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ALTERNATIVE YUGOSLAVIA
TRIBUNAL



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ALTERNATIVE YUGOSLAVIA TRIBUNAL

Beograd
Yugoslavia

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PUBLISHER AND PRINT: "STRUČNA KNJIGA" D.D. — BEOGRAD, 48 LOLE RIBARA STREET • MANAGER AND EDITOR IN CHIEF ŽIVOJIN VLAHOVIĆ • DESIGN MIRKO MRKIĆ OSTROŠKI • LANGUAGE INSTRUCTOR BRANKA MIJATOVIĆ • COMPUTER DESIGN NEBOJŠA MARJANOVIĆ • PHONES: MANAGER 011/340-943, FAX 340-451 • BELGRADE, 1995.

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EDITOR'S REMARKS

The establishment of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, which no one calls so, by Security Council's resolution 827 (1993) of 25 May 1993, one year after the punishment of the Federal Republic of Yugoslavia, without the right to appeal, with a view to legalise political and economic sanctions (resolution 757 of 30 May 1992), sets a dangerous precedent in contemporary international relations. United Nations Security Council has no right, under the Charter of United Nations, to punish an entire nation, the children and the sick, to curtail scientific co-operation, the freedom of information, the international competition in sports. To proclaim an entire people as a "pariah nation" is a most outrageous violation of basic human rights "in the name of human rights".

Under the Charter of the United Nations, the United Nations Security Council is not entitled to establish an international tribunal; under its Article 29, it is entitled to establish subsidiary organs for the maintenance of international peace and security. If the International Tribunal is a "subsidiary organ" of the United Nations Security Council, it cannot be a court of justice. Equally so, the Security Council has no right to limit the mandate of the International Tribunal to crimes committed since 1991 since war crimes and crimes of genocide are not subject to the statute of limitations.

An international tribunal can be established only on the basis of inter-State agreements which are subject to ratification by the highest legislative organs of the States concerned. Following a statement by the US Assistant Secretary of State for Human Rights that the FR of Yugoslavia should accept the competence of the International Tribunal, I said that I would advise my Government to do so if he said he would advise his Government to accept the competence of an International Tribunal, established by a Security Council resolution, which would have primacy over the US Constitution and legislation, without the ratification of US Senate and the signature of US President.

The International Court of Justice, as a main organ of United Nations, with Statute as a part of the United Nations Charter, is not compulsory for such countries which explicitly unaccept its jurisdiction (Statute of the International Court of Justice, art. 36).

The US Senate ratified the 1948 International Convention on the Prevention and Punishment of the Crime of Genocide after almost forty years (in 1986) with the condition that virtually prevents US citizens from being tried for these crimes by an international institution. The United States explicitly reserved its right to appear before international courts only on the basis of an international agreement ratified by the Senate. When the International Court of Justice sentenced the United States for training and supplying rebels in Nicaragua, the US Government rejected the competence of this main body of the United Nations. Similarly, the US Government extradited the war criminal Andrija Artuković, responsible for Ustasha crimes of genocide against Serbs, Jews and Gypsies during World War Two, only in 1986. As

revealed by recent discoveries, the United States Government was familiar with the existence of "ratline", the organization run by the Vatican and smuggling Ustasas who committed the crime of genocide, including their leader Ante Pavelić, out of Europe and away from justice after the fall of the fascist Independent State of Croatia.

Is it indeed that the United States has all of a sudden become interested in punishing the war crimes in the former Yugoslavia committed by those in whose rescue it participated at the end of World War Two? Have the British, after a long discussion, suddenly decided to try the British subjects who committed war crimes in the Falklands at least before their national courts? Or does South Africa's record of punishing racist crimes of genocide qualify its citizen Goldstone to prosecute such crimes elsewhere?

It was not explained till the present day why the United States of America, as a main former and financier of international tribunal for crimes done in former Yugoslavia, why President Bush and USA Congress suddenly changed their minds about own suggestion for forming of international tribunal for war crimes in Iraq, during American "desert storm". It is real to assume that established war crimes committed by American army forces were performed not only to Iraq soldiers and war prisoners, but on civilians and numerous children too. Any international tribunal could call to account Americans for criminal violations and "grave breaches of international humanitarian law".

The objection that the International Tribunal has been established to try the war crimes committed only in one State, the former Yugoslavia, is countered by the invocation of the magnitude of the Yugoslav tragedy and bloodshed and by the assertion that the experience of the Tribunal will provide a basis for the renewal of the project for the establishment of a general international criminal court. Following the Rwanda tragedy, drawing on the Yugoslav precedent, the United Nations Security Council adopted on 1 July 1994 resolution 935 on the establishment of the Commission of Experts.* However, the Council failed to draw on the Yugoslav precedent and establish an international tribunal for the war crimes committed by the United States (Vietnam, Cambodia, Panama, Iraq, Haiti), Great Britain (the Falklands or elsewhere) or by some other permanent members of the Security Council or States under their tutelage since the permanent members happen to have the right of veto.

The only formal reason for forming of International Crime Tribunal for the former Yugoslavia was to preserve peace and security. But development of events testified that forming of such tribunal cited to Chapter VII of the UN Charter has nothing to do with peace establishing on former Yugoslav territory. International Tribunal begins to work during the suspension of sanctions introduced by Security Council against Federal Republic of Yugoslavia. Several reasons could be cited of

* United Nations Secretary-General, Boutros Boutros Ghali, surprised UN Security Council members by nominating the Clinton Administration's candidate, Cherif Bassiouni, an Egyptian-American law professor from De Paul University in Chicago, for the prosecutor's post in the International Tribunal for the former Yugoslavia. Britain, France and Russia opposed Mr Bassiouni nomination, maintaining that he lacks prosecutorial experience and that his Muslim background makes him an unsuitable choice for prosecuting crimes committed in a war between Christians and Muslims, also because he actively campaigned for the post, particularly in the Islamic world. The Security Council, which wanted its choice of a prosecutor to be unanimous, decided on September 8, 1993 to rule him out. (Paul Lewis, "Disputes Hamper U.N. Drive for a War Crimes Tribunal", "The New York Times", Sept. 9, 1993)

contra-productive in the aim for peaceful

The political slavia expresses the the meeting in German humanitarian aid de rican diplomacy too Zeljko Raznatovic, sation with request Serbia, Radovan Karadzic ("usurper") : Commander, must f observe International standing of interna Vietnam, Cambodia

The Yugoslav NATO as world pol public of the significance submitted to the the NATO ultimatum. The said application from Article 2 of the or use of force and o ment action shall b without the authoriz in this case. The app their struggle against member States conti

The United Nations resolution 780 (1992) committed in the for expiry of its mandate on 6 May 1994 is an i last July, I warned Co mission's bias against policy of "ethnic clean President", while the The same applies to th Prijedor. In the acco the United Nations, a May 1994, the United ed with the findings of ce of the Secretary-G established by the Sec

contra-productive influences on parties involved in conflict for peaceful solution. In the aim for peaceful solution of crisis on Haiti, the accused generals granted amnesty.

The political nature of the International Crime Tribunal for the former Yugoslavia expresses the Statement of USA Secretary of State, Lawrence Eagleburger on the meeting in Geneva, December 16, 1992. He accused Serbs for "disrupting of humanitarian aid delivery and filthy practice of ethnic cleansing". The chief of American diplomacy took role of prosecutor, he warned Serbs to stop laughing, accused Zeljko Raznatovic-Arkan, Vojislav Seselj, and others. He also raised political accusation with request for "leaders as Slobodan Milosevic, President of the Republic of Serbia, Radovan Karadzic, usurper President of Serbian Republic (without explanation of "usurper") and Ratko Mladic, General and Bosnian Serbs Army Forces Commander, must finally explain if they and how they tried to maintain own forces to observe International Laws". The Secretary of State did not explain American understanding of international law during aggressive interference in internal affairs of Vietnam, Cambodia, Nicaragua, Grenada, Haiti.

The Yugoslav tragedy set another precedent as well: it legalized the role of NATO as world policeman. Insufficient efforts have been made to inform the world public of the significance of the application of the Government of the FR of Yugoslavia submitted to the International Court of Justice on 18 February 1994 concerning the NATO ultimatum to the military forces of the Republic of Srpska around Sarajevo. The said application was submitted because of the NATO violation of the provision from Article 2 of the Charter of the United Nations on the refraining from the threat or use of force and of the provision from Article 53 according to which "no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council", which authorization was not made in this case. The application might serve the small and underdeveloped countries in their struggle against hegemony in international relations as great powers and NATO member States continue to ignore this application.

The United Nations Commission of Experts, established by Security Council resolution 780 (1992), for the purpose of collecting information on war crimes committed in the former Yugoslavia finished its work on 30 April 1994 before the expiry of its mandate. By its contents, the final report submitted by the Commission on 6 May 1994 is an indictment rather than a report. During our meeting in Chicago last July, I warned Commission's Chairman, Professor Cherif Bassiouni, of the Commission's bias against Serbs and its arbitrary accusations that they pursued a deliberate policy of "ethnic cleansing", established camps and raped women "at the order of their President", while the Croatian and Muslim sides were freed from all responsibility. The same applies to the presentation of crimes committed in Dubrovnik, Sarajevo and Prijedor. In the accompanying letter to the final report in all the official languages of the United Nations, addressed to all Member States and the "interested public", on 27 May 1994, the United Nations Secretary-General, Boutros Boutros-Ghali, fully agreed with the findings of his countryman, Professor Bassiouni! The prestige and influence of the Secretary-General in the Security Council and the International Court, established by the Security Council, are widely known.

