Assembly's Resolution on "The Crime of Genocide" that the Court had quoted in Paragraph 51, and employed that language with respect to the Bosnian People. In other words, the World Court found the existence of a second factual predicate to the international crime of genocide by the rump Yugoslavia against the People and the Republic of Bosnia and Herzegovina: "…shock the conscience of mankind…"

Finally, Paragraph 52 concludes: "…great suffering and loss of life has been sustained by the population of Bosnia-Herzegovina in circumstances which shock the conscience of mankind and flagrantly conflict with moral law and the spirit and aims of the United Nations…" By comparison, the General Assembly's Resolution on "The Crime of Genocide" quoted in Paragraph 51 only requires acts of genocide to be "contrary to moral law and to the spirit and aims of the United Nations." Notice that the World Court found that the circumstances in Bosnia "flagrantly conflict with moral law," which language is much stronger than the General Assembly's "contrary to moral law." Certainly, the word "conflict" is stronger than "contrary" even without the modifying adverb "flagrantly," which was not even required by the General Assembly's Resolution on "The Crime of Genocide." In other words, the World Court had found that a third factual predicate to the crime of genocide had been far exceeded with respect to the People and the Republic of Bosnia and Herzegovina.

The conclusion is ineluctable that in Paragraphs 51 and 52 of this second World Court Order of 13 September 1993 the World Court found that several factual predicates to the crime of genocide had been committed by the rump Yugoslavia and its surrogate Bosnian Serb armed forces against the People and the Republic of Bosnia and Herzegovina, and that the Serb atrocities against the Bosnian People had by far exceeded the threshold level for genocide set forth by the General Assembly in its Resolution 96(1) on "The Crime of Genocide." In other words, as far as the World Court was concerned, Bosnia had already won this lawsuit for genocide against the rump Yugoslavia. The conclusion is inevitable, therefore, that in the opinion of the World Court all that Bosnia must now do is to continue through to the merits phase of the proceedings in order to obtain a pre-ordained Judgment on the merits that the rump Yugoslavia has indeed committed acts of genocide against the People and the Republic of

Bosnia and Herzegovina, both directly and indirectly by means of its surrogate Bosnian Serb military, paramilitary, and irregular armed forces.

This second Order of 13 September 1993 was purposefully designed by the World Court to be even more of an outright pre-judgment on the merits of the issue of genocide in favor of Bosnia than was the first Order of 8 April 1993. In other words, the World Court was telling the entire world, and especially the member states of the Security Council, the U.N. Secretary General, the U.N. Secretariat, U.N. Officials and Bureaucrats, including the above-named individuals and their subordinates, that the Court had essentially found that genocide was currently being inflicted by the rump Yugoslavia against the People and the Republic of Bosnia and Herzegovina, both directly and indirectly by means of its Bosnian Serb surrogates. Therefore, the World Court was deliberately saying in this Second Order that all 100+ states parties to the Genocide Convention as well as the member states of the Security Council, and especially its Permanent Members, had an absolute obligation to terminate this ongoing genocide by means of the immediate and effective implementation of its first Order of 8 April 1993.

Paragraph 53 of the 13 September 1993 World Court Order makes even more findings of fact that are conclusive on the infliction of genocide by the rump Yugoslavia and its Bosnian Serb surrogates against the People and the Republic of Bosnia and Herzegovina:

53. Whereas, since the Order of 8 April 1993 was made, the grave risk which the Court then apprehended of action being taken which may aggravate or extend the existing dispute over the prevention and punishment of the crime of genocide, or render it more difficult of solution, has been deepened by the persistence of conflicts on the territory of Bosnia-Herzegovina and the commission of heinous acts in the course of those conflicts;

The “grave risk” language quoted above was taken from Paragraph 45 of the 8 April 1993 Order, which was mentioned by the World Court in Paragraph 49 of the second Order of 13 September 1993 as follows: “49. Whereas in paragraph 45 of its Order of 8 April 1993 the Court concluded that there was a grave risk of acts of genocide being committed…” I have already pointed out above why Paragraph 45 of the 8 April 1993 Order was tantamount to a pre-judgement on the merits of the case that the rump Yugoslavia had indeed inflicted genocide against the People and the Republic of Bosnia and Herzegovina, as conceded by the late Judge Tarassov in his Declaration of 8 April 1993.

By means of Paragraph 53 of the second Order, the World Court expressly stated that since 8 April 1993 this “grave risk” of “…the crime of genocide… has been deepened…” Once again the World Court was telling the entire world and especially the Permanent Members of the Security Council that the rump Yugoslavia was currently inflicting even worse acts of genocide against the People and the Republic of Bosnia and Herzegovina than the Serbs had been doing up to 8 April 1993. Also, the World Court’s reference to “heinous acts” only strengthened the conclusion that in the opinion of the Court the rump Yugoslavia was indeed committing even worse acts of genocide against the People and the Republic of Bosnia and Herzegovina. Finally, this Paragraph 53 also indicates that in the opinion of the World Court, the rump Yugoslavia

had violated the provisional measure set forth in Paragraph 52B of its 8 April 1993 Order, inter alia.

Paragraph 55 of the 13 September 1993 World Court Order provides conclusive proof of the fact that the Owen-Stoltenberg Plan would have destroyed Bosnia's Statehood and robbed the Republic of Bosnia and Herzegovina of its Membership in the United Nations Organization:

55. Whereas the Security Council of the United Nations in resolution 859 (1993) of 24 August 1993 which, inter alia, affirmed the continuing membership of Bosnia-Herzegovina in the United Nations,…

At the very outset of the Owen-Stoltenberg negotiations in Geneva, on 29 July 1993 around 7:30 p.m. then Foreign Minister (later Prime Minister) Haris Silajdzic asked me to analyze the just tendered Owen-Stoltenberg Plan for President Izetbegovic. After working all night to prepare a formal Memorandum on the Plan for the President, and with a heavy heart, I informed Bosnia's Foreign Minister at breakfast around 8 a.m. Geneva time the next day: "Briefly put, …they will carve you up into three pieces, destroy your Statehood, and rob you of your U.N. Membership." At the end of our lengthy conversation, Foreign Minister Silajdzic instructed me: "You brief the press, I will tell the President!" Pursuant to his instructions, I immediately proceeded to explain to the world news media that the Owen-Stoltenberg Plan called for Bosnia to be carved up into three ethnically based mini-states, for Bosnia's Statehood to be destroyed, and for Bosnia to be robbed of its Membership in the United Nations Organization. I distributed my Memorandum dated 30 July 1993 to the world's news media in support of my conclusions.

Several hours later, I received an urgent telephone call from Muhamed Sacirbey, Bosnia's Ambassador to the United Nations Headquarters in New York, asking me what he should do: "Convene an emergency meeting of the Security Council! Tell them they are stealing our U.N. Membership! Distribute my Memorandum! Try to stop it!" The net result of Ambassador Sacirbey's prodigious efforts in New York was Security Council Resolution 859 (1993) that guaranteed Bosnia's Membership in the United Nations despite the Machiavellian machinations by Owen, Stoltenberg, and Szasz in Geneva.

At the time everyone in Geneva knew full well that if Bosnia were to lose its U.N. Membership, then the Bosnian People would go the same way that the Jewish People did starting in 1939. Indeed, that was the entire purpose of the exercise in Geneva by Owen, Stoltenberg, their U.N. lawyer Szasz, and their U.N. superior Boutros-Ghali: Implementing the "final solution" to the inconvenient "problem" presented by the gallant resistance to genocide mounted by the People and the Republic of Bosnia and Herzegovina since March of 1992. But in the late summer of 1993 the Bosnians refused to go the same way the Jews did in 1939!

During the course of this second round of provisional measures proceedings before the World Court in July and August of 1993, I had requested the World Court to rule against the legality of the Owen-Stoltenberg carve-up of the Republic of Bosnia and Herzegovina on the grounds that

this partition would subject 1.5 to 2 million more Bosnians to “ethnic cleansing,” which I had already argued to the Court was a form of genocide. In response, the World Court did rule against the legality of the Owen-Stoltenberg Plan in Paragraph 42 of its Second Order by means of the following language:

…whereas, on the other hand, in so far as it is the Applicant’s contention that such “partition and dismemberment”, annexation or incorporation will result from genocide, the Court, in its Order of 8 April 1993 has already indicated that Yugoslavia should “take all measures within its power to prevent commission of the crime of genocide”, whatever might be its consequences;…

In other words, by a vote of 13 to 2, the World Court effectively prohibited the Owen-Stoltenberg carve-up of Bosnia because it would result from acts of genocide, which were already prohibited by its 8 April 1993 Order. Nevertheless undeterred, thereafter Owen and Stoltenberg continued to plot their tripartite genocidal carve-up of Bosnia under the new rubric of the so-called European Action Plan with the full support of the United States, Britain, France, Russia, the European Union and its other member states, the United Nations Secretary General, the U.N. Secretariat, and U.N. Officials, including the above-named individuals, their subordinates, and others.

In this second Order of 13 September 1993, the World Court then indicated that its first Order of 8 April 1993 was so sweepingly comprehensive that it did not need to be supplemented, but only “should be immediately and effectively implemented”:

59. Whereas the present perilous situation demands, not an indication of provisional measures additional to those indicated by the Court’s Order of 8 April 1993, set out in paragraph 37 above, but immediate and effective implementation of those measures;

Notice here the World Court’s express finding of fact that the situation in the Republic of Bosnia and Herzegovina was “perilous.” In other words, the rump Yugoslavia was currently perpetrating even worse acts of genocide against the People and the Republic of Bosnia and Herzegovina than the Serbs had been doing up to 8 April 1993. The very existence of the Republic of Bosnia and Herzegovina was now in jeopardy!

