

Women of Srebrenica v. United Nations Officials

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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 1
2517 JW The Hague
P.O. Box 13888
2501 EW The Hague
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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 military 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-judgment 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 Tarasov 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 Convention, 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 Tarasov 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 (1999): "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, 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 observation 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 SRSR [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 [link location changed in 2006 - FT]; 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 SRSB 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 SRSB 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!

Respectfully submitted by,
Francis A. Boyle
Professor of International Law,

Attorney of Record for the
Mothers of Srebrenica and Podringa Association.

Dated: February 4, 2000

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-----Original Message-----

From: Boyle, Francis A
Sent: Friday, July 06, 2012 10:46 AM
To: 'Emir Ramic'
Subject: FW: Mothers of Srebrenica vs United Nations Officials

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-----Original Message-----

From: Boyle, Francis
Sent: Sunday, July 11, 2010 1:33 PM
To: BalkansDiscussion@yahoogroups.com
Subject: Mothers of Srebrenica vs United Nations Officials

MOTHERS OF SREBRENICA AND PODRINJA ASSOCIATION

V.

UNITED NATIONS OFFICIALS AND OTHERS INCLUDING CARL BILDT

(CRIMINAL COMPLAINT FOR THE SREBRENICA MASSACRE)

UNITED NATIONS, THE HAGUE, NETHERLANDS.

The Mothers of Srebrenica and Podrinja Association, headquartered in Vogosca, Bosnia and Herzegovina file a Criminal Complaint with the Prosecutor for the International Criminal Tribunal for the Former Yugoslavia (ICTY), Madame Carla Del Ponte, on Friday, February 4 against the following Officials of the United Nations Organization and others for the role they played in the fall and genocidal massacre at Srebrenica in July of 1995: 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, AND RATKO MLADIC.

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 and boys were systematically exterminated during just a few days by the Bosnian Serb Army under the direct command of Milosevic, Karadzic, and Mladic. During this time, the above-named United Nations Officials and their subordinates 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.

The Complaint accuses the above-named United Nations Officials and their subordinates 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: Article 2--Grave Breaches of the Geneva Conventions of 1949; Article 3--Violations of the Laws or Customs of War; Article 4--Genocide; and Article 5--Crimes against Humanity.

Under ICTY Statute article 18(1), this Complaint establishes a "sufficient basis to proceed" toward the investigation and indictment of the above-named United Nations Officials and their subordinates by the Prosecutor. Pursuant to article 18(4) of the Statute, the Complaint requests that the Prosecutor prepare the appropriate indictments against the above-named United Nations Officials and their subordinates, and transmit these indictments to a Judge of the ICTY Trial Chamber for confirmation. If confirmed by the Judge, the Complaint requests that pursuant to Statute article 19(2), the Prosecutor request the Judge to issue international warrants calling for the arrest, detention, surrender and transfer to the Tribunal of the above-named United Nations Officials and their subordinates. The Complaint also requests that the Prosecutor ask the confirming Judge to freeze the worldwide financial assets of the above-named United Nations Officials and their subordinates 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 and their subordinates deliberately and maliciously inflicted upon them and their deceased next-of-kin at Srebrenica and its environs during July of 1995.

WE WILL NOT REST UNTIL JUSTICE IS DONE!

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The full text of the complaint, the appendix and this press release in the
Bosnian language can be found on the Internet at
<http://www.domovina.net/complaint>

While they are in Holland, the Bosnian delegation and professor Boyle can be
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