With a view to continuing objective discussion on the final report, I asked for annexes (12 annexes with about 3 000 pages). I was informed that they had not been completed. I observed that it was said in the Secretary-General's letter of 27 May 1994 that annexes were an integral part of the report and that the final report must not have been released without the annexes and that it was the criminal act of withholding of evidence. This fact was confirmed also by the Secretary-General in his reply of 2 September 1994 to the letter by the Federal Minister of Foreign Affairs, Vladislav Jovanovic, of 18 August 1994. Moreover, despite the protestations by Foreign Minister Jovanovic to the contrary, he decided to have the annexes published only in English, depriving thus those who speak Russian, Chinese, French, Spanish and Arabic of the possibility to verify the assertions contained in the report.

The UN Commission of Experts collected and assessed the evidence on war crimes committed in the former Yugoslavia outside the United Nations. A centre for that purpose was established at De Paul Catholic University in Chicago; the Chairman of the UN Commission of Experts, Egyptian Cherif Bassiouni, is the Director of the De Paul University Human Rights Institute. The Centre is financed by private foundations — the Soros Foundation (US \$ 800 000), MacArthur Foundation, Open Society, etc. In his reply to the letter by the Yugoslav Federal Minister, the Secretary-General did not specify the private foundations which finance the Chicago Centre. Madeleine Albright, United States Permanent Representative to the United Nations, spoke of the US contribution of US \$ 3 million in cash, US \$ 25 million in equipment and the recruitment of 25 legal experts. The Centre at De Paul University enlisted about 30 legal experts, while the United Nations enlisted only three. The contribution of the Islamic countries could not be established.

In his letter of 27 May, the Secretary-General said that, upon completion of its work, the UN Commission of Experts had submitted the database and documentation to the Prosecutor of the International Tribunal. The Commission finished its work on 30 April, submitted its report on 6 May, while during my meeting with Chairman Bassiouni on 13 July the annexes were still being prepared. This means that the documents were not handed over to the Prosecutor of the International Tribunal. According to a report in the University bulletin (Spring 1994), there are serious indications that the Egyptian Bassiouni and the Catholic De Paul University might keep the database and continue to use the documents collected on behalf of the United Nations which is contrary to the obligation of keeping confidential evidence.

The national interests require that the world be made aware of the danger of making precedents in the Yugoslav tragedy, that they can be applied not only to Rwanda, despite its statements that it will prosecute all responsible for the crimes of genocide itself. Mr. Goldstone should be made aware that, unlike Zagreb and Sarajevo, no war has been fought in the FR of Yugoslavia nor has the FR of Yugoslavia waged a war and that Yugoslav courts will try Yugoslav citizens. One should point to the international obligation to prosecute foreign mercenaries who committed crimes in the former Yugoslavia, as well as the obligation of the International Prosecutor to request information from Germany, United States, Great Britain and others why they did not bring their mercenaries before the court of justice. I personally hope that Mr. Goldstone, a reputable judge, had read the letter of 2 August 1994 addressed to him

by Mrs. Nora Beloff at the inauguration of November 1993 was & incognito as a journal

The brake-up of peace, basic cause of genocide.

Civil war which number of massacred, "cleansing" in operation all shows that within Yugoslavia of Yugoslav State with nationalization of crisis. In Gypsies (1941-1945) to account to International of Pope John Paul II; Dietrich Genscher; Austrian Minister of European Minister died.*

These all explain
of International Tribu

Double standard
Nations supported Ru
total population of Ch
rities expelled chechen
settlements from grou
an appeal for less victi
for war crimes in Chec

Belgrade

Dr. Milan Bulajic

Two books are published
me against peace: respo
1994) and "The Role of
grad 1994.)

by Mrs. Nora Beloff from London. He should be asked how he explains the fact that the inauguration of the International Tribunal for the former Yugoslavia on 17 November 1993 was attended by no Yugoslav (except for the author who was present incognito as a journalist in the "Japanese Hall" of the Palace of Peace in The Hague).

The brake-up of Yugoslav State from 1991-1992. represents a crime against peace, basic cause of Yugoslav peoples' tragedy for all war crimes and crimes of genocide.

Civil war which lasts for years is of religious nature, as well as reason of great number of massacred people, hundred thousands of civilians left their homes, "ethnic cleansing" in operation, many cities and settlements were irrevocably distructed. That all shows that within Yugoslav territory secessionist forces would not succeed in braking of Yugoslav State without foreign support including import of arms and internationalization of crisis. In a very similar way that all had happened to Serbs, Jews and Gypsies (1941-1945) when the first Yugoslav State was broken and nobody was cited to account to International Nurmberg Court. My researches showed responsibility of Pope John Paul II; Federal Minister for Foreign Affairs of United Germany, Hans Dietrich Genscher; Austria Minister for Foreign Affairs, Alois Mock; Presiding officer of European Minister Council, Hans van der Broek and others, evidences are provided.*

These all explain why the crime against peace is excluded from the jurisdiction of International Tribunal in war crimes for former Yugoslavia.

Double standards of Great Powers and the Security Council of the United Nations supported Russian Federation in armed brake of Chechenya secession. The total population of Chechenya is of other religion and nationality and Russian authorities expelled Chechens from their country in 1944. Armed attacks and bombing of civil settlements from ground and air were proclaimed as "internal affair" of Russia with an appeal for less victims as possible! Not one word for forming of international court for war crimes in Chechenya.

Belgrade

Dr. Milan Bulajic

* Two books are published by same author: "Brake-up of the Yugoslav State 1991/1992 — the crime against peace: responsibility of Vatican and Germany" (Srpska književna zadruga, Beograd 1994) and "The Role of the Vatican in the break-up of the Yugoslav State" ("Stručna knjiga", Beograd 1994.)



BERND A. SKOTT

DIE WELT

UNABHÄNGIGE TAGESZEITUNG FÜR DEUTSCHLAND

22. Feb 1993

I. INTERNATIONAL PERSONS RESIDING IN INTERNATIONAL TERRITORY OF

1. Security Council Adopted at its 31

The Security Council

Reaffirming its
relevant resolutions,

Recalling paragraph 1 of its
reaffirmed that all parties
shall humanitarian law
and that persons who
Conventions are indi

Recalling also
it demanded that all
military forces in Bosnia
breaches of international

Recalling further
requested the Secretary-General
Commission of Experts
to resolutions 771 (1992)
the Commission of Experts
with its conclusions on
other violations of international
former Yugoslavia,

Having considered
by resolution 780 (1992)
to establish an ad hoc
the former Yugoslav

Expressing concern
violations of international
former Yugoslavia, in
practice of "ethnic cle

Determining that
security,

Determined to
to justice the persons

**I. INTERNATIONAL TRIBUNAL FOR THE PROSECUTION OF
PERSONS RESPONSIBLE FOR SERIOUS VIOLATIONS OF
INTERNATIONAL HUMANITAIRAN LAW COMMITTED IN THE
TERRITORY OF THE FORMER YUGOSLAVIA SINCE 1991.**

1. Security Council Resolution 808 (1993)

Adopted at its 3175th meeting on 22 February 1993.

The Security Council,

Reaffirming its resolution 713 (1991) of 25 September 1991 and all subsequent relevant resolutions,

Recalling paragraph 10 of its resolution 764 (1992) of 13 July 1992, in which it reaffirmed that all parties are bound to comply with the obligations under international humanitarian law and in particular the Geneva Conventions of 12 August 1949, and that persons who commit or order the commission of grave breaches of the Conventions are individually responsible in respect of such breaches,

Recalling also its resolution 771 (1992) of 13 August 1992, in which, *inter alia*, it demanded that all parties and others concerned in the former Yugoslavia, and all military forces in Bosnia and Herzegovina, immediately cease and desist from all breaches of international humanitarian law,

Recalling further its resolution 780 (1992) of 6 October 1992, in which it requested the Secretary-General to establish, as a matter of urgency, an impartial Commission of Experts to examine and analyse the information submitted pursuant to resolutions 771 (1992) and 780 (1992), together with such further information as the Commission of Experts may obtain, with a view to providing the Secretary-General with its conclusions on the evidence of grave breaches of the Geneva Conventions and other violations of international humanitarian law committed in the territory of the former Yugoslavia,

Having considered the interim report of the Commission of Experts established by resolution 780 (1992) (S/25274), in which the Commission observed that a decision to establish an ad hoc international tribunal in relation to events in the territory of the former Yugoslavia would be consistent with the direction of its work,

Expressing once again its grave alarm at continuing reports of widespread violations of international humanitarian law occurring within the territory of the former Yugoslavia, including reports of mass killings and the continuance of the practice of "ethnic cleansing",

Determining that this situation constitutes a threat to international peace and security,

Determined to put an end to such crimes and to take effective measures to bring to justice the persons who are responsible for them,