Furthermore, it becomes crystal clear from reading through this second Order of 13 September 1993 that the World Court was criticizing the member states of the U.N. Security Council for having refused to fulfill their obligation “to prevent” the ongoing genocide in Bosnia. Pursuant to its own terms the World Court’s first Order of 8 April 1993 was transmitted to the Security Council. The World Court noted in Paragraph 54 of the second Order of 13 September 1993 that the Security Council duly “took note of” its first Order in Resolution 819 (1993) of 16 April 1993. But the Serb acts of genocide against the Bosnians continued apace “…despite many resolutions of the Security Council of the United Nations…” to the great harm of the Bosnian People, as the World Court expressly found in Paragraph 52 of its second Order of 13 September 1993. In other words, in the opinion of the World Court, the Security Council had

failed to adopt prompt and effective measures to terminate the ongoing genocide against the People and the Republic of Bosnia and Herzegovina, and especially despite its first Order of 8 April 1993.

In accordance with its own terms, this second World Court Order of 13 September 1993 was also transmitted to the U.N. Secretary General for transmission to the U.N. Security Council. It is obvious from reading through this second Order that the World Court was calling upon the member states of the U.N. Security Council to immediately and effectively implement its first Order of 8 April 1993 against the rump Yugoslavia in order to stop the ongoing genocide against the People and the Republic of Bosnia and Herzegovina. This the member states of the Security Council were required to do under the terms of both the Genocide Convention and the United Nations Charter. But despite this second, even stronger Order by the World Court on 13 September 1993, the Security Council and its Permanent Members refused to do anything to stop the Serb genocide and aggression against the People and the Republic of Bosnia and Herzegovina for the next two years until the Fall of 1995.

Article 31(3) of the Statute of the International Court of Justice provides: “If the Court includes upon the Bench no judge of the nationality of the parties, each of the parties may proceed to choose a judge as provided in paragraph 2 of this article.” It was this author’s decision to nominate Professor Elihu Lauterpacht of Cambridge University as Bosnia’s Judge ad hoc in this case. Professor Lauterpacht is one of the leading Professors of Public International Law in the world today. He is also a man of great experience, integrity, and judgment. Professor Lauterpacht had no prior connection with the Republic of Bosnia and Herzegovina.

It would serve no purpose here for me to analyze Judge ad hoc Lauterpacht’s lengthy Separate Opinion attached to the World Court’s Order of 13 September 1993. It speaks for itself, and–I might add–quite eloquently so. Nevertheless, within his erudite exposition, I wish to draw to your attention the critical passage found in Paragraph 102 of Judge ad hoc Lauterpacht’s Separate Opinion:

102. Now, it is not to be contemplated that the Security Council would ever deliberately adopt a resolution clearly and deliberately flouting a rule of jus cogens or requiring a violation of human rights. But the possibility that a Security Council resolution might inadvertently or in an unforeseen manner lead to such a situation cannot be excluded. And that, it appears, is what has happened here. On this basis, the inability of Bosnia-Herzegovina sufficiently strongly to fight back against the Serbs and effectively to prevent the implementation of the Serbian policy of ethnic cleansing is at least in part directly attributable to the fact that Bosnia-Herzegovina’s access to weapons and equipment has been severely limited by the embargo. Viewed in this light, the Security Council resolution can be seen as having in effect called on members of the United Nations, albeit unknowingly and assuredly unwillingly, to become in some degree supporters of the genocidal activity of the Serbs and in this manner and to that extent to act contrary to a rule of jus cogens.

In other words, Judge ad hoc Lauterpacht had pointed out for the entire world to see that the Security Council's arms embargo against the Republic of Bosnia and Herzegovina had aided and abetted genocide against the Bosnian People! Furthermore, Judge ad hoc Lauterpacht knew full well that his Separate Opinion would be transmitted with the Second Order of 13 September 1993 to the U.N. Secretary General and then to the United Nations Security Council. Thus, Judge ad hoc Lauterpacht had purposefully and officially placed on notice the member states of the Security Council that their arms embargo against Bosnia was aiding and abetting genocide against the People and the Republic of Bosnia and Herzegovina.

During the early morning hours of 14 September 1993, the author rose to fly to Geneva for further consultations with President Izetbegovic, Vice President Ejup Ganic, and then Foreign Minister Silajdzic, who were still attending the Owen-Stoltenberg negotiations at U.N. Headquarters there. It was my advice to all three that the next step for Bosnia and Herzegovina would be to sue the United Kingdom for aiding and abetting genocide against the Bosnian People in order to break the genocidal Security Council arms embargo of Bosnia and to stop the genocidal tripartite carve-up of the Republic pursuant to the soon-to-be proposed so-called European Action Plan. This recommendation was taken under advisement.

By Letter dated 15 September 1993, S/26442, the Republic of Bosnia and Herzegovina requested the Security Council, pursuant to Article 94, paragraph 2, of the U.N. Charter, to:

take measures under Chapter VII of the Charter in order to enforce the order of 13 September 1993 of the International Court of Justice pursuant to the "further Requests for the Indication of Provisional Measures" in the case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide brought by the Republic of Bosnia and Herzegovina against "Yugoslavia (Serbia and Montenegro)".

The 13 September 1993 ruling reaffirms the Court's previous Order of 8 April 1993 and which should be "immediately and effectively implemented". In view of the fact that: (1) the aggression directed at the Republic of Bosnia and Herzegovina continues; (2) the genocide against the Bosnian people is unchecked, in contravention to the 8 April 1993 order; and (3) the genocide and aggression is furthered through the sieges of Bosnian cities including Sarajevo, Gorazde, other so-called "safe areas" and other areas, we call upon the Security Council to take the necessary and immediate steps to lift the sieges and thereby confront the on-going genocide.

Nevertheless, after the World Court issued its Second Order on 13 September 1993 — and despite Bosnia's 15 September 1993 Request to the Security Council to enforce this Second Order — the humanitarian situation in the Republic of Bosnia and Herzegovina significantly and substantially deteriorated for all 4.4 million Bosnian citizens. The Security Council did nothing to help the People and the Republic of Bosnia and Herzegovina.

In this regard, shortly after the World Court's Order of 13 September 1993, one reputable news media report indicated that U.K. Prime Minister John Major told U.S. President Bill Clinton that

he (Major) would risk his government falling if he were to support the lifting of the arms embargo against the Republic of Bosnia and Herzegovina. In an interview given to the Washington Post that was published on 17 October 1993, President Clinton said: "… John Major told me he wasn't sure he could sustain his government… No government is going to risk falling, even to the most intense pressure by the United States …" See Bosnia; Excessive Rhetoric Had Haunting Echo, Washington Post, Oct. 17, 1993. President Clinton added: "I mean I had the feeling that the British and French felt it was more important to avoid lifting the arms embargo than to save the country. I mean, that's just the way they felt." See U.S. Anger Erupts Against Britain; Frustration over Bosnia Leads White House to Question Historic Ties, Daily Telegraph, Oct. 18, 1993.

Although Mr. Major later denied the claim by President Clinton that he (Major) had told the President that his government would fall if the United Kingdom agreed to lift the arms embargo on Bosnia, Mr. Major publicly confirmed the basic point that his government would indeed fall if the United Kingdom agreed to lift the arms embargo, in the following words:

"No, of course not. What is perfectly clear is the policy of lifting the arms embargo had no support, very little support in the Commons and no support whatever in the Cabinet, and that of course the United States knows…"

See Major Rejects US Claims on Bosnia Arms Embargo, Independent, Oct. 25, 1993. In other words, Prime Minister Major conceded that his Government would fall if he moved to lift the illegal, genocidal and racist arms embargo against the People and State of Bosnia and Herzegovina. This admission by Mr. Major tends to corroborate President Clinton's claim about what Mr. Major told him.

Consequently, pursuant to the authorization of President Izetbegovic, on November 10, 1993 the author was instructed by Ambassador Sacirbey to institute legal proceedings against the United Kingdom for violating the Genocide Convention and the Racial Discrimination Convention in accordance with my previous recommendation. On 15 November 1993, Ambassador Sacirbey convened a press conference at U.N. Headquarters in New York in which he stated Bosnia's solemn intention to institute legal proceedings against the United Kingdom. Later that day, the author filed with the World Court a Communication that I had drafted, which was entitled Statement of Intention by the Republic of Bosnia and Herzegovina to Institute Legal Proceedings Against the United Kingdom Before the International Court of Justice. Ambassador Sacirbey had also distributed this Statement at his press conference.

In this 15 November 1993 Statement, the Republic of Bosnia and Herzegovina formally stated its solemn intention to institute legal proceedings against the United Kingdom before the International Court of Justice for violating the terms of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide; of the 1965 International Convention on the Elimination of All Forms of Racial Discrimination; and of the other sources of general international law set forth in article 38 of the World Court's Statute. This 15 November 1993 Statement also indicated that the Republic of Bosnia and Herzegovina had issued instructions to

the author to draft an Application and a Request for Provisional Measures of Protection against the United Kingdom, and to file these papers with the Court as soon as physically possible. Ambassador Sacirbey had this Statement circulated at United Nations Headquarters in New York as an official document of both the Security Council and the General Assembly. See U.N. Doc. A/48/659-S/26806, 47 U.N.Y.B. 465 (1993). I hereby incorporate this Statement by reference and as an integral part of this Complaint.

