TRYING TO STOP AGGRESSIVE WAR AND GENOCIDE AGAINST THE PEOPLE AND THE REPUBLIC OF BOSNIA AND HERZEGOVINA*

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There are numerous accounts of the aggression and genocide perpetrated by the rump Yugoslavia and its Bosnian Serb surrogates against the People and the Republic of Bosnia and Herzegovina that have been written by journalists, historians, ambassadors, political scientists, and others. This paper tries to tell the story of Bosnia from the perspective of international law. The aggression and genocide against Bosnia and the refusal of the international community to stop it will prove to be one of the pivotal events of the post World War II era. This paper will try to explain what happened, why it happened, and, most importantly, what was wrong with what happened.

It is hoped that this analysis will prove useful to the People of Bosnia and Herzegovina as they struggle to reconstruct their lives and their State. Hopefully, a record of what happened in the past will provide the Bosnian People with a guide for the direction of their future. Concerning the utility of this study

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for the rest of the world, as George Santayana has said: "Those who cannot remember the past are condemned to repeat it."

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. The very next day 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. 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:

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 I 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 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 racist carve-up of the Republic pursuant to the so-called Vance-Owen Plan, and then later, its successor, the genocidal 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 so-called 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, apparently 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 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 kill the Bosnians from the sky! Late that evening 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.: "...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 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 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 into three ethnically based mini-states, destroyed Bosnia's Statehood, 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.

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 with Ambassador Muhamed Sacirbey of the Republic of Bosnia and Herzegovina, publicly briefing large numbers of Ambassadors, as well as privately briefing the Non-Aligned member states of the Security Council and the then President of the Council Ambassador Diego Arias 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, with Ambassador Sacirbey sitting at my side. 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. 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.

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. There I personally disrupted the Owen-Stoltenberg Plan to carve-up the Republic into three pieces, to destroy Bosnia's Statehood, and to rob Bosnia of its Membership in the United Nations Organization. In addition, President Izetbegovic had also instructed me to negotiate in good faith over the so-called "package" of proposed documents with David Owen and his lawyer Paul Szasz. The author served in that capacity until August 10, 1993, when the talks had broken down. The author then returned home in order to prepare for Bosnia's second oral argument before the World Court.

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":

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 Serb 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." You have to give the devil his due when he is telling the truth.

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, apparently 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 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 facts necessary to constitute "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 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 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 the 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 of 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 necessary to establish 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 necessary to constitute 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 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, 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 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 genocide against the People and the Republic of Bosnia and Herzegovina than the Serbs had been doing as of 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 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.

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. Finally, he is a distinguished member of the prominent Jewish community in Britain and thus, in my opinion, bore a special understanding for a race of people currently being victimized by genocide. Professor Lauterpacht had no prior connection with the Republic of Bosnia and Herzegovina.

By comparison, the Serb government nominated Milan Kréca to serve as their Judge ad hoc in this case. In accordance with his submitted resume, Mr. Kréca was a Serb lawyer who had worked for the Serb government. In other words, unlike Professor Lauterpacht, Mr. Kréca was not independent of the Serb government.

For this reason, at the time of Mr. Kréca's nomination by the Serb government to be their Judge ad hoc in this case, I repeatedly argued to the Deputy Registrar of the World Court that the President of the Court (then Judge Robert Jennings of Britain) should disqualify Mr. Kréca on the basis of his resume alone because he obviously was not independent of the Serb government. Eventually I was informed by the Deputy Registrar that the President of the World Court had taken the position that in the event I insisted upon my objection to Mr. Kréca's qualifications, there would have to be a formal hearing by the full Court on my objections and that this hearing would undoubtedly postpone the then scheduled World Court hearing on my Second Request for provisional measures of protection for Bosnia against the rump

Yugoslavia that the Court had already ordered to take place on August 25 and 26, 1993.

Of course, under no circumstances could I risk jeopardizing that World Court hearing on my Second Request for provisional measures. It would be the only chance I had to stop the Owen-Stoltenberg carve-up of Bosnia into three pieces as well as to break the genocidal arms embargo against Bosnia. So I told the Deputy Registrar to inform the President of the Court that under these dire circumstances I had no choice but to accept Mr. Kréca as Serbia's Judge ad hoc, but that I protested his presence on the Court in the strongest terms possible.

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 the reader's 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 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. It was my advice to all three that the next step for Bosnia and Herzegovina at the World Court 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 carve-up of the Republic pursuant to the proposed so-called Contact Group Plan. This recommendation was taken under advisement.

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.

On 30 November 1993, 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." 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."