Convinced that in the particular circumstances of the former Yugoslavia the establishment of an international tribunal would enable this aim to be achieved and would contribute to the restoration and maintenance of peace,

Noting in this regard the recommendation by the Co-Chairmen of the Steering Committee of the International Conference on the Former Yugoslavia for the establishment of such a tribunal (S/25221),

Noting also with grave concern the "report of the European Community investigative mission into the treatment of Muslim women in the former Yugoslavia" (S/25240, annex I),

Noting further the report of the committee of jurists submitted by France (S/25266), the report of the commission of jurists submitted by Italy (S/25300), and the report transmitted by the Permanent Representative of Sweden on behalf of the Chairman-in-Office of the Conference on Security and Cooperation in Europe (CSCE) (S/625307),

1. Decides that an international tribunal shall be established for the prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991;

2. Requests the Secretary-General to submit for consideration by the Council at the earliest possible date, and if possible no later than 60 days after the adoption of the present resolution, a report on all aspects of this matter, including specific proposals and where appropriate options for the effective and expeditious implementation of the decision contained in paragraph 1 above, taking into account suggestions put forward in this regard by Member States;

3. Decides to remain actively seized of the matter.

Letter dated 17 May 1993 from the Deputy Prime Minister and Minister for Foreign Affairs of the Federal Republic of Yugoslavia to the Secretary-General

Following your report of 3 May 1993 (S/25704) relating to paragraph 2 of Security Council resolution 808 (1993) of 22 February 1993, I am writing to apprise you of the position of the Yugoslav Government.

The establishment of an ad hoc international tribunal by the Security Council for the prosecution of persons responsible for grave breaches of international humanitarian law committed in the territory of the former Yugoslavia since 1991 is a precedent in international law and the work of the United Nations.

Yugoslavia considers that all perpetrators of war crimes committed in the territory of the former Yugoslavia should be prosecuted and punished under national laws, which are harmonized with international law and by competent judicial authorities, in accordance with the principle of territorial jurisdiction.

Since Yugoslavia is a permanent international judicial authority, this constitutes additional national judicial authorities of war crimes.

Yugoslavia is a permanent international and universality and discriminatory, particularly of war and humanitarian many armed conflict punished by the international Lebanon, Afghanistan: committed in the territorial limitations, so that it is difficult to understand

Yugoslavia has particularly because of the responsibility for armed conflict numerous initiatives stated that this was international commission

In view of the Council has no mandatory legitimate question it is borne out by the obligation including the draft of to the effect that such of decisive influence

In the report by paragraph 2 of Security Council tribunal has been set Nations Charter (S/2

Yugoslavia wishes to establish an international Charter provide for the United Nations Charter provides that the Secretary for the performance subsidiary organ of the international tribunal Council.

The ongoing draft and without precedent

Since Yugoslavia has already accepted the jurisdiction of international commissions for the investigation of war crimes, which has not been the case with other States, this constitutes additional pressure by the international community on the work of its national judicial authorities engaged in the prosecution and punishment of perpetrators of war crimes.

Yugoslavia is one of the advocates of the idea concerning the establishment of a permanent international tribunal and respect for the principle of equality of States and universality and considers, therefore, the attempts to establish an ad hoc tribunal discriminatory, particularly in view of the fact that grave breaches of international law of war and humanitarian law have been committed and are still being committed in many armed conflicts in the world, whose perpetrators have not been prosecuted or punished by the international community (Korea, Viet Nam, Algeria, Cambodia, Lebanon, Afghanistan, the Belgian Congo, Iraq, Panama etc.). War crimes are not committed in the territory of one State alone and are not subject to the statute of limitations, so that the selective approach to the former Yugoslavia is all the more difficult to understand and is contrary to the principle of universality.

Yugoslavia has its doubts about the impartiality of the ad hoc tribunal, particularly because of the one-sided approach of the United Nations Security Council to the responsibility for armed conflicts in the territory of the former Yugoslavia and the fact that numerous initiators and advocates of the idea of its establishment have openly stated that this was going to be a tribunal for Serbs. Besides, reports of various international commissions investigating war crimes are biased and unsubstantiated.

In view of the fact that, under the Charter of the United Nations, the Security Council has no mandate to set up such a tribunal or to adopt its statute, it is quite legitimate question the legal basis for the establishment of the ad hoc tribunal. This is borne out by the opinions of many States and a number of draft tribunal statutes, including the draft of the Conference on Security and Cooperation in Europe (CSCE), to the effect that such a tribunal could be established only by a convention or as a result of decisive influence of the United Nations General Assembly.

In the report by the Secretary-General of 3 May 1993, submitted under paragraph 2 of Security Council resolution 808 (1993), it is said that the international tribunal has been set up on the basis of Chapter VII and Article 29 of the United Nations Charter (S/25704, sect. I).

Yugoslavia wishes to reiterate that the Security Council has no mandate to establish an international tribunal, nor does Chapter VII of the United Nations Charter provide for the establishment of that tribunal. Invocation of Article 29 of the United Nations Charter is legally unfounded and arbitrary, since Article 29 only provides that the Security Council may establish subsidiary organs as it deems necessary for the performance of its functions. It is obvious that such a tribunal is not a subsidiary organ of the Security Council. No independent tribunal, particularly an international tribunal, can be a subsidiary organ of any body, including the Security Council.

The ongoing drive to establish an international tribunal is politically motivated and without precedent in international legal practice, so much so since members of

the international community have not been able to agree on the establishment and statute of an international criminal court for decades. The proposed statute of the international tribunal is inconsistent and replete with legal lacunae to the extent that makes it unacceptable to any State cherishing its sovereignty and dignity.

I would like to recall that the international community has held Yugoslav criminal legislation and its judiciary in very high esteem, *inter alia*, because it has adopted all solutions and achievements of modern criminal law and all international conventions pertaining to international humanitarian law.

The establishment of an ad hoc tribunal is also contrary to the provisions of the Constitution of the Federal Republic of Yugoslavia, which prohibits extradition of Yugoslav nationals. Yugoslavia is not convinced of the need that it alone should amend its constitutional provisions pertaining to extradition, which are otherwise contained in appropriate legal documents of other States as well, even less so if the same obligation is not provided also for other members of the international community.

Yugoslavia is a signatory State of all international conventions in the field of international humanitarian law, its legislation is in full harmony with the provisions of those conventions and it is prepared to comply fully with its international commitments under these conventions.

In advising you of the remarks of the Federal Government on the proposals contained in your report, I wish to inform you that any decision of the Security Council on this issue related to Yugoslavia will have to be approved by the Parliament of the Federal Republic of Yugoslavia as the supreme authority under its Constitution.

3. Security Council Adopted at its 32

Adopted by the

The Security Council

Reaffirming its
relevant resolutions,

Having considered
pursuant to paragraph

Expressing concern
flagrant violations of
the former Yugoslav
including reports of
rape of women, and
for the acquisition of

Determining that
peace and security,

Determined to
to justice the persons

Convinced that
establishment as an
the prosecution of
penal law would
restoration and main

Believing that
tion of persons respect
humanitarian law cor
redressed,

Noting in this regard
Committee of the International
Establishment of such a tri

Reaffirming in
tional tribunal shall
serious violations of
former Yugoslavia si

Considering that
nal Tribunal, the Council
(1992) should continue
evidence of grave breaches
national humanitarian

Acting under Chapter

3. Security Council Resolution 827 (1993)

Adopted at its 3217th meeting on 25 May 1993.

Adopted by the Security Council at its 3217th meeting, on 25 May 1993

The Security Council,

Reaffirming its resolution 713 (1991) of 25 September 1991 and all subsequent relevant resolutions,

Having considered the report of the Secretary-General (S/25704 and Add. 1) pursuant to paragraph 2 of resolution 808 (1993),

Expressing once again its grave alarm at continuing reports of widespread and flagrant violations of international humanitarian law occurring within the territory of the former Yugoslavia, and especially in the Republic of Bosnia and Herzegovina, including reports of mass killings, massive, organized and systematic detention and rape of women, and the continuance of the practice of "ethnic cleansing", including for the acquisition and the holding of territory,

Determining that this situation continues to constitute a threat to international peace and security,

Determined to put an end to such crimes and to take effective measures to bring to justice the persons who are responsible for them,

Convinced that in the particular circumstances of the former Yugoslavia the establishment as an ad hoc measure by the Council of an international tribunal and the prosecution of persons responsible for serious violations of international humanitarian law would enable this aim to be achieved and would contribute to the restoration and maintenance of peace,

Believing that the establishment of an international tribunal and the prosecution of persons responsible for the above-mentioned violations of international humanitarian law contribute to ensuring that such violations are halted and effectively redressed,

Noting in this regard the recommendation by the Co-Chairmen of the Steering Committee of the International Conference on the Former Yugoslavia for the establishment of such a tribunal (S/25221),

Reaffirming in this regard its decision in resolution 808 (1993) that an international tribunal shall be established for the prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991,

Considering that, pending the appointment of the Prosecutor of the International Tribunal, the Commission of Experts established pursuant to resolution 780 (1992) should continue on an urgent basis the collection of information relating to evidence of grave breaches of the Geneva Conventions and other violations of international humanitarian law as proposed in its interim report (S/25274),