In the design and execution of this World Court Lawsuit against Britain, my two most important immediate objectives were (1) to break the genocidal arms embargo that the Security Council and especially its Permanent Members and in particular Britain had illegally imposed against the Republic of Bosnia and Herzegovina, a U.N. Member State, in gross violation of Bosnia's "inherent right of individual and collective self-defense recognized by article 51 of the U.N. Charter; and (2) to stop the genocidal European Action Plan to carve-up the Republic of Bosnia and Herzegovina, a U.N. Member State, which was then being spearheaded by Britain and its agent David Owen. Due to the monumental human rights catastrophe in the Republic of Bosnia and Herzegovina, I was unable to prepare and complete an Application against the United Kingdom, together with a concurrent Request for Provisional Measures, until 30 November 1993. On that day by telephone the author personally informed Ambassador Sacirbey in Geneva that these documents were ready to be filed with the World Court at any time. But by then it was too late. In immediate reaction to Ambassador Sacirbey's public Statement of Bosnia's intention to institute legal proceedings against the United Kingdom on 15 November 1993, a Spokesman for the British Foreign Office said that this announcement "would make it difficult to sustain the morale and commitment of those [British troops and aid workers] in Bosnia in dangerous circumstances." See U.N. Genocide Charge Puts Any Bosnia Role in Doubt, Daily Telegraph, Nov. 17, 1993. This story continued: "Foreign Office sources said there were no plans to remove the Coldstream Guards, who have just begun a six-month deployment to Bosnia. But Whitehall would take account of whether the Bosnian threat of legal action was in fact taken to the International Court of Justice in The Hague." Id.

In other words, the United Kingdom publicly threatened the Republic of Bosnia and Herzegovina with dire consequences simply because Bosnia stated its intention to pursue a peaceful resolution of these serious disputes over genocide and racial discrimination with it before the International Court of Justice in accordance with the requirements of article 2(3) and article 33(1) of the United Nations Charter. Indeed, the United Kingdom proceeded to carry out this public threat, inter alia, against the Republic of Bosnia and Herzegovina, and thus aggravated and extended these serious disputes over genocide and racial discrimination. In other words, the United Kingdom threatened, punished and retaliated against the Republic of Bosnia and Herzegovina simply because Bosnia attempted to exercise its legal rights and to discharge its legal obligations under the Genocide Convention, the Racial Discrimination Contention, the United Nations Charter, and the Statute of the International Court of Justice.

In addition to the British government, several European states also threatened the Republic of Bosnia and Herzegovina over the continuation of Bosnia's legal proceedings against the United Kingdom before the World Court in accordance with the 15 November 1993 Statement. The

basic thrust of their collective threat was that all forms of international humanitarian relief supplies to the starving People of the Republic of Bosnia and Herzegovina would be cut-off if my Application and Request for Provisional Measures against the United Kingdom were to be actually filed with the World Court. For these reasons of severe duress and threats perpetrated by the United Kingdom, other European states, David Owen and Thorvald Stoltenberg, the Republic of Bosnia and Herzegovina was forced to withdraw from those proceedings against the United Kingdom by means of concluding with it a coerced “Joint Statement” of 20 December 1993.

Nevertheless, on the afternoon of Monday, 3 January 1994, the author called the Registrar of the International Court of Justice in order to make three basic Points to him for transmission to the Judges of the World Court:

1. The Bosnian decision to withdraw the lawsuit against the United Kingdom was made under duress, threats, and coercion perpetrated by the British government and the governments of several other European states upon the highest level officials of the Bosnian government in Geneva, London, and Sarajevo. Therefore the so-called agreement to withdraw the lawsuit against Britain was void ab initio. I reserved the right of the Republic of Bosnia and Herzegovina to denounce this agreement at any time and to institute legal proceedings against the United Kingdom in accordance with the Statement of 15 November 1993.

2. The British government demanded that the author be fired as the General Agent for the Republic of Bosnia and Herzegovina before the Court. The British government knew full well that the author was the one responsible for the Bosnian strategy at the World Court, and especially for the recommendation to sue Britain.

3. Toward the end of my conversation with the Registrar on 3 January 1994, the author made an oral Request that the World Court indicate provisional measures proprio motu in order to protect the People and the Republic of Bosnia and Herzegovina from extermination and annihilation by the rump Yugoslavia and the Republic of Croatia. I pointed out to the Registrar that this oral Request was in accordance with the terms of the written Request for provisional measures proprio motu in advance that was already set forth in Bosnia’s Second Request for Provisional Measures of 27 July 1993. The Registrar informed me that the Court was paying close attention to the situation in the Republic of Bosnia and Herzegovina.

Pursuant to Point 2, above, the author was relieved of his responsibilities as General Agent for the Republic of Bosnia and Herzegovina before the World Court on 12 January 1994.

On 2 February 1994, I faxed to the Registrar a Communication of that date entitled “Postscript,” which was initialed by me. The purpose of this Communication was to establish a memorial and a public record of my conversation with the Registrar of 3 January 1994 and, in particular, of my oral Request for Provisional Measures proprio motu, as indicted above. I also mailed a copy of this Communication (including the FAX transmission sheet of 2 February 1994 and the “Postscript” of 2 February 1994) to the Registrar of the Court. On 18 February 1994, the

Registrar of the Court sent me a Letter, numbered 90516. Therein the Registrar acknowledged "receipt in the Registry of the Court on 15 February 1994 of the original of your 3-page communication dated 2 February 1994 entitled "Postscript," the text of which has been made available to Members of the Court."

On February 5, 1994, a Serb mortar shell struck the marketplace in the center of Sarajevo, killing 69 people and wounding more than 200. See, e.g., Laura Silber & Allan Little, Yugoslavia: Death of a Nation 309-18 (1995 & 1996). The international outrage over this wanton atrocity inflicted upon innocent people by the Bosnian Serbs was so enormous that the Clinton administration was forced to seize the initiative for the so-called Bosnian peace negotiations from the United Nations and the European Union, and thus to take the matter directly into its own hands. The net result of this American effort was the Washington Agreements of March 1994.

The author analyzed the Washington Agreements in great detail in a Memorandum of Law to the Parliament of the Republic of Bosnia and Herzegovina on the so-called Washington Agreements of 18 March 1994, that I prepared and submitted to the Bosnian Parliament on March 24, 1994. This Memorandum is a public document that was considered by the Bosnian Parliament during the course of their deliberations over the Washington Agreements. It was originally published on the Bosnian Computer Newsgroup Bosnet (i.e., BIT.LISTSERV.BOSNET), and later in Volume 15 of the Journal of the Institute of Muslim Minority Affairs, Nos. I & II, at 31-49 (Jan. & July 1994).

Instead of carving up Bosnia into three de jure independent states, the Washington Agreements prepared the way for carving up the Republic of Bosnia and Herzegovina into only two de facto independent states. One such de facto independent state–consisting of approximately 49 per cent of the Republic's territory–would be designated for the Bosnian Serbs, thus ratifying the results of their ethnic cleansing, genocide, crimes against humanity, war crimes, mass rape, and torture, etc. The second such de facto independent state was actually created by the Washington Agreements and was called a "Federation" between the legitimate Bosnian government and the extreme nationalist and genocidal Bosnian Croats working for separation at the behest of the ex-communist apparatchik Croatian President Franjo Tudjman.

In theory, the so-called Federation was supposed to control 51 per cent of the territory of the Republic of Bosnia and Herzegovina. Nevertheless, it was clear from reading through the Washington Agreements that its American State Department drafters contemplated that ultimately this so-called Federation would be absorbed by the Republic of Croatia; and likewise, that the Bosnian Serb state would ultimately be absorbed by the Republic of Serbia. In other words, the Washington Agreements paved the way for the de facto partition of the Republic of Bosnia and Herzegovina between the Republic of Croatia and the Republic of Serbia. That had been the longstanding plan of Tudjman and Milosevic to begin with, going all the way back to their secret agreement to partition Bosnia at Karadjordjevo in March of 1991. See, e.g., Silber & Little, supra, at 131-33.

The Washington Agreements of March 1994 became the basis for the drafting and the imposition of the Dayton Agreement in November of 1995. Indeed, the Dayton Agreement can only be understood and interpreted by reference to the Washington Agreements. In other words, despite its public protestations to the contrary, throughout 1994 and 1995 the Clinton administration actively promoted and consistently pursued the de facto carve-up of a United Nations member state into two parts, and then Bosnia's de facto absorption by two other U.N. member states.

After imposing the Washington Agreements upon the Bosnian government, the Clinton administration then fruitlessly spent the next year and a half trying to convince Serbia and the Bosnian Serbs to go along with this de facto carve-up and absorption of 49 per cent of the Republic of Bosnia and Herzegovina. This would have required Serbia and the Bosnian Serbs to voluntarily give up about 20 percent of the 70 percent of Bosnian territory that they had stolen and ethnically cleansed. That they proved unwilling to do until the use of military force against them by NATO in the Fall of 1995.

In the meantime, the siege and bombardment of Sarajevo and the other Bosnian cities and "safe areas" persisted and the Bosnian Serbs continued to ethnically cleanse Bosnian towns of their Muslim and Croat citizens, with the active support and assistance of Serbia. The entire world watched and did nothing as the slaughter and carnage by the Bosnian Serb army continued relentlessly, viciously, and ruthlessly. This genocidal rampage culminated in the Serb massacre of about ten thousand Bosnian Muslims at the so-called U.N. "safe area" of Srebrenica during July of 1995, together with the mass deportation of about 23,000 Bosnian Muslim women and children. The United Nations Organization and the above-named U.N. Officials, their subordinates, and others deliberately and maliciously sacrificed the U.N. "safe areas" of Srebrenica and Zepa together with their inhabitants in order to produce the 51%/49% territorial carve-up of Bosnia and the legal destruction of the Republic of Bosnia and Herzegovina that would be imposed at Dayton in November of 1995.