In addition to the British government, several European states 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, and David Owen, 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 February 5, 1994, a mortar shell struck the marketplace in the center of Sarajevo, killing 69 people and wounding more than 200. 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 elsewhere.

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, mass rape, war crimes, and torture. 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 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 Serb President Slobodan Milosevic to begin with, going all the way back to their secret agreement to partition Bosnia at Karadjordjevo in March of 1991.

The Washington Agreements of March 1994 became the basis for the drafting and the conclusion of the Dayton Agreement in December 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 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 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. This genocide culminated in the Serb massacres of thousands of Bosnian Muslims at the so-called U.N. "safe havens" of Zepa and Srebrenica during the Summer 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.

At about the same time, it also appeared from published reports and from my own sources that the United States government was going to impose the partition of Sarajevo upon the Bosnian government as part of the so-called "final solution" for Bosnia. This is exactly what David Owen had planned to do in Geneva during the summer of 1993. In order to head off this partition plan, I prepared yet another Memorandum of Law to the Parliament of the Republic of Bosnia and Herzegovina, entitled Saving Sarajevo, dated September 13, 1995, and published on Bosnet, September 13, 1995. A Bosnian language translation of this Memorandum was published on Bosnet, September 24, 1995.

Briefly put, this Memorandum on Sarajevo resurrected the proposal that I had originally designed and drafted at the request of President Izetbegovic while serving as Bosnia's Lawyer at the Owen-Stoltenberg negotiations in Geneva during the summer of 1993: Turn Sarajevo into a Capital District like Washington, D.C., instead of partitioning the city. Although I was not at Dayton, as far as I can tell from the published sources, my proposal constituted the opening position for the disposition of Sarajevo that was presented by the Bosnian Government at the Dayton negotiations.

Fortunately, it proved unnecessary to implement my proposal at Dayton. For there the President of Serbia, Slobodan Milosevic, proved willing to concede a unified Sarajevo to the control of the so-called Federation on the grounds that President Izetbegovic "deserved it" for having courageously endured the three and a half year siege and bombardment of that capital city by Milosevic's surrogates. However, my proposal could still serve as a model for the organization of Sarajevo on a multi-ethnic basis as the capital of a

reconstituted Republic of Bosnia and Herzegovina at some point in the not-too-distant future.

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!

After the public initialling 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 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 several 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 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. Why?

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 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, everyone mentioned above wants this World Court lawsuit to disappear from the face of the earth. For they are all guilty of complicity in genocide. As this essay goes into print, it does not appear that Bosnia's lawsuit will survive much longer. If and when Bosnia is forced to drop its World Court lawsuit for genocide against the rump Yugoslavia, then the negation of the international legal order will be total and shameless. The so-called Western powers and the United Nations will have

confirmed their complete moral bankruptcy and gross legal hypocrisy for the rest of the world to see everyday in the former Republic of Bosnia and Herzegovina.

But there is something that the People of Bosnia and Herzegovina can do about this situation: The Bosnian People must stand up as One and make it absolutely clear to the great powers of the world, and especially to the United States and to Europe, that under no circumstances will they withdraw their lawsuit against the rump Yugoslavia for genocide. This World Court lawsuit is the only justice that the Bosnian People will ever get from anyone in the entire world on this or any other issue!

If this lawsuit is withdrawn, then the rump Yugoslavia and its supporters around the world, together with the United States, the United Nations, the European Union and its member states, will be able to rewrite history by arguing that genocide never occurred against the People and the Republic of Bosnia and Herzegovina. All the great powers and these international institutions will then argue that the reason why Bosnia dropped its lawsuit for genocide against the rump Yugoslavia was because Bosnia was afraid of losing its World Court lawsuit. In this manner these great powers together with the United Nations and the European Union will be able to justify their refusal to prevent the ongoing genocide against the People and the Republic of Bosnia and Herzegovina for almost four years despite the obvious requirements of the 1948 Genocide Convention, the 1945 United Nations Charter, and the two World Court Orders of 8 April 1993 and 13 September 1993.

As I have established in this paper, Bosnia has already won this World Court lawsuit. All that Bosnia must do now is to see this lawsuit through to its ultimate and successful conclusion. It is inevitable that the World Court will rule that the rump Yugoslavia and its surrogate Bosnian Serb armed forces have committed genocide against the People and the Republic of Bosnia and Herzegovina. At that time, the claims of the Bosnian People for genocide will be vindicated for the entire world to see and for all of history to know. After all that they have suffered, and endured, and accomplished, the Bosnian People owe it to themselves and to their children and to their children's children, as well as to all the other Peoples of the world and to their children and to their children's children, to prosecute this World Court lawsuit through to its successful conclusion.