Acting under Chapter VII of the Charter of the United Nations,

1. Approves the report of the Secretary-General;
2. Decides hereby to establish an international tribunal for the sole purpose of prosecuting persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia between 1 January 1991 and a date to be determined by the Security Council upon the restoration of peace and to this end to adopt the Statute of the International Tribunal annexed to the above-mentioned report;
3. Requests the Secretary-General to submit to the judges of the International Tribunal, upon their election, any suggestions received from States for the rules of procedure and evidence called for in Article 15 of the Statute of the International Tribunal;
4. Decides that all States shall cooperate fully with the International Tribunal and its organs in accordance with the present resolution and the Statute of the International Tribunal and that consequently all States shall take any measures necessary under their domestic law to implement the provisions of the present resolution and the Statute, including the obligation of States to comply with requests for assistance or orders issued by a Trial Chamber under Article 29 of the Statute;
5. Urges States and intergovernmental and non-governmental organizations to contribute funds, equipment and services to the International Tribunal, including the offer of expert personnel;
6. Decides that the determination of the seat of the International Tribunal is subject to the conclusion of appropriate arrangements between the United Nations and the Netherlands acceptable to the Council, and that the International Tribunal may sit elsewhere when it considers it necessary for the efficient exercise of its functions;
7. Decides also that the work of the International Tribunal shall be carried out without prejudice to the right of the victims to seek, through appropriate means, compensation for damages incurred as a result of violations of international humanitarian law;
8. Requests the Secretary-General to implement urgently the present resolution and in particular to make practical arrangements for the effective functioning of the International Tribunal at the earliest time and to report periodically to the Council;
9. Decides to remain actively seized of the matter.

4. Security Council meeting, held at 9. p.m. (S/PV.3) Mr. LI Zhaoxing

Mr LI Zhaoxin opposed crimes that nationals in this category circumstances in the world peace, the Chinese adopted.

This political assessment of the legal precedent for abuses adopted with regard Security Council resolution Chinese delegation the a treaty so as to prevent functioning.

Furthermore, the instrument with the and financial question and concluded by sov accordance with domestic the Statute of the International and exclusive jurisdiction sovereignty. The adoption Council through a resolution Member States must Charter. This will bring For this reason, China

In short, the Chinese established in the current the special circumstances precedent.

Mr. SARDENB may demand exceptions States. The action taken hoc international tribunal that category.

The reports of violations territory of the former in other countries. The

4. Security Council — provisional verbatim record of the 3217th meeting, held at Headquarters, New York, on Tuesday, 25 May 1993, at 9. p.m. (S/PV.3217)

Mr. LI Zhaoxing

Mr LI Zhaoxing (China) (interpretation from Chinese): China has consistently opposed crimes that violate international humanitarian law and advocated that criminals in this category should be brought to justice. Bearing in mind the particular circumstances in the former Yugoslavia and the urgency of restoring and maintaining world peace, the Chinese delegation voted in favour of the resolution we have just adopted.

This political position of ours, however, should not be construed as our endorsement of the legal approach involved. We have always held that, to avoid setting any precedent for abusing Chapter VII of the Charter, a prudent attitude should be adopted with regard to the establishment of an international tribunal by means of Security Council resolutions under Chapter VII. It is the consistent position of the Chinese delegation that an international tribunal should be established by concluding a treaty so as to provide a solid legal foundation for it and ensure its effective functioning.

Furthermore, the Statute of the International Tribunal just adopted is a legal instrument with the attributes of an international treaty involving complicated legal and financial questions. It ought to become effective only after having been negotiated and concluded by sovereign States and ratified by their national legislative organs in accordance with domestic laws. Therefore, to adopt by a Security Council resolution the Statute of the International Tribunal which gives the Tribunal both preferential and exclusive jurisdiction is not in compliance with the principle of State judicial sovereignty. The adoption of the Statute of the International Tribunal by the Security Council through a resolution by invoking Chapter VII means that United Nations Member States must implement it to fulfil their obligations provided for in the Charter. This will bring many problems and difficulties both in theory and in practice. For this reason, China has consistently maintained its reservations.

In short, the Chinese delegation emphasizes that the International Tribunal established in the current manner can only be an ad hoc arrangement suited only to the special circumstances of the former Yugoslavia and shall not constitute any precedent.

Mr. SARDENBERG (Brazil): Sometimes exceptionally grave circumstances may demand exceptional action on the part of the United Nations and of Member States. The action taken today by the Security Council on the establishment of an ad hoc international tribunal on war crimes in the former Yugoslavia falls clearly into that category.

The reports of widespread violations of international humanitarian law in the territory of the former Yugoslavia have caused deep shock and outrage in Brazil, as in other countries. The strongest words would not be strong enough to express the

depth of our condemnation of the atrocities committed in the context of the armed conflict in that subregion of the European continent.

In the conflict in the former Yugoslavia, the most basic norms of humanity have been systematically trodden underfoot. Innocent civilians, including children, have been the victims of acts of unspeakable brutality, in utter disregard of the protection which, under international law, they are entitled to enjoy in a situation of armed conflict. That has included widespread violence against women of all ages, including a horrifying pattern of sexual assault against Muslim women. Religious persecution and racially motivated crimes have been brought to a new abhorrent level, expressed by the unacceptable phrase "ethnic cleansing".

Such criminal events could not in any way be tolerated by the international community. A cry for justice was voiced by each of the victims of the crimes committed in the conflict in the former Yugoslavia, and that cry has echoed in this Chamber. In resolution 808 (1993), the Security Council had already decided that an international tribunal should be established for the prosecution of persons responsible for serious violations of international humanitarian law.

Brazil examined with great care the proposals for the establishment, by the Security Council itself, of such an international tribunal. In that consideration, we found that such proposals posed intricate and not unimportant legal difficulties, many of which were not resolved to our satisfaction.

Given the legal difficulties involved, which in the normal course of events would required much more extensive study and deliberation and could have prevented us from supporting the initiative, it was only the consideration of the unique and exceptionally serious circumstances in the former Yugoslavia that determined the vote we cast on the resolution we have just adopted. Our positive vote is to be understood as a political expression of our condemnation of the crimes committed in the former Yugoslavia and of our heartfelt wish to contribute to bringing to justice, with the urgency that is imposed on us by the facts, all persons responsible for such acts. It should not be construed as an overall endorsement of legal formulas involved in the foundation or in the Statute of the International Tribunal.

We would certainly have preferred that an initiative bearing such far-reaching political and legal implications had received a much deeper examination in a context that allowed a broader participation by all States Members of the United Nations. To that end, we believe it would have been appropriate for this matter also to be brought to the attention of the General Assembly.

The views of the Brazilian Government on the main legal issues involved in the establishment and functioning of the Tribunal were expressed in the statement made on the occasion of the adoption of resolution 808 (1993) and in the memorandum submitted by Brazil and circulated in connection with that resolution in document S/25540. In particular, Brazil expressed the view that the most appropriate and effective method for establishing the International Tribunal would be the conclusion of a convention setting up an ad hoc international criminal jurisdiction and containing the terms of reference for its exercise.

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It is our view that the situation with a view to responsible for serious Yugoslavia. Both the establish new norms for the Security Council approved by the resolution. Council is not creating that the International international humani

For the work of that it receive the full from the resolution adopted, should the need arise in accordance with the requests for extradition

Mr YANEZ BA
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The Secretary-General in its annex respond to this area as expressed Secretary-General purpose Statute can be improved improvements, especially jurisdiction of the Tribunal. Nevertheless, we have preferred entirely for several reasons.

The option of establishing the Tribunal exclusively through a resolution of the Security Council, which we did not favour, leaves unresolved a number of serious legal issues relating to the powers and competences attributed to the Council by the United Nations Charter. That fact will not and should not limit the effectiveness of the work of the International Tribunal. It does limit, however, in our understanding, the conclusions that could be drawn from the adoption of this resolution as regards the legal and political framework for the work of the Security Council.

It is our view that the resolution is aimed at addressing a specific and unique situation with a view to producing one specific result: bringing to justice the persons responsible for serious violations of international humanitarian law in the former Yugoslavia. Both the resolution and the Statute it adopts are thus not meant to establish new norms or precedents of international law. At any rate, it would not be for the Security Council to do that. The report of the Secretary-General, which is approved by the resolution, makes it clear that by adopting this resolution the Security Council is not creating or purporting to legislate international humanitarian law and that the International Tribunal will have the task of applying existing norms of international humanitarian law.

For the work of the International Tribunal to be effective, it will be essential that it receive the fullest cooperation of all States. That is a clear obligation resulting from the resolution adopted today. For its part, the Brazilian Government is determined, should the need arise, to cooperate fully with the International Tribunal in strict accordance with the relevant Brazilian legislation, which includes the observance of the constitutional competence of the Brazilian Supreme Court to process and judge requests for extradition.