On September 8, 1995, the Clinton Administration imposed a so-called Agreement on Basic Principles upon the Bosnian government in Geneva as part of the run-up to Dayton. It was clear to the author that the Geneva Agreement constituted the next stage in the American plan to carve up the Republic of Bosnia and Herzegovina into two de facto independent states that had been initiated by the 1994 Washington Agreements. In order to warn the Bosnian Parliament of these machinations, I prepared a formal Memorandum of Law to the Parliament of the Republic of Bosnia and Herzegovina Concerning the Agreement on Basic Principles in Geneva of September 8, 1995, dated 11 September 1995. This Memorandum was submitted to the Bosnian Parliament and considered during the course of their deliberations. It was published on Bosnet on September 12, 1995.

On 26 September the Clinton administration imposed yet another Agreement upon the Bosnian government in New York in order to pave the way for the carve-up of the Republic in Dayton. Once again, in order to alert the Bosnian Parliament to these machinations, I drafted a Memorandum of Law to the Parliament of the Republic of Bosnia and Herzegovina Concerning

the New York Agreement of 26 September 1995, dated September 28, 1995. This Memorandum was submitted to the Bosnian Parliament for their consideration and then published on Bosnet, September 29, 1995.

Next, His Excellency President Alija Izetbegovic asked me to

analyze the first draft of the so-called Dayton Peace Agreement that was submitted to him by Richard Holbrooke. For obvious reasons, this Memorandum of Law is and shall remain private and confidential. However, several of my basic criticisms were incorporated into the final text of the Dayton Agreement. For example, it is a matter of public record that the first draft of the Holbrooke Plan would have constituted a de jure carve-up of the Republic of Bosnia and Herzegovina. That never happened! But of course Slobodan Milosevic participated in the Dayton "negotiations" by U.S. invitation.

After the public initialing of the Dayton Agreement, I was asked by then Bosnian Foreign Minister Muhamed Sacirbey as well as by the Parliament of the Republic of Bosnia and Herzegovina to produce an analysis of the Dayton Agreement for the purpose of their formulating a package of reservations, declarations and understandings (RDUs) to the Agreement. This was done by means of a formal Memorandum of Law by me that was submitted to the Parliament of the Republic of Bosnia and Herzegovina concerning the Dayton Agreement, dated November 30, 1995. This Memorandum is in the public domain and was published on Bosnet, December 1, 1995.

Pursuant to this self-styled Dayton Peace Agreement, on 14 December 1995 the Republic of Bosnia and Herzegovina was destroyed de jure and carved-up de facto in Paris by the United Nations, the European Union and its member states, the United States, Russia and the many other states in attendance, despite the United Nations Charter, the Nuremberg Principles, the Genocide Convention, the Four Geneva Conventions and their two Additional Protocols, the Racial Discrimination Convention, the Apartheid Convention, and the Universal Declaration of Human Rights, as well as two overwhelmingly favorable protective Orders issued by the International Court of Justice on behalf of Bosnia on 8 April 1993 and 13 September 1993. This second World Court Order effectively prohibited such a partition of Bosnia by the vote of 13 to 2. This U.N.-sanctioned execution of a U.N. member state violated every known principle of international law that had been formulated by the international community in the post World War II era.

Bosnia was sacrificed on the altar of Great Power politics to the Machiavellian god of expedience. In 1938 the Great Powers of Europe did the exact same thing to Czechoslovakia at Munich. The partition of that nation state did not bring peace to Europe then. Partition of the Republic of Bosnia and Herzegovina will not bring peace to Europe now.

On 11 July 1996, — the first anniversary of the Srebrenica massacre of about ten thousand Bosnian Muslims by the Bosnian Serb army with the assistance of Serbia — the International Court of Justice issued a Judgment in which it overwhelmingly rejected all of the spurious

jurisdictional and procedural objections made by the rump Yugoslavia against Bosnia's Application/complaint for genocide that the author had originally filed with the Court on 20 March 1993. The World Court had already rejected these same objections twice before in its Orders of 8 April 1993 and 13 September 1993. But under the Court's Rules of Procedure, the rump Yugoslavia was entitled to a separate hearing and decision on these preliminary issues alone. Nevertheless, despite the overwhelming merits of Bosnia's claims for genocide against the rump Yugoslavia, enormous pressure has been brought to bear upon the Bosnian government by the United States, the United Nations, the European Union and its member states, Carl Bildt, and Richard Holbrooke, inter alia, to drop this World Court lawsuit in order to placate Slobodan Milosevic and to cover-up their own criminal behavior towards the People and the Republic of Bosnia and Herzegovina.

When I drafted all of the World Court papers for Bosnia and also when I orally argued the two sets of Provisional Measures before the Court in April and August of 1993, I was quite careful and diligent to file and plead as much material as I could that personally implicated Milosevic in ordering, supervising, approving and condoning genocide against both the People and the Republic of Bosnia and Herzegovina. I personally attacked and repeatedly accused him of primary responsibility for the genocide in Bosnia for the entire world to see and to hear. For this reason, it will prove to be impossible for the United States, the United Nations, and Europe to rehabilitate Milosevic once the World Court renders its final Judgment on the merits of the case in favor of Bosnia, which will inevitably occur unless prevented.

Bosnia has already won what is tantamount to two pre-judgments on the merits of the case in the World Court's Order of 8 April 1993 and the Court's Order of 13 September 1993, as conceded by the late Judge Tarassov in his Declaration attached to the first Order, and in his Dissenting Opinion attached to the second Order. In other words, under the leadership of Slobodan Milosevic, the rump Yugoslavia has indeed committed genocide against the People and the Republic of Bosnia and Herzegovina, both directly and indirectly by means of its surrogate army under the command of two individuals already indicted by the ICTY for international crimes in Bosnia: Radovan Karadzic and Ratko Mladic. Nevertheless, for almost four years the entire international community refused to discharge their solemn obligation under article I of the Genocide Convention "to prevent" this ongoing genocide against the Bosnian People that was so blatantly taking place in the Republic of Bosnia and Herzegovina.

Hence, except for the Bosnians, almost everyone mentioned above wants this World Court lawsuit to disappear from the face of the earth. For they are all guilty of planning, preparing, conspiring, instigating, complicity, and otherwise aiding and abetting in the planning, preparation, conspiracy, complicity, and execution of crimes referred to in articles 2 to 5 of the ICTY Statute: grave breaches of the Geneva Conventions of 1949; violations of the laws or customs of war; genocide; and crimes against humanity. The purpose of this Complaint is to hold the above-named Officials of the United Nations Organization, their subordinates, and others accountable for their criminal acts concerning the fall and genocidal massacre at Srebrenica.

II. THE FALL AND GENOCIDAL MASSACRE AT SREBRENICA

As for the basic facts of the fall and genocidal massacre at Srebrenica itself, they are well known to the Peoples of the World, to the ICTY Prosecutor, and to the Judges of the ICTY. In this regard, and pursuant to article 18(1) of the Statute, I hereby call to your attention the distinguished book Endgame, The Betrayal and Fall of Srebrenica: Europe's Worst Massacre Since World War II (Westview Press: 1997) written by the courageous investigative reporter David Rohde, who won the prestigious Pulitzer Prize for it. I hereby incorporate this book Endgame by reference and as an integral part of this Complaint against the above-named United Nations Officials, their subordinates, and others.

In addition, I draw to your attention the ICTY Prosecutor's indictment for the Srebrenica massacre against Radovan Karadzic and Ratko Mladic for genocide, crimes against humanity, and violations of the laws or customs of war, dated 14 November 1995. This indictment was confirmed by Judge Riad on 16 November 1995. This was then followed by Rule 61 hearings and a Decision rendered on 11 July 1996. I hereby incorporate these Karadzic and Mladic proceedings by reference and as an integral part of this Complaint against the above-named United Nations Officials, their subordinates, and others. I also incorporate by reference the ICTY case files against Karadzic and Mladic, IT-95-5-R61 and IT-95-18-R61.

In this regard, I also draw to your attention the ICTY Prosecutor's indictment for the Srebrenica massacre against Radislav Krstic for genocide, crimes against humanity, and violations of the laws or customs of war, dated 30 October 1998, and recently amended. The original indictment was confirmed by Judge Florence Mumba on 2 November 1998. I hereby incorporate by reference these Krstic proceedings as an integral part of this Complaint against the above-named United Nations Officials, their subordinates, and others, together with the ICTY case file against Radislav Krstic, IT-98-33.

I also draw to your attention the Sentencing Judgment in Prosecutor v. Drazen Erdemovic, dated 5 March 1998. Erdemovic has already been convicted and sentenced by the ICTY for the role he played in the massacre at Srebrenica. To wit: "a VIOLATION OF THE LAWS OR CUSTOMS OF WAR, pursuant to Article 3 of the Statute." I hereby incorporate this Sentencing Judgment by reference and as an integral part of this Complaint against the above-named United Nations Officials, their subordinates, and others. I also hereby incorporate by reference the ICTY Case File on Erdemovic as an integral part of this Complaint, IT-96-22-T.