Mr YAÑEZ BARNUEVO (Spain) (interpretation from Spanish): Resolution 827 (1993), which the Council has just adopted, is the logical consequence of resolution 808 (1993), adopted last February. On that occasion, the Council decided to establish an international tribunal to bring to trial those charged with serious violations of international humanitarian law perpetrated since 1991 in the territory of the former Yugoslavia. It also urged the Secretary-General to submit a report containing specific proposals for the implementation of that decision. The Secretary-General, with the efficient assistance of the Legal Council, has completed that task and submitted an excellent report. On that basis, the Council is now proceeding to establish the Tribunal. Spain has already expressed its support in principle for the establishment of the International Tribunal and has now confirmed its support for that establishment in co-sponsoring and voting in favour of resolution 827 (1993).

The Secretary-General's report and the Statute of the Tribunal that it contains in its annex respond to a great extent to the concerns of the Spanish Government in this area as expressed in the comments and suggestions which it transmitted to the Secretary-General pursuant to the provisions of resolution 808 (1993). Naturally, the Statute can be improved upon and we might have benefited from certain particular improvements, especially in determining the substantive subject matter and temporal jurisdiction of the Tribunal and the characterization of crimes and penalties. Nevertheless, we have preferred to retain the form proposed by the Secretary-General in its entirety for several reasons.

First, certain clarifications can be found by reading the Statute in the light of the explanations provided in the Secretary-General's report with respect to each Article. Other clarifications can be contributed by the Tribunal itself when it drafts its rules of procedure and begins carrying out its judicial activities, which will consist in applying abstract rules to concrete cases, thus spelling out their content. Finally, and most importantly, the goal of restoring peace in the territory of the former Yugoslavia required prompt action, which might have been compromised through a prolonged and detailed discussion of a Statute which satisfies the fundamental prerequisites for ensuring the achievement of that goal.

Indeed, although the Statute lacks express provisions in this respect, the Tribunal does appear as a clearly independent organ. This derives both from the qualifications required of its members and from the procedure for their selection, which includes the participation of the Security Council and the General Assembly. It derives above all from the autonomy of its machinery, which is not subject to any external review. In this connection, we should recall that this independence is not at all incompatible with its formal character as a subsidiary organ of the Council, as is borne out by the jurisprudence of the International Court of Justice with respect to the United Nations Administrative Tribunal and its relations with the General Assembly.

Secondly, we have here an impartial body governed by the law itself in fulfilling its duties. Its jurisdiction encompasses all of the territory of the former Yugoslavia and actions by all parties involved in the conflict or conflicts in that area. Moreover, its activity is governed by the general principles of law, in particular respect for the guarantees of due process and the rights of the accused. We should especially emphasize that the Statute rules out any trial of the accused *in absentia* or the imposition of the death penalty.

Thirdly, we are creating a body that we wish to be effective. To that end, it is indispensable to impose upon States an obligation to cooperate with the Tribunal that is based upon Chapter VII of the Charter. That obligation implies the duty to promulgate any domestic legal measures that may be necessary. A particularly important feature of this obligation is the primacy accorded the International Tribunal over national courts.

Lastly, the resolution creates an ad hoc body with a jurisdiction limited not only geographically and temporally but also materially, in that it will be circumscribed to applying the international law in force. In fact, with the establishment of the Tribunal, we are not seeking not to create new international law or to change existing law but to guarantee effectively respect for that law.

In the final analysis, the Council, by adopting resolution 827 (1993) is seeking to make a reality of the determination contained in the preamble of the Charter to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, and indeed to establish conditions for the maintenance of justice and respect for international law in so tragic a situation as that unfortunately still being experienced by the peoples of the former Yugoslavia.

Views of the Gov 2 of

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3. It is clear that there is as yet no wide all, the establishment c of State sovereignty, b of personal jurisdiction International Law Cor regard to the draft Cod the question of the es delay can be attributed it cannot be denied tha such as the absence of progress from being m

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**Views of the Government of Mexico supplied pursuant to paragraph
2 of Security Council resolution 808 (1993)**

Introduction

1. The Government of Mexico wishes to place on record its satisfaction at the determination shown by the Security Council to promote respect for international humanitarian law in the States of the former Socialist Federal Republic of Yugoslavia. Accordingly, Mexico reaffirms its support for Security Council resolutions, including resolution 808 (1993), demanding an immediate end to all violations of international humanitarian law, particularly those occurring in the territory of Bosnia and Herzegovina.

2. However, Mexico wishes to express its concern at some aspects of the procedure that was followed in deciding to establish an international tribunal to prosecute persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991. The Mexican Government also wishes to give its views on the jurisdiction and rules of procedure of the tribunal that is ultimately established.

Establishment of an international criminal court

3. It is clear that Security Council resolution 808 (1993) raises issues on which there is as yet no widely-shared opinion within the international community. First of all, the establishment of an international criminal court is closely linked to the exercise of State sovereignty, both from the standpoint of territorial jurisdiction and from that of personal jurisdiction. This explains why the General Assembly, acting through the International Law Commission, has yet to complete the mandate entrusted to it with regard to the draft Code of Crimes against the peace and Security of Mankind, to which the question of the establishment of an international criminal court is related. This delay can be attributed to lack of political will on the part of Member States. However, it cannot be denied that lacunae in the progressive development of international law, such as the absence of a definition of aggression for almost two decades, prevented progress from being made in the consideration of this topic.

4. The decision taken by the Security Council has no precedent in the annals of the United Nations. Although we have the historic precedent of the 1945 London Agreement establishing the Nürnberg Tribunal and the subsequent formulation of the principles contained in General Assembly resolution 95 (I) this is the first time that the establishment of an international criminal court has not been brought about by the action of a group of victorious Powers. There is no express provision in the Charter of the United Nations which can be invoked as giving the Security Council or the General Assembly the power to establish a special criminal court with binding jurisdiction.

5. Now, in the present case, it must be recognized that the situation in the former Yugoslavia is a threat to the maintenance of international peace and security, so that intervention by the Security Council under Chapter VII of the Charter is fully justified. Accordingly, the establishment of an international criminal court such as that referred to in resolution 808 (1993) must be understood as a measure designed to put an end to the conflict taking place in the former Yugoslavia.

6. Given the extraordinary circumstances which prompted the decision to establish the tribunal, this tribunal is special and does not therefore create any precedent for the future establishment of a universal, permanent international criminal court with binding jurisdiction. Any such future tribunal will have to have optional jurisdiction and will have to be established as a result of a convention or international treaty freely signed by States, on the basis of the corresponding recommendations made by the International Law Commission to the General Assembly.

7. In this context, it is extremely important to emphasize that the General Assembly is, by virtue of Articles 10, 11, 13, 14, 34 and 35 of the Charter of the United Nations, vested with responsibilities in the maintenance of international peace and security. By virtue of those Articles, and notwithstanding the provision of Article 12 of the Charter, the General Assembly has the power to make recommendations for the maintenance of international peace and security and, in the absence of action by the Council, could even take whatever measures it deems appropriate.

8. In this particular case, the General Assembly could have played an important and valuable role in supporting and advising the Security Council, especially since this is a matter related to the issue of the establishment of a universal international criminal court, an issue on which significant progress has been made in the International Law Commission since 1990.

9. The Government of Mexico has always believed it vitally important to ensure a proper balance between the principal organs of the United Nations. To this end, Mexico has advocated the need to adapt the Organization's working methods and, in particular, to strengthen the role of the General Assembly.

10. At the same time, the Government of Mexico believes it is essential, in order to guarantee that Member States adhere fully to the decisions of the Security Council, that the Council's actions should at all times respect the sovereign rights of States and that its decisions be taken in a context of transparency which reflects the interests and aspirations of all States Members of the United Nations.

11. Mexico reiterates that the dialogue between the Security Council and the General Assembly must be reinforced, so that the Assembly can make full use of its powers and can take a position on situation which could threaten international peace and security, without prejudice to the primary responsibility vested in the Security Council.

12. With this idea in mind, the Government of Mexico believes that the basis for the Security Council's decision could be found, as was done in the report of the committee of jurists submitted by France (S/25266), in the powers conferred on it by Article 41 of the Charter, since the list of measures in that Article is not exhaustive. However, it must be made clear that as early as the San Francisco Conference, Mexico

and other countries should have the priority. This shows that Mexico's system of collective security is an entire international

Principles

13. The Government of Mexico, established by resolution 1502 (XV), must be its total international non-governmental partners.

14. In this context, no other organ should be established once the tribunal is created.

15. The judicial process must be strictly to the general process and the protection of the rights of the parties.

16. Furthermore, the recognized legal character and objectivity of trials must be maintained.

17. Mexico believes that it is essential for itself whether it is co-ordinated with the statute which will have to be adopted, which will have to be in the territorial sphere, with the former Yugoslavia.

The debate in the General Assembly has shown that the Government of Mexico has shown its interest in the establishment of the tribunal. They stressed the importance of the state's sovereignty, the need to respect the underlying of the state's sovereignty, that ... it was very difficult to reach a decision concerning the creation of the tribunal before the court, which would have jurisdiction in respect of the applicable, what relationship between the state and how compensation should be made.

U.N. GAOR Intern

and other countries proposed that decision taken by the Council under Article 41 should have the prior approval of the General Assembly (see UNCIO, IV, p. 223). This shows that Mexico has always been concerned to secure the establishment of a system of collective security which takes the rights and legitimate aspirations of the entire international community into account.