Finally, pursuant to Statute article 18(1), I hereby call to your attention the Report of the Secretary General of the United Nations Pursuant to General Assembly Resolution 53/35 (1998): "Srebrenica Report." I hereby incorporate this U.N. Srebrenica Report by reference and as an integral part of this Complaint against the above-named United Nations Officials, their subordinates, and others.

I have good grounds to believe that the original U.N. Srebrenica Report prepared by Mr. David Harland of the U.N. Secretariat was stalled, delayed, censored, diluted, and distorted by other

members of the U.N. Secretariat acting with the knowledge and approval and at the behest of the current U.N. Secretary General Kofi Annan. Mr. Harland was recently transferred to East Timor in order to render him incommunicado as part of the continuing Srebrenica cover-up orchestrated by Secretary General Kofi Annan, his immediate assistants, and other U.N. Officials. This criminal conduct renders all such U.N. Officials except Mr. Harland ACCESSORIES AFTER THE FACT to the genocidal Srebrenica massacre.

Therefore, we hereby accuse these other United Nations Officials and Kofi Annan of being ACCESSORIES AFTER THE FACT to grave breaches of the Geneva Conventions of 1949, violations of the laws or customs of war, genocide, and crimes against humanity, in violation of articles 2, 3, 4, 5, 7(1) and 7(3) of the ICTY Statute. We respectfully request that pursuant to Statute article 18(1), you investigate the preparation of this U.N. Srebrenica Report. In particular, we respectfully request that pursuant to article 18(1) and article 18(2) you interview Kofi Annan and David Harland about the preparation of the U.N. Srebrenica Report, among other U.N. Officials. We also respectfully request that you exercise your powers under Statute article 18(2) in order to obtain from Mr. Harland his original draft of the U.N. Srebrenica Report. If and when you obtain Mr. Harland's original U.N. Srebrenica Report, we hereby request permission to examine it for the purpose of making additional submissions in support of this Complaint.

With those severe qualifications, the rest of this Complaint will argue the facts of the U.N. Srebrenica report, but only for the purposes of self-incrimination and condemnation of the above-mentioned United Nations Officials, their subordinates, and others. The events of July 1995 surrounding the fall of Srebrenica are by wide and expert consensus the most tragic and ghastly in Europe since World War II. An especially tragic aspect is that this massive evil culminating in the deaths ,torture, and expulsion of thousands of innocent Bosnian Muslims was perpetrated with the active help and cooperation of the major leadership of the United Nations Organization and others.

Numerous events of the several preceding years before the final siege of Srebrenica provided ample notice and warning of the genocidal slaughter that ultimately occurred. Evidence of actual notice include the ethnic cleansing of vast ranges of eastern Bosnia, where some 99 per cent of the previous majority population was removed; the horrible events of the Spring of 1992 in Brcko and its Luka compound; and the beyond grievous conditions of the Serb concentration camps as revealed years earlier by the courageous reporter Roy Gutman in his Pulitzer-prize-winning dispatches for Newsday, later collected in his book A Witness to Genocide (1993), which I hereby incorporate by reference as an integral part of this Complaint. Instances of mass slaughter, torture, rape, and ethnic cleansing are too numerous, repeated and consistent to have the fall of Srebrenica dismissed as an unanticipated surprise by any serious student of events. In addition, Dutchbat Deputy Commander, Major Robert Franken, subsequently said he warned UN authorities of a Serb buildup in the area well before the attack. He has said it is nonsense to assert the attack possibly could have come as a surprise.

When it was over, some 23,000 Bosnian Muslim inhabitants had been forcibly removed; about ten thousand Bosnian Muslim men and boys had been executed, murdered, and ambushed; an

undetermined number of Bosnian Muslim women had been raped. Along the way thousands were tortured, often before execution. Many Bosnian Muslims committed suicide rather than face the continuing agony of such conditions. In the aforementioned U.N. Srebrenica Report, U.N. Secretary General Kofi Annan said he was shocked at the magnitude of the crimes committed with the “mortal remains of close to 2,500 men and boys…found on the surface, in mass grave sites and in secondarial burial sites.” (¶467) He hypocritically asked: “how can this have been allowed to happen?” (¶469) In addition, the status and reputation of the United Nations and its UNPROFOR forces justifiably disintegrated in the wake of widespread condemnation and ridicule.

Through it all the victims of Srebrenica got no defense or even significant concern from their United Nations “guardians” pledged to protect them from the Serb attackers. The United Nations at all significant levels–civilian and military–negotiated with and appeased the Serb military and civilian leadership. Even more damningly, any reasonable scrutiny of events leads to the conclusion that the United Nations and the international community deliberately allowed Srebrenica to fall. Particularly key United Nations and Dutch civilian and military leadership aided, abetted, and conspired with Serb civilian and military leadership to bring about these terrible events.

In the words of David Rohde: “The international community partially disarmed thousands of men, promised them they would be safeguarded and then delivered them to their sworn enemies. Srebrenica was not simply a case of the international community standing by as a far-off atrocity was being committed. The actions of the international community encouraged, aided and emboldened the executioners.” (Endgame, p. 350)

In the U.N. Report of the Secretary General on the fall of Srebrenica, Kofi Annan similarly declared: “The fall of Srebrenica is also shocking because the enclave’s inhabitants believed that

the authority of the United Nations Security Council, the presence of UNPROFOR peace-keepers, and the might of NATO air power, would ensure their safety. Instead the Serb forces ignored the Security Council, pushed aside the UNPROFOR troops, and assessed correctly that air power would not be used to stop them. They overran the safe area of Srebrenica with ease, and then proceeded to depopulate the territory within 48 hours. Their leaders then engaged in high-level negotiations with representatives of the international community while their forces on the ground executed and buried thousands of men within a matter of days.” (¶468)

Though Kofi Annan generally falls short of making value judgments on his UN colleagues in his report, even he openly states that the entire pattern of UN behavior regarding Bosnia and Srebrenica amounted to “appeasement.” He obviously fails to

make a judgment of criminality as to such outrageous dereliction, but the facts and narrative of his Report make further investigation and review of these matters by the ICTY Prosecutor absolutely necessary for reasons of law and justice.

Annan declares: “The approach of the United Nations Secretariat, the Security Council, the Contact Group and other involved Governments to the war in Bosnia and Herzegovina had certain consequences at both the political and the military level. At the political level, it entailed continuing negotiations with the architects of the Serb policies, principally Mr. Milosevic and Dr. Karadzic. At the military level, it resulted in a process of negotiation with and reliance upon General Mladic, whose implacable commitment to clear Eastern Bosnia–and Sarajevo if possible–of Bosniacs was plainly obvious and led inexorably to Srebrenica. At various points during the war, these negotiations amounted to appeasement.” (¶500)

Annan laments that the instigators of these genocidal crimes–Karadzic and Mladic–remain free. “They must be made to answer for the barbaric crimes with which they have been charged.” (¶501) For whatever reason this observation glaringly omits another prime perpetrator–Slobodan Milosevic.

Mr. Annan also has come to the belated conclusion, despite obvious evidence generated for years after the first months of the war, that imposition of an arms embargo without any concern or commitment to defend the Bosnians was a mistake. “It left the Serbs in a position of overwhelming military dominance and effectively deprived the Republic of Bosnia and Herzegovina of its right under the Charter of the United Nations to self defense.” He added “there must surely have been some attendant duty to protect Bosnia and Herzegovina, after it became a Member State, from the tragedy that then befell it.” (¶490)

In truth, as is widely known, the highest level officials of the United Nations and its military forces, explicitly and implicitly in their words and actions repeatedly told the Serbs to the point of assurances that they could run over Srebrenica with no fear or concern for Western military defense of its inhabitants.

The ongoing attack on Srebrenica proceeded for days with no military defense provided–not by Dutch forces on the ground or NATO planes in the air. Numerous requests for air strikes were refused or deliberately and maliciously bungled at all levels of the United Nations and UNPROFOR. The United Nations leadership displayed little or no concern to extend themselves even for the safety of their own Forces on the ground. United Nations civilian and military officials, particularly then Secretary General Boutros Boutros-Ghali, Yasushi Akashi, Special Representative of the Secretary General in the former Yugoslavia, and French General Bernard Janvier, Theatre Force Commander, are on the record with numerous statements demonstrating there was no concern or intent whatsoever to defend the Bosnian Muslim population of Srebrenica from attack and genocide. These statements, in effect, amounted to a “green light” for slaughter by the Serbs.

Annan said it was clear that Boutros Boutros-Ghali and all his senior advisers including Akashi, Janvier and Annan were deeply reluctant to use air power against the Serbs, but also were “fully aware” that the threat of NATO air power was all the U.N. had to respond to an attack on the safe areas. Annan added:

"It was thus incumbent upon us…to make full use of the air power deterrent….We were…wrong to declare repeatedly and publicly that we did not want to use air power against the Serbs except as a last resort, and to accept the shelling of the safe areas as a daily occurrence…." (¶483)

Many feel, including David Rohde, that Janvier and Akashi are the two individuals who bear the most responsibility for the lack of Close Air Support in the fall and genocidal massacre at Srebrenica. (Endgame, p.364). On July 10 Akashi and Janvier authorized a fax statement to General Tolimir to the effect that close air support would be used against Bosnian Serbs if they struck Dutchbat blocking positions. Of course, the Serbs then bypassed such positions and proceeded with their grisly mission against the Bosniacs. Annan stated: "It is possible that this message had given the Serbs the impression that air power would be used only to protect UNPROFOR, and they could attack the Bosniacs with impunity." (¶275) That is exactly what happened and exactly what these U.N. officials intended.

Rohde declares: "Whether Janvier was cynical or misguided, he is more responsible than any other individual for the fall of Srebrenica. The restrictions on the use of airpower that he actively endorsed and his decision not to approve Close Air Support on Monday July 10, had disastrous results. He did not take the 'necessary measures, including the use of force' to deter attacks on the safe area as Resolution 836 charged him. He also consistently lobbied for and took actions that facilitated the UN's withdrawal from the eastern enclaves." (Endgame, p. 368)

The record also shows that Akashi and Janvier before, during and after the slaughter made numerous statements that were untrue, misleading, or distorted, evidently both to deter defensive action against the Serbs and to conceal the massive dereliction of their own sworn duty.

More than several, but by no means all of these documented failures, will be cited in this submission. In retrospect even Kofi Annan who participated in and helped execute this sinister and tragically flawed policy seems almost incredulous that the massive human devastation by the Serbs at Srebrenica could have been accomplished so easily, with no significant defense. In essence verbally indicting the entire UN leadership structure, including himself, Annan writes:

"The next question that must be asked is this: Why was NATO air power not brought to bear upon the Bosnian Serbs before they entered the town of Srebrenica? Even in the most restrictive interpretation of the mandate the use of close air support against attacking Serb targets was clearly warranted." (¶480)

Some have alleged that NATO air power was not authorized earlier, despite repeated requests from the Dutchbat Commander, because the Force Commander (Janvier) or someone else had renounced its use against the Serbs in return for the release of United Nations personnel taken hostage in May-June 1995. The public record including meetings with and statements by Serb leaders supports this interpretation. A strong body of evidence, cited by Rohde, Roy Gutman and others, would lead to a reasonable conclusion that Janvier and Akashi, in the hostage crisis

shortly before the Srebrenica attack, had committed to the Serbs not to use airpower again in Bosnia.

Many analysts and journalists agree that the pertinent scenario establishing de facto permission for the Serbs to overrun Srebrenica and other eastern safe areas on their grisly and murderous rampage was primarily the doing of Janvier and

Akashi during events subsequent to the taking of several hundreds of UN military hostages on the heels of NATO bombing on May 25. After General Rupert Smith, NATO commander in Bosnia, ordered a second round of air strikes, on May 29 authority to approve air strikes was shifted to United Nations Headquarters. Rohde notes:

"UN Secretary General Boutros Boutros-Ghali now had to personally turn the UN key for any request for air strikes. The peacekeepers' most powerful tool for deterring the Serbs would now need approval of the UN–a process that could take days.

General Smith was stripped of the authority to approve Close Air Support by NATO planes. Now, all requests for Close Air Support would have to be approved by the more conservative Janvier. Close Air Support was to be used 'as a last resort.'" (Endgame, pp. 27-28)

A complex set of guidelines released by Janvier contained the telling statement that "The execution of the mandate is secondary to the security of UN personnel." (Endgame, p. 28) Further, on June 4 only one month before the attack on Srebrenica, Janvier met secretly with General Ratko Mladic and his Chief on Staff, General Momcilo Perisic in Zvornik. One hundred and eleven hostages were released three days later. On June 9 Akashi announced that the UN would abide by "strictly peacekeeping principles" or stay neutral. Just four days later 118 additional hostages were released. Then, under pressure from Serbian president Slobodan Milosevic the remaining hostages were released on June 18. Several Serb sources said that Milosevic had received assurances that there would be no more air strikes. Although French and UN officials deny it, it is obvious to many, and confirmed by the clear meaning of multiple statements by Janvier and Akashi on the record–that a basic decision had been made at this point to leave the peacekeepers there with no intent of defending Srebrenica against Bosnian Serb attacks.(Endgame, pp. 28-29)

Rohde said that the strongest documentation of a secret deal by Janvier and Mladic came on May 29, 1995. Two journalists, Roy Gutman, reporter for Newsday, and Cabell Bruce of Reuters Television reported that a close aide of Janvier said the meeting and the deal were both proposed by Janvier–without specific instructions from the UN in New York.

Rohde wrote that when he (Rohde) later contacted the unnamed source he "backtracked" from that assertion. However, the source said the story was accurate in terms of the sequence of events but that he would not term it a "deal" (Endgame, p. 361) Regardless, the public record leaves little room for any other realistic interpretation than at the very least an outrageous, if technically unspoken, but quite real understanding to let Srebrenica fall.

In his Bosnian memoir To End a War (1998), Richard Holbrooke, U.S. special envoy for Bosnia, has said that Washington to this day does not know whether there was a secret deal to forego air strikes. But he points out that after the Janvier-Mladic meeting air strikes stopped while the intensity and frequency of Serb attacks increased. Also, he notes, both Milosevic and Karadzic said Janvier agreed to drop air strikes. (To End A War, p. 65) I hereby incorporate To End a War by reference and as an integral part of this Complaint.

Although Annan in his Report claims in an almost passing reference to have found no evidence of a secret deal, even he comments voluminously as to allegedly mistaken policies, wrong signals, disastrous and unexplained mistakes surrounding the fall of Srebrenica. He in no way conclusively asserts that such a deal did not occur. Contributing not least of all to the failed and appeasing strategy, Annan says, were the open and stated policies of the UN Secretariat and immediate subordinates such as Akashi, Janvier, and even himself.

For example, as the hostage crisis was unfolding Boutros-Ghali made a major report to the United Nations Security Council. In Annan's words: "The Secretary-General made it clear that he opposed options A,B and C, favoring instead an arrangement under which UNPROFOR would abandon 'any actual or implied commitment to use force to deter attacks' against the safe areas, and under which force, including air power, would be used only in self-defence." (¶207)

This statement came from the highest official of the UN with the specific and exclusive power of being one-half of the dual key program to authorize air strikes. The A, B, and C options ranged from withdrawal to continuation of the status quo, to changing the mandate to allowing greater use of force. Thus, Boutros-Ghali was openly proposing a drastic cutback of the existing U.N. commitment. This was done without expressing meaningful concern for the people at Srebrenica, who in peril of their lives relied on that commitment. The Security Council adjourned without rendering a decision as to this critical proposal.

It was obvious to the world and to the Serbs that Boutros-Ghali had no interest in exercising force against the Serbs. By far the most reasonable interpretation of subsequent events is that the Secretary General, Akashi and Janvier took it upon themselves to rescind the commitment of Resolution 816 – without authorization of the Security Council.

Any contention that essentially all the Muslim inhabitants of Srebrenica, presently living or dead did not intensely and grievously suffer from the barbaric criminality of the

Bosnian Serb forces can be dispelled with a partial and significantly understated account of some, but far from all, of the most tragic and brutal events. Thousands of the 10,000 Bosnian Muslim males killed are still unaccounted for. As stated previously many suffered brutal tortures and subsequent death rather than the relative mercies of swift executions. Any Bosnian Muslim who lived through or had family suffering the Srebrenica massacre in at least some significant degree had been traumatized forever.

Some 23,000 Bosnian Muslims were amassed in the center of Srebrenica outside the Dutchbat compound on July 12 as the Serbs completed their initial attack over of a six-day period. The overwhelming majority of these traumatized people were civilians – especially women and children of all ages, together with unarmed men.

Dutchbat soldiers proceeded to organize the crowd and helped route the Bosnian Muslims into waiting busses bound for various destinations. Most surviving women, children and the very old ultimately wound up in various parts of Republican-controlled Bosnia or even Zagreb. About 10,000 Bosnian Muslim males roughly ranging from 16 to 65 met a much more horrible fate.

General Mladic had ordered the separation out of males in this age range whose names were to be put on a list. The Dutchbat Deputy Commander in his immediate area ordered the compilation of such a list. He later said this was done to provide a record of the names to be handed over to the International Committee of the Red Cross. Two hundred and thirty nine males' names were listed. Some 60 Bosnians refused to comply. Ultimately none of the men listed were ever accounted for. (U.N. Srebrenica Report, ¶¶324 & 325)

Despite their pleas for mercy Dutchbat soldiers ordered these men to leave the compound and turn themselves over to the Serbs. Dutchbat personnel mystifyingly said they did not believe sudden death was looming over these men and that they would be treated in compliance with the Geneva Conventions. (U.N. Srebrenica Report, ¶348)

On the night of July 12 the Serbs began killing Bosnian Muslim males, including young boys en masse. After transporting Bosniac men to Bratunac without Dutchbat bus escorts, the Serbs dragged 50 men out of a hangar one by one, beat them with blunt instruments and then killed them. At least several hundred men had been confined in that hangar. (U.N. Srebrenica Report, ¶340)

One bus, escorted by Dutchbat personnel and carrying 54 wounded Bosniacs and 10 locally recruited employees, wound up in Potocari where the Bosnian Serb Army (BSA) dragged 20 men from the bus and forced them to proceed on foot to Kladanj. Many of these would have had to crawl to the Republican-held area of Kladanj. Also, the Serbs seized three female employees whose fate was never learned. (U.N. Srebrenica Report, ¶341)

Also, during the night of July 12-13 a Dutchbat soldier saw the BSA leading about 10 people towards a dirt track in Potocari. Annan reports: "Several soldiers from Dutchbat went to the area on 13 July and found the corpses of nine men near a stream. All of the dead had gunshot wounds in their backs at heart level.