Principles governing the functioning of the international tribunal

13. The Government of Mexico believes that, in order for the tribunal established by resolution 808 (1993) to have the necessary legitimacy, its main attribute must be its total independence from any State or international, governmental or non-governmental political organ, and the impartiality of its proceedings and members.

14. In this connection, Mexico believes that neither the Security Council nor any other organ should interfere in the performance of the functions entrusted to the tribunal once the tribunal has been established and has been provided with a statute.

15. The judicial proceedings carried out by the tribunal will have to adhere strictly to the general principles of law, such as the need to guarantee the right of due process and the protection of the individual rights of the accused.

16. Furthermore, the members of the tribunal will have to be individuals of recognized legal competence, impartiality and integrity, in order to guarantee the objectivity of trials. Judges will have to be unremovable to safeguard their independence.

17. Mexico believes that the tribunal, like any other court, should decide for itself whether it is competent to hear a given case that is submitted to it. However, its statute will have to delimit very clearly and precisely its material sphere of competence, which will have to be restricted to crimes typified by international law, and its territorial sphere, which will have to be limited to the territory of the former Yugoslavia.

The debate in the Sixth Committee of the forty-seventh session of the General Assembly has shown (a number of) delegations expressed either (their) strong reservations to the establishment of a court or serious doubts as to the feasibility of the idea. They stressed the numerous obstacles involved, including the surrender of a state's sovereignty, the relationship between international law and domestic laws and the undermining of the principle *aut dedere aut judicare*. The remark was also made that ... it was very difficult to achieve uniformity of opinion on many basic issues concerning the creation of a court, such as who might be entitled to bring a complaint before the court, which State or States would have to give consent for the court to have jurisdiction in respect of an individual charged with a crime, which law would be applicable, what relationship would exist between the court and the Security Council and how compensation procedures should be defined.*

* U.N. GAOR International Law Comm., 47th Sess., Report, at 10, U.N. Doc. A/CN.4/446 (1993).

5. Letter dated 6 April 1994 from the Federal Minister of Foreign Affairs of the Federal Republic of Yugoslavia to the Secretary-General

Excellency,

Further to my letter to Your Excellency of 17 May 1993 in which I explained the position of the Government of the Federal Republic of Yugoslavia on the initiative for the establishment of an International Tribunal for the prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia, I wish to inform Your Excellency of the following.

The Government of the Federal Republic of Yugoslavia notes with regret that its arguments and remarks presented in the said letter, as well as the remarks of other sides concerning the initiative for the establishment of such an *ad hoc* international tribunal, have not been taken into account and that under the pressure, which Your Excellency also witnessed, and apparently without the authorization of the Security Council under the Charter of the United Nations, the resolution on the establishment of the International Tribunal has been adopted.

The Government of the FR of Yugoslavia continues to maintain the same positions presented in the letter, particularly the position that the establishment of such an *ad hoc* international tribunal is contrary to the provisions of the Charter of the United Nations and the principles of universality and sovereign equality of States, as well as the provisions of the Constitution of the FR of Yugoslavia (contained in Constitutions of almost all States in the world) on the non-extradition of its own nationals. The Government of my country reiterates its resolve to prosecute and punish, in accordance with its international commitments, all perpetrators of crimes against international humanitarian law on the basis of its national laws which are fully in accord with international law and, in this context, to continue to cooperate actively with all organs of the United Nations, including its Commission of Experts established by Security Council resolution 780 (1992). In view of the common goal — the prosecution and punishment of perpetrators of serious violations of international humanitarian law — the Government of the FR of Yugoslavia does not exclude contacts and eventual cooperation also with the officials of the International Tribunal provided the sovereignty and the laws of the FR of Yugoslavia are respected in such cooperation. This, of course, does not include extradition of Yugoslav nationals to the International Tribunal because of the reservations contained in my letter of 17 May 1993. The Government of the FR of Yugoslavia shall inform the officials of the International Tribunal of this position through the Embassy of the FR of Yugoslavia in The Hague.

The fact that the legal profession itself in many countries of the world, including even the United States, has the same objections and reservations with respect to the establishment of the International Tribunal, is best illustrated by the statement of a representative of the American Association of Jurists at the last session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities of the

Human Rights Commission
Rubin (enclosed here)

Excellency,

I wish to reiterate my commitment to cooperate with the United Nations and contribute to the peace and contribution to, made despite the existence of the Organization and the creation of trust and

The Government of the Federal Republic of Yugoslavia, in its international commitments, international judicial cooperation, representative of the Government of the Federal Republic of Yugoslavia, even though this government has received the objections of the peoples of the former Yugoslavia, which my Commission of Experts of the International Tribunal has been incumbent upon it to

Confident that in my letter, I assure Your Excellency

Human Rights Commission in Geneva, as well as by a critical review of Professor A. Rubin (enclosed herewith) which you may have already seen.

Excellency,

I wish to reiterate once again my Government's readiness to continue to cooperate with the United Nations, borne out by its continued active participation in, and contribution to, the solution of the Yugoslav crisis. The pledge of cooperation is made despite the extremely partial attitude of some influential members of the Organization and the above precedents which are far from being conducive to the creation of trust and confidence as a basis for normal cooperation.

The Government of the FR of Yugoslavia has never refused to fulfil its international commitments, nor to have them discussed in international fora, including international judicial organs. This is evidenced also by the participation of the representative of the Government of the FR of Yugoslavia in the hearing before the International Court of Justice at the request of the Moslem government in Sarajevo, even though this government has no legitimacy to represent the interests of the peoples of the former Yugoslav republic of Bosnia-Herzegovina. However, the serious objections which my Government has vis-a-vis the establishment and character of the International Tribunal and which it presented even before it was established, make it incumbent upon it to maintain its principled position.

Confident that you will understand the arguments and views presented in this letter, I assure Your Excellency of my highest consideration.

Vladislav Jovanović

6. Letter dated 27 April 1994 from the Secretary-General to the
Minister of Foreign Affairs of the Federal Republic of Yugoslavia

27 April 1994

Excellency,

I wish to acknowledge receipt of your letter of 6 April 1994 and its attachments, concerning the International Tribunal for the prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991. In your letter you reiterate the position of your Government that the International Tribunal was established contrary to the provisions of the United Nations Charter and the principles governing the sovereign equality of States, and that therefore the Government of the Federal Republic of Yugoslavia (FRY), in accordance with its constitution, will refuse to surrender its nationals to the Tribunal, when so requested.

I am, therefore, obliged, your Excellency, to clarify the position with regard to the legal basis for the establishment of the Tribunal, its jurisdiction, powers and competences and the legally binding nature of this requests for judicial assistance.

Following a determination by the Security Council in a series of resolutions that the situation in the former Yugoslavia constitutes a threat to international peace and security, the Council, in its resolution 808 (1993) decided, in principle, to establish an international tribunal for the prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991. In its resolution 827 (1993), adopted under Chapter VII of the Charter, the Security Council established an ad-hoc tribunal of limited jurisdiction, and adopted to that end the Statute proposed by the Secretary-General and annexed to his report (UN Doc. S/25704 (1993)). The Security Council's decision to establish an ad-hoc judicial body, as an enforcement measure to restore and maintain peace and security in the former Yugoslavia was taken pursuant to the powers entrusted to the Council under Article 41 of the United Nations Charter, to decide what measures to employ in order to give effect to its decision. A similar measure was taken in the context of the Iraq-Kuwait conflict where the Council established pursuant to resolution 687 (1991), also adopted under Chapter VII, a Compensation Commission to manage a compensation scheme funded by Iraqi oil revenues.

The establishment of the International Tribunal under a Chapter VII resolution entails for all member States of the United Nations a legally binding and enforceable obligation to comply, and take whatever actions are required to carry out that decision. This obligation is further specified in Article 29 of the Statute of the Tribunal which provides that States shall cooperate with the Tribunal in the investigation and prosecution of persons accused of committing serious violations of international humanitarian law, and shall comply without undue delay with any request for assistance issued by the Tribunal, including the surrender or the transfer of the of an accused

when emanating from
to an extradition treaty
is an enforcement measure
Charter and thus over

I wish to refer,
addressed to all member
under paragraph 4 of
the International Tribunal
their domestic law to
Statute, including the
orders issued by a Tribunal

In your letter you
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Please accept, Excellency,

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when emanating from the International extradition which emanates from a State party to an extradition treaty and governed by the relevant national or treaty law. Rather, it is an enforcement measure taken pursuant to Chapter VII of the United Nations Charter and thus overrides any national legislation.

I wish to refer, in this respect, to the Secretary-General's Note of 2 June 1993 addressed to all member States drawing their particular attention to their obligations under paragraph 4 of Security Council resolution 827 (1993) to cooperate fully with the International Tribunal and its organs, and to "take any measures necessary under their domestic law to implement the provisions of the present resolution and the Statute, including the obligations of States to comply with requests for assistance or orders issued by a Trial Chamber under Article 29 of the Statute".