In another incident, Dutchbat personnel saw BSA soldiers force at least five men into a large factory near the Potocari compound. Shortly afterwards they heard five or six shots….Another Dutchbat soldier described an incident where he saw a man kneeling or sitting in the middle of a group of Serbs. The group was approached by a number of Serb soldiers, who took the man

and dragged him to an area behind a house. Screams and a shot were heard, and the soldiers returned alone,…" (¶342)

Annan adds that in another account, a Dutchbat soldier saw two Bosniacs flee from a mini-bus and run into Serb soldiers. Two shots were fired and both men fell to the ground. (¶342)

Meanwhile on the night of July 12, about 15,000 fleeing men, overwhelmingly civilian, were proceeding north and west from Srebrenica. Serb fighters were pounding them with long-range heavy weapons as well as mortars, bazookas and small arms. At least several hundreds of men in the middle section of the column were ambushed with small arms fire and killed in a clearing near Kamenica. (U.N. Srebrenica Report, ¶¶343 & 344)

Several days later large numbers from two groups in this column surrendered to the Serbs. Hundreds of Bosniac men were taken to Bratunac and also packed into an agricultural warehouse in Kravica. There hundreds were killed by small arms fire and

grenades.

Visiting the site several months later, "United Nations personnel were able to see hair, blood and human tissue caked to the inside walls of this building. The inside walls, floor and ceiling were also marked by the impacts of gunshots and explosions….A smaller group of approximately 70 individuals, appears to have been taken to a meadow near Kravica and shot along the river bank." (U.N. Srebrenica Report, ¶347)

It is estimated that 4,000 to 5,000 Bosniac males had been held at Bratunac. On July 14 the Serbs began routing them to other locations for systematic extermination.

The first-hand reporting as to a great deal of this grisly slaughter has been documented on the basis of testimony of Drazen Erdemovic, a soldier of the BSA who since has been convicted of international crimes by the ICTY. These executions, including many by brutal beating, took place at various times from July 14 through July 17 at Orahovac (Lazete), the "dam" near Petkovici, the Branjevo Farm, the Pilica Cultural Center and Kozluk. (U.N. Srebrenica Report, ¶¶361 & 362)

At the Branjevo farm the Bosniac men were forced to kneel in the Muslim manner and beaten with bars. Erdemovic estimated perhaps 1,000 men were beaten and shot there. (U.N. Srebrenica Report, ¶363) One bus after another kept arriving all morning of July 16. "As the morning passed, the execution squad kept having to move to new positions. Rows of dead bodies were slowly filling up the field." (Endgame, p. 311)

About 500 men appeared to have been killed by small arms fire at the Cultural Centre in Pilica.

At Lazete Hamlet on July 14 busloads of men previously held at Bratunac were jammed into a warehouse. After being given water and told they would be exchanged for other prisoners they were lined up into a field and shot. (U.N. Srebrenica Report, ¶366)

On July 14 others in the Bratunac group were subjected to lethal beatings throughout the day at Petkovski school at Karakaj. In the afternoon and evening, the Bosniac men were taken to the “Red Dam” at the aluminum factory and executed. (¶367)

On July 15 about 450 people were executed near the “Drina Wolves” barracks at Kozluk. (¶368) One hundred and fifty bodies with hands bound later were found in the Cerska Valley. These victims, remnants of the 15,000 person Bosniac column previously shelled and ambushed, finally had surrendered to the Serbs. (¶370)

As of the end of 1999 the ICTY has found remains of about 2,000 victims from exhumation sites. The identities of about 30 had been determined. (¶370)

Major significant information as to such matters as the Serb attack, atrocities, and the requests for air strikes was so often delayed or even not transmitted that it is obvious that Akashi and Janvier had a policy to suppress and distort information so that the Serbs would prevail and the difficult “problem” of defense of the Eastern enclaves would forever be eliminated–as they saw it.

Very importantly, it took until July 12 – five days after the onslaught of the Serb attack–for Akashi to transmit the text of the Dutchbat Commander’s report to U.N. Headquarters in New York. (¶318) Until that time New York gave little or no apparent notice or attention to the Srebrenica crisis.

Further, about July 19 the first eye-witness accounts of the much-rumored Serb atrocities were provided to the world by survivors showing up in Tuzla. Rohde observed, “Akashi, who had failed to report the refugee accounts of atrocities to his superiors in New York, was under pressure to investigate. He had received a cable from Kofi Annan on July 18 asking him why New York had received no information to corroborate or contradict the accounts of Serb atrocities and UN passivity so widely reported in the press.” (Endgame, pp. 323-24)

A major theme and tactic of both Akashi and Janvier, specifically during the Srebrenica crisis and generally throughout the Bosnian War, was to lie, impugn and distort both as to the actions and the motives of the Bosnian Republic’s political leadership–helping to successfully obliterate any expeditious or reasonable response to come to their aid.

In the May 22 briefing to the Security Council, Boutros Boutros- Ghali, as previously noted, had recommended an abandonment of the commitment to protection of the Bosniacs in the “Safe Areas.” In this he was joined by Janvier.

Janvier falsely said that the Republican BH Army regularly abused the safe area concept and used the enclaves to launch offensives. He also falsely said the last three French soldiers killed in Sarajevo were shot by Bosnian Muslims. In truth, only one shot was confirmed from the Bosnian side. Madeleine Albright, U.S. Ambassador to the UN, at that meeting chided Janvier

for criticizing the Bosnian Army for fighting back and noted their right to self-defense. (Endgame, pp. 73-74)

And as Kofi Annan later stated in the U.N. Srebrenica Report: “There is also a third accusation leveled at the Bosniac defenders of Srebrenica, that they provoked the Serb offensive by attacking out of that safe area. Even though this accusation is often repeated by international sources, there is no credible evidence to support it. Dutchbat personnel on the ground at the time assessed that the few ‘raids’ the Bosniacs mounted out of Srebrenica were of little or no military significance. These raids were often organized in order to gather food, as the Serbs had refused access for humanitarian convoys into the enclave. Even Serb sources approached in the context of this report acknowledged that the Bosniac forces in Srebrenica posed no significant military threat to them.” (¶479)

Both Akashi and Janvier were exceedingly indisposed to convey information to UN Headquarters in New York or to the media generally that would indicate the severity of the situation in Srebrenica. In the daily UN briefing in Zagreb, Janvier downplayed the extent of the Serb incursion into Srebrenica–saying it may have been in retaliation for an early July attack by the BH Army out of Srebrenica. On the basis of conversations with General Zdravko Tolimir of the BSA he alleged that Dutchbat personnel had their weapons and were free to come and go. None of this was true.

He then gave major emphasis to alleged violations of the BH Army. Janvier also falsely claimed the BH Army was fully capable of adequate defense of Srebrenica, but the Bosnians were not defending. (Endgame, p. 101-102) In fact on July 7 Akashi reported to the Secretary-General that the Bosniac community had asked for weapons: “this is an issue which may well need to be resolved in the near future given the impossibility [for] UNPROFOR to defend the safe area.” (U.N. Srebrenica Report, ¶246). Obviously, Akashi had no intent of allowing arms for the besieged Bosnian Muslims or of defending them whatsoever.

Rohde’s account of the briefing concludes:

“The Bosnian Army is trying to push us into a path that we don’t want,” Janvier warned.

Yasushi Akashi agreed. “The BH initiates actions,” he said, “and then calls upon the UN and the international community to respond and take care of their faulty judgment.” (Endgame, p. 102)

On July 11 Janvier falsely asserted there was a robust Dutch and NATO air defense of the enclave. He said: “I think we’ve reached the end of the safe areas. Following the successful attack on Srebrenica, I fear that Zepa and Gorazde will follow. The Serbs will have achieved their objectives regarding the map….We did battle with the Serbs on the ground and used airpower to protect our units. But the force ratios on the ground did not allow us to continue fighting.” (Endgame, pp. 172-73)

Janvier added: “I would only allow the extraction of the battalion — not their equipment, …and of course, not the refugees.” (Endgame, p. 173) Janvier said the Srebrenica result precluded any defense of Zepa. He replied to Akashi who asked about the BH Army that “…we must say the BH was not effective in defending the safe areas.” (Endgame, p. 173)

By July 14 at a UN briefing in Zagreb, Janvier ruled out any defense of Zepa and Gorazde. He blamed the pullout on the BH Army, who he argued would likely stop Ukrainian peacekeepers from leaving their observations posts otherwise. No mention was made of a possible NATO air defense of the 15,000 Bosnian Muslims trapped in Zepa. (Endgame, p. 290)

Likewise the 60,000 people trapped in Gorazde, the largest eastern enclave, were abandoned to the attacking BSA rather than any Western defense. Rohde notes Janvier said: “The BH has 6,000 soldiers [in Gorazde],… They are perfectly capable of defending Gorazde against the BSA. The Bosnian government can do something now if they want.” (Endgame, p. 290)

A significant event that is very telling about the lack of integrity and quality of UN action, reporting and communications on the ongoing Srebrenica crisis is narrated by Kofi Annan in his Report. An update by Akashi on the emerging Srebrenica situation was received on July 10 in time for the Secretary-General’s representative to brief the Security Council. The Akashi report had confirmed no weapons had been returned to the BH Army. But Akashi also “mistakenly” reported the Bosnian Army, not the BSA, had fired upon a Dutchbat blocking position. Annan said: “The Secretary-General’s representative then briefed the Security Council, imparting information that turned out to be substantially inaccurate. He indicated that the Serb advance towards the town had stopped, which appears to have been the case at the time. However, he also informed the Council that the BSA had ceased their shelling of the town, though the SRSG’s report had indicated the shelling had resumed that morning. He told the Council that the Bosniacs had fired on an UNPROFOR APC, which was what the SRSG had reported on the basis of incorrect information from the field. Asked for a chronology of requests for air support, he gave no clear answer. He did not report that there had been a series of requests from Dutchbat for close air support from 6 to 8 July, and that they had been turned down in Sarajevo. Neither he, nor anyone else in the Secretariat appear to have been aware of those requests. He also did not mention that a formal request for close air support had been submitted to UNPF Headquarters in Zagreb the day before, although a copy of the request had been transmitted to United Nations Headquarters in New York. A member of the Security Council asked that the information about the Bosniac attack on the UNPROFOR APC be double-checked, but this was apparently not done.” (¶282)

In his summing up, Annan hypocritically laments: “In fact, rather than attempting to mobilize the international community to support the enclave’s defense we gave the Security Council the impression that the situation was under control, and many of us believed that to be the case. The day before Srebrenica fell we reported that the Serbs were not attacking when they were. We reported that the Bosniacs had fired on an UNPROFOR blocking position when it was the Serbs. We failed to mention urgent requests for air power.” (¶496)

Annan also noted that when in June 1995 the international community provided UNPROFOR with a heavily armed rapid reaction force "we argued against using it robustly to implement our mandate." (¶497) In fact, Akashi had bemoaned the use of such terms of reference for the force as too provocative to the Serbs.

Even when the Security Council went into emergency session on July 12 as the fall of Srebrenica was total it could only adopt a Resolution 1004 (1995) calling for the Serbs to cease their offensive and withdraw from the safe area of Srebrenica. When Akashi received a copy of the resolution he complained the resolution would "'again raise unrealistic expectations' and could potentially be interpreted as authorizing the use of force by the Rapid Reaction Force (RRF) to re-take Srebrenica, which would 'again blur the distinction between peacekeeping and peace enforcement.'" (U.N. Srebrenica Report, ¶339)

Annan added that Janvier, when requested to do an assessment as to the use of force, almost immediately concluded this was not an option available with current resources. Annan added: "The Under-Secretaries-General for Peacekeeping Operations [Annan] and Political Affairs agreed with the assessment of the SRSG [Akashi] and the Force Commander [Janvier] that…negotiations would offer the only hope of achieving the objectives identified by the Security Council, and for that purpose, it would be necessary to open dialogue with the Serbs." (¶339)

Pursuant thereto, on Saturday, 15 July 1995, at the very height of the genocidal Srebrenica massacre, Carl Bildt, Thorvald Stoltenberg, Yasushi Akashi, Rupert Smith, Slobodan Milosevic, and Ratko Mladic all met together in Belgrade in order to further develop, promote and implement their COMMON CRIMINAL PURPOSE AND PLAN to carve-up and destroy the Republic of Bosnia and Herzegovina, a U.N. Member State, no matter how many Bosnian lives would be destroyed in the process. As proven by a U.N. Memorandum of 17 July 1995, Kofi Annan was kept fully informed of and involved in this criminal enterprise. As a result of this criminal meeting, subsequent meetings were held between Mladic and Smith in order to further develop, promote and implement this criminal enterprise while the inhabitants of Srebrenica were being systematically exterminated by Mladic and Milosevic with the full knowledge and approval of the above-named U.N. Officials, their subordinates, and others. (WWW.DOMOVINA.NET, Reception Page on Srebrenica; Endgame, pp. 309-10)

On July 16 the Serbs released 55 Dutch peacekeepers being held hostage. The group, including Private Ynse Schellens, arrived at UN Headquarters in Zagreb about noon. He and other peacekeepers told Dutch military officials and UN investigators of viewing some 12 bodies at Nova Kasaba with Serbs digging what appeared to be a mass grave. Rohde noted: "…but there was no public announcement of the bodies, the Serb 'cleanup' crews and the backhoe digging a mass grave." (Endgame, p. 312)

Other instances were cited and lamented in the Annan Report of eye-witness information from Dutchbat soldiers not making their way up the chain of command. One significant and suspicious incident does not reflect well for the Ministry of Defense in the Netherlands. Film

containing Dutchbat photographs of nine dead men near a stream was "accidentally" destroyed in a photo lab event. (Endgame, p. 336) Rohde charges that the Dutch Ministry of Defense cover-up attempts after Srebrenica put the Dutch in a worse light than their questionable conduct during the Serb attack.

Embarrassing information continued to leak. The statement by the Dutch Deputy Commander, Major Robert Franken, declaring that evacuations accompanied by the Dutch were carried out according to international law was disclosed. A story then appeared that exposed the list of 239 men kicked off the Dutch base. Defense Minister Joris Voorhoeve denied that the list existed. One day later, Voorhoeve admitted there was a list, but said senior officers in the Dutch Army had not informed him of its existence.(Endgame, p. 336)

According to Rohde, the report issued by the Dutch Ministry of Defense on October 30 after the Dutchbat returnees were debriefed following their ordered six-week vacation "was an exercise in obfuscation." (Endgame, pp. 336-37)

Rohde writes that references were made to UNPROFOR commanders turning down requests for Close Air Support. This reference appears at first glance to be to General Janvier, but was actually referring to UNPROFOR chief of staff Dutch General Cees Nicolai, who turned down the first two requests. (Endgame, p. 337)

Of course, these requests were from Dutchbat personnel under siege in the field. Also, the Ministry totally downplayed the macabre reality of Dutchbat personnel complying with Serb directions to go "Muslim hunting" with them. (Endgame, p. 337)

In all the so-called "strong" UN and NATO defense cited by Janvier involved not one Dutchbat soldier firing a shot, with or without anger, at Serb attackers. The closest thing was some rounds fired over their heads. The beyond-anemic, essentially non-existent NATO air defense during the entire five days of attack consisted of the dropping of two bombs aimed at what may have been Serb tanks. But the extent of damage, if any, was not known. It should be noted that these planes showed up at least seven hours after initially expected after stalling by the U.N. chain of command. These deliberate communications and logistics failures must be embarrassing to recall for anyone involved and painful to recall for anyone even remotely involved.

Even these late–by days and hours–weak and inconclusive air strikes, were called off at the instigation of Voorhoeve and with the collaboration of Akashi. Annan writes: "Immediately following this first deployment of NATO close air support, the BSA radioed a message to Dutchbat. They threatened to shell the town and the compound where thousands of inhabitants had begun to gather, and to kill the Dutchbat soldiers being held hostage, if NATO continued with its use of air power. The SRSG recalled having received a telephone call from the Netherlands Minister of Defense at this time, requesting that the close air support action be discontinued, because Serb soldiers on the scene were too close to Dutch troops, and their safety would be jeopardized. The SRSG felt that he had no other choice but to comply with this

request. The message was passed to NATO accordingly, and the air action was halted. The Minister made similar calls to the Under-Secretary-General for Peacekeeping Operations in New York and his military adviser (a Dutch Major-General) at the same time, which were echoed in démarches by the Permanent Representative of the Netherlands." (¶306)

Actually, Janvier had canceled further military action some 10 minutes before the initial Voorhoeve call. (Endgame, p. 166)

So it essentially took the Serbs with the active complicity of the UN at various leadership and field levels about five days to totally take Srebrenica. Some 50 to 75 Bosnians, about 50 Serbs, and one Dutchbat peacekeeper were killed in that process.

Immediately upon their total control the Serbs began the ghastly work of killing thousands of Bosnian men and boys. For weeks Serb forces from all over their controlled territory hunted Bosnian men and boys and continued the slaughter in the fields and the forests.

A sacred pledge to protect these people was broken by the UN and the West as their defense was non-existent and people like Janvier and Akashi, and even Boutros-Ghali and Annan, actively expedited this scenario.

In the concluding words of Kofi Annan: "Srebrenica crystalized a truth understood only too late by the United Nations and the world at large: that Bosnia was as much a moral cause as a military conflict. The tragedy of Srebrenica will haunt our history forever." (¶503) So be it!

Conclusion

For all of the above reasons, we respectfully request that the Prosecutor immediately investigate and indict for serious crimes against international humanitarian law:

BOUTROS BOUTROS-GHALI, KOFI ANNAN, YASUSHI AKASHI, BERNARD JANVIER, RUPERT SMITH, HERVÉ GOBILLIARD, JORIS VOORHOEVE, CEES NICOLAI, THOMAS KARREMANS, ROBERT FRANKEN, THORVALD STOLTENBERG, CARL BILDT, DAVID OWEN, MICHAEL ROSE, THEIR SUBORDINATES, SLOBODAN MILOSEVIC, RADOVAN KARADZIC, RATKO MLADIC, AND WHOEVER ELSE SHALL BE DETERMINED BY THE PROSECUTOR'S INVESTIGATIONS TO HAVE COMMITTED CRIMES IN CONNECTION WITH THE FALL OF SREBRENICA AND THE GENOCIDAL MASSACRE OF ITS INHABITANTS.

WE WILL NOT REST UNTIL JUSTICE IS DONE!

Francis Boyle on UK arrest of Bosnian leader Ganic and UK role in Bosnia

The arrest of Ejup Ganic by the British government is all political. The British have always detested and hated Ganic because he was the one Bosnian war-time leader who had the guts to stand up against them publicly, so this is now the British payback against Ganic, Bosnia and the Bosnians. Indeed, it was Ganic who personally helped me get the legal authorization from President Izetbegovic to sue Britain at the World Court for aiding and abetting genocide against Bosnia, as explained in the attached Note. This British persecution of Ejup Ganic is simply a continuation of the genocidal policies that Perfidious Albion has always pursued against Bosnia and the Bosnians.