In your letter you also reiterate the resolve of your Government to prosecute and punish all perpetrators of serious violations of international humanitarian law on the basis of your national legislation. The competence of the national courts of the FRY to prosecute persons responsible for serious violations of international humanitarian law is not incompatible with the competence of the International Tribunal. Rather, the concurrent jurisdiction of national courts and the International Tribunal in matters falling within the jurisdiction of the latter is expressly provided for in Article 9 of the Statute. As not the intention of the Security Council to preclude or prevent the jurisdiction of national courts with respect to such crimes, but rather to encourage national courts to exercise their jurisdiction in accordance with the relevant national laws and procedure (para. 64 of the Secretary-General's report). The concurrent jurisdiction of national courts is, however, subject to the primary of the International Tribunal which may intervene at any stage of the proceedings, including the stage of the investigation, and request the national court to defer to the competence of the Tribunal.

It is therefore the position of the Secretary-General that the International Tribunal was established in full compliance with the provisions of the United Nations Charter, and that the Federal Republic of Yugoslavia, like all other States members of the United Nations, is bound to give effect to Security Council resolutions adopted under Chapter VII of the Charter, and to comply to that end with any requests of the International Tribunal for assistance, including, in particular, a request for the transfer or surrender of an accused, regardless of his nationality. It is the hope of the Secretary-General and that of the Security Council that the Federal Republic of Yugoslavia will cooperate with the Tribunal in the spirit of Security Council resolution 827 (1993), and the Statute of the International Tribunal.

Please accept, Excellency, the assurances of my highest consideration.

Boutros Boutros-Ghali

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b) En wat te denken van vastgestelde "lijst" datum
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**7. Yugoslav Minister of Justice Uroš Klikovac to Justice
Richard Goldstone, Prosecutor International Criminal Tribunal
for the former Yugoslavia, The Hague, December 20, 1994**

Dear Sir,

In connexion with your letter of October 14, the Federal Government of FR Yugoslavia, proceeding from its positions on the International Criminal Tribunal for the criminal prosecution of persons responsible for serious violations of international humanitarian law in the territory of the former Yugoslavia -- which I expounded to you during our talks in Belgrade and of which Mr. Boutros Boutros Ghali, the OUN Secretary-General has also been informed on two occasions -- again discussed all pertinent questions related to the possible modalities of cooperation with the International Tribunal and/or the Prosecutor of the Tribunal and adopted the following stances:

1) In accordance with valid positive Yugoslav legislation, the competent organs of FR Yugoslavia will make possible such cooperation with the International Criminal Tribunal, and/or the Prosecutor of the Tribunal as will contribute to the criminal prosecution of perpetrators of criminal acts against humanity and international law contained in Chapter XVI of the Criminal Code of FR Yugoslavia;

2) To that end the competent organs of FR Yugoslavia will make adequate provision for the submission of appropriate documentation related to the commission of criminal acts against humanity and international law in cases where this is of bearing on the criminal prosecution of perpetrators of the mentioned criminal acts, on condition that no possibilities exist for their criminal prosecution before national courts;

3) In cases when the International Criminal Tribunal and/or the Prosecutor of the Tribunal addresses a letter rogatory for legal assistance, their representatives may be present in the course of investigations which will be undertaken by domestic courts on the basis of regulations in force and may ask questions and seek explanations through the investigating judge;

4) Representatives of the International Criminal Tribunal and/or the Prosecutor of the Tribunal may also attend trials before domestic courts for criminal acts in which they are interested, with prior notification to the court before which the criminal trial in question is being conducted, unless the public has been barred from the trial in conformity with the relevant provisions of the Law on Criminal Procedure;

5) The competent judiciary bodies of FR Yugoslavia will examine all evidential material including that possibly submitted by the International Criminal Tribunal and/or the Prosecutor of the Tribunal which may serve for the criminal prosecution of perpetrators of criminal acts against humanity and international law who are in the territory of FR Yugoslavia and, if legal conditions therefor exist, institute criminal proceedings against the perpetrators of such acts before the competent courts in FR Yugoslavia;

6) As regards appropriate working prepared to make i Tribunal, and/or the of UNPROFOR in of the International representative would bodies and non-gove in no position to un The representative of the Tribunal, would

7) The arrange the fact that there commission of any c national Criminal T those territories wh perpetrators of crimi proof can be found.

Mr. Goldstone

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May I, in concl discussion before the case of Dušan Tadić involves trials agains assurances of the T cooperation.

6) As regards your request for liaison officers to be appointed in Belgrade and appropriate working conditions to be ensured for them, the Federal Government is prepared to make it possible for one representative of the International Criminal Tribunal, and/or the Prosecutor of the Tribunal to be present within the framework of UNPROFOR in Belgrade, without having the right to specifically display the title of the International Criminal Tribunal and/or the Prosecutor of the Tribunal. This representative would be enabled to make contacts with the responsible federal and republican bodies and non-governmental organizations, on the understanding that he would be in no position to undertake investigative action vis-a-vis domestic physical persons. The representative of the International Criminal Tribunal and/or the Prosecutor of the Tribunal, would enjoy the privileges and immunities applicable to UN staff;

7) The arrangement described in the previous paragraph is based inter alia on the fact that there was no war in the territory of FR Yugoslavia and hence no commission of any of the mentioned criminal acts, wherefore the work of the International Criminal Tribunal and/or the Prosecutor of the Tribunal should focus on those territories where war operations took place and where the largest number of perpetrators of criminal acts against humanity and international law, their victims and proof can be found.

Mr. Goldstone,

In the letter which you sent me on November 28, you showed an interest in the trial of Duško Vučković, about which as you say you learned from the media. In that connexion I can inform you that on the basis of the charges against the indicted Duško Vučković made by the District Public Prosecutor's Office in Šabac, the Republic of Serbia, for the criminal act of war crime against civilians from Article 142, para. 1 of the Criminal Code of FR Yugoslavia and the criminal act of rape from Article 103, para. 1 of the Criminal Code of the Republic of Serbia, the main hearing in this case started before the District Court in Šabac on November 22. It was a public hearing so that it was attended by a large number of domestic and foreign journalists.

May I, in concluding this letter, draw your attention to the observation that the discussion before the International Tribunal on the assumption of jurisdiction in the case of Dušan Tadić as well as the fact that the beginning of the work of the Tribunal involves trials against two persons of Serbian nationality, seriously call in question assurances of the Tribunal's impartiality, which may adversely affect our future cooperation.

Respectfully,
Uroš Klikovac

International Crime and Punishment

Alfred P. Rubin

THE IDEA OF an international criminal court is supported by many people and now has moved from the lobbying of lawyers and moralists to an area of practical action. At the close of the Gulf War, the United States sent a team to investigate Iraqi atrocities with an eye to bringing those who committed them before an international tribunal authorized to apply international law to the acts of individuals. A recent Resolution of the United Nations Security Council calls for an investigation of at least equally repulsive atrocities reportedly committed in former Yugoslavia. Former United States Secretary of State Eagleberger even named a half dozen leaders of former Yugoslavia as fit defendants.

It can be argued that the failure to set up such a tribunal after the Gulf War was a failure merely of political will. But it can also be argued that the failure came about as a result of serious consideration, and that the inhibitions in setting up such a tribunal are inherent in the international legal order. If that is so, then there is no failure of will, but only a realization by those focusing on practicalities that the sort of tribunal envisaged by enthusiasts for international law could not achieve the goals its proponents have in mind. Before too much time of able people is consumed by the effort to establish an international criminal court, it might be well to examine the real obstacles to achieving their civilizing goal by this means in the current international legal order.

It is easy to define acts that are crimes under what is conceived to be international

criminal law. National war crimes tribunals, military commissions, and courts martial have often enough tried and even executed persons for violating the "laws and customs of war" established in international practice. "Common law" crimes can be created (or found inherent in the system) by tribunals authorized to do that, and prohibitions on retroactive "legislation" can be ignored or reasoned away, as was done by the victor's tribunals at Nuremberg and Tokyo with regard to the "crime" of planning and waging "aggressive war" and "crimes against humanity." Some other acts, like participation in the international drug trade, can be made "international crimes" by treaty or by consistent state practice accepted as law by the international community.

But the new crimes created for Nuremberg were defined by the victorious allies only in the context of Nazi and Imperial Japanese activities and were not applied to the Soviets, who also invaded Poland and the Baltic States by what were evidently pre-arranged "acts of aggression," and whose treatment of some national minorities might have been considered within any definition of "crimes against humanity" that had not been drafted to apply only to the defeated enemies. The treaties relating to drug trafficking reflect similar sensitivities. They do not provide "universal" jurisdiction, they oblige the treaty parties to exercise only their established jurisdiction against persons within that jurisdiction whose acts fit the treaty categories.

Those arguing for the establishment of an international tribunal frequently claim that crimes against humanity as defined for Nuremberg can now be defined without the restrictive language that made those pro-

ceedings seem to be unless the law can leaders as well as factions, to Gen invasion of Pal Hussein (who Kuwait), it will se is not to say that cannot defend th leaders. Should a

This raises an decides who are te ties, investigators erect and supervi ment? Would the General Assembly tion? If so, presu possibly our own Would the Gener isified with the o Council and its G the United States before the Interna to respond to Ni plaint, accept the i Court as impartial body to select judge

TO SOLV cates for analogize their noti to the international those who participa cy" or "genocide." Despite the vigorou been a coherent pr bodies to enforce international slave t as if they were part law. National laws a; lators have called " have been applied a traditional reach of the few attempts to a of foreigners that di scribing state have ne The reasons for with the structure

Alfred P. Rubin is Distinguished Professor of International Law at the Fletcher School of Law and Diplomacy, Tufts University.

ceedings seem hypocritical. That is so. But unless the law can be seen to apply to Israel's leaders as well as to leaders of various Arab factions, to George Bush (who ordered the invasion of Panama) as well as Saddam Hussein (who ordered the invasion of Kuwait), it will seem hypocritical again. This is not to say that Israeli and American leaders cannot defend their actions, but so can Arab leaders. Should any of them be obliged to?

This raises an even deeper problem. Who decides who are to be the prosecuting authorities, investigators, and judges, and who is to erect and supervise the facilities for punishment? Would the great powers trust the UN General Assembly's discretion in that selection? If so, presumably Israel's leaders and possibly our own would be the first indicted. Would the General Assembly majority be satisfied with the objectivity of the Security Council and its Great Power vetoes? Would the United States, which refused to appear before the International Court in the Hague to respond to Nicaragua's successful complaint, accept the judges of the International Court as impartial either as judges or as a body to select judges and prosecutors?

TO SOLVE these questions, advocates for such a tribunal frequently analogize their notion of international crimes to the international legal order's treatment of those who participate in the slave trade, "piracy" or "genocide." The analogy is misplaced. Despite the vigorous rhetoric, there has never been a coherent practice by states or other bodies to enforce the rules relating to the international slave trade, piracy and genocide as if they were part of some universal criminal law. National laws against what national legislators have called "piracy" or "slave trading" have been applied against persons within the traditional reach of national legislation, but the few attempts to apply such laws to the acts of foreigners that did not impact on the prescribing state have normally failed.

The reasons for this failure have to do with the structure of the state system on

which the current legal order rests. For example, the Genocide Convention, which defines the crime and obliges states to punish it, limits the jurisdiction to the state in whose territory it happened (which never punishes the acts of its own officials) or an international tribunal which has not yet been established. That is as far as the states framing the Convention were willing to go. Thus, there have never been any trials for "genocide." There is no reason to expect states to agree to any greater transfer to international civil servants or others, of the authority to cite political leaders as "criminals" to be hauled before strangers and tried. Even "terrorists" regard themselves as "freedom fighters" or an "army of God" and deny to those outside their own movement the moral or legal authority to apply to their actions a purported "universal law" which they reject or whose application to their particular circumstances they refuse to acknowledge. In these circumstances, applying to them our version of what the criminal law should be is likely to create even deeper resentments and more violence.

Nonetheless, on 25 May the Security Council adopted a proposal to establish an International Criminal Court. It relies for enforcement on the provision of the United Nations charter requiring members of the UN to carry out some Security Council "decisions." But Bosnian Serbs are not represented in the UN except by Bosnians, against whom they are fighting. If the Serbs will not, and the Bosnians cannot, arrest the accused war criminals, who is bound to enforce the "decision"? What happens if they don't? And the tribunal's jurisdiction is to be restricted to events in the former Yugoslavia. Since the current international legal order rests on a notion of "sovereign equality" of states under the law, and the states that set it up are unwilling to submit themselves to its authority, the arrangement is inherently hypocritical; another "victor's tribunal" being set up belatedly by the winners of the Second World War.

There are many other practical and legal

problems, some of which can be overcome; most of which cannot. Like the Kellogg-Briand Pact of 1928 legally renouncing recourse to war: it seems the product of enthusiasts, at best useful in providing a public-relations rationale for hanging a few temporarily helpless villains, on deeper analysis, an embarrassment.

There are several other ameliorating actions that could be explored, none in the "criminal law" mode. International law is not a criminal law system; it is more akin to constitutional law, where enforcement rests on political counterpressures and foreseeable middle- and long-term reactions. A militarily organized movement that commits atrocities is likely to lose allies, unify its enemies, waste its energy in daring strikes of dubious military or political value, and ultimately turn on itself. The United States applied the laws of war in its own civil war 130 years ago not because "the law" compelled that application, but because it was in the interest of the United States to apply that law even if the overall framework of the international legal order did not require it. So held the United States Supreme Court in 1877.

From this point of view, Saddam Hussein has established a reputation as a person whose committed word is worthless and whose ability to lead by moral example and persuasion must be small. And those who believe that an ethnically "pure" Serbia or "Serbo-Bosnia" will be able to resume a level of economic activity that rests on contracts, property rights, mutual respect and the other things that make economic development possible and life bearable, are certain to be disappointed; as disappointed as the radical right in South Africa that thought that South Africa's international investors would not notice that apartheid was politically and economically destabilizing and its proponents not attractive associates even for hard-headed business-people.

In sum, the world would do better grappling with the tragedies of former Yugoslavia and the Middle East, acknowledging that violations of international morality and rules of law are not analogous to violations of national criminal law, but that no law requires anybody to do business with people whose behavior they regard as despicable, or to accept, in lieu of cash, the word of proven liars. □

RUBIN COMM

by Alfred P. Rubin
Distinguished Professor
Diplomacy, Tulane University

Early drafts of the prosecution of persons under international law committed in the past contained many problems. Some scholars whose intellectual orientation considered atrocities contrary to national humanitarian law a part of international law, while others considered it a part of international law, even where none of the "monist" model of the international legal order. Experience under the current system and is unworkable today. The General Assembly of the United Nations has taken a "dualist" stance by which international legal order is in one language, avoiding unnecessary conflict. It has not been wholly successful. The Security Council in its Resolution 687 purports to be the authority of the United Nations Charter, taking the source of authority. This source of authority turns first to what seems to be the Report and Statement of the original monist model. The signs of undue haste seem signs of undue haste. It inevitably serve as a primary source of problems that can be expected.

Let us turn first to the authority of the Security Council institution whose operation is the actual operating government of the United Nations Charter, envisage themselves as the modern equivalent of the set of substantive rules that comprise the international legal order.

The inconsistency under the Westphalian

RUBIN COMMENTS ON INTERNATIONAL TRIBUNAL, S/25704

by Alfred P. Rubin

Distinguished Professor of International Law, The Fletcher School of Law & Diplomacy, Tufts University

Early drafts of what became the Statute of the International Tribunal for the prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1 January 1991, contained many problems of concept as well as of detail. Apparently there are many scholars whose intellectual model of the international legal order leads them to consider atrocities committed in armed conflict as offenses under conventional international humanitarian law, a body of law which they consider beyond any doubt to be part of international customary law; who believe that there is a recognized principle of international law which provides that certain offenses may be punished by any state even where none of the common bases of jurisdiction exists. In my opinion, this "monist" model of the international legal order is inconsistent with 350 years of experience under the unwritten Westphalian Constitution, violates Occam's Razor, and is unworkable today. Fortunately (in my view), the Report of the Secretary-General of the United Nations and its annexed Statute (S/25704 dated 3 May 1993) take a "dualist" stance by which municipal legal orders are considered distinct from the international legal order. The Report and its annexed Statute try to be careful in their language, avoiding unnecessary jurisprudential generalities. In my opinion, they have not been wholly successful. Nonetheless, the Statute was adopted by the Security Council in its Resolution 827 (1993) on 25 May 1993. In its Resolution, the Security Council purports to be acting under the authority of Chapter VII of the United Nations Charter, taking enforcement action to restore international peace and security. This source of authority solves some legal problems and creates others. Let us turn first to what seem to me to be some overwhelming issues of fundamental principle in the Report and Statute, then look at the implications of the many traces in detail of the original monist approach and its inconsistencies. Finally, let us look at what seem signs of undue haste in the drafting of the Statute and the Report which will inevitably serve as a primary source for questions of interpretation, and some of the problems that can be expected to arise as a result of that haste.

Let us turn first to the deeper conceptual problems: What is the extent of the authority of the Security Council, even under Chapter VII of the Charter, to erect an institution whose operation threatens the internal organization of a "belligerent" or the actual operating government of a state? I.e., did states, when adhering to the UN Charter, envisage themselves re-creating the Holy Alliance, with the victors of WWII as the modern equivalent of Platonic Guardians, and the humanitarian laws of war as the set of substantive rules, adherence to which determines who should rule the units that comprise the international legal order?

The inconsistencies between the international legal order as it appears to be under the Westphalian Constitution, and the order as monist proponents of an

International Tribunal would like it to be by their special construction of the UN Charter and the authority of the Security Council, appear most vividly in two places.

The first major problem is the authority given the "Prosecutor". If I understand the procedures correctly, under Article 18 of the Statute of the Tribunal the Prosecutor prepares indictments, and under Article 19 a judge of a trial Chamber of the Tribunal (the text says "the judge", but since there are three judges in each trial chamber it is hard to say what was intended here) reviews the indictment and must confirm it if he (she?) is satisfied that a *prima facie* case exists. Apparently, there is no authority in any of these people to exercise political discretion. High office in the belligerent forces or government of a party to the conflict is not grounds for relieving any accused of criminal responsibility under Article 7(2). If I understand this correctly, it means that the Prosecutor, with the approval of a non-political judge, not only has the authority, but s/he has the responsibility to "decapitate" an army, a negotiating team or a civil authority even before the offense is proved.

I cannot believe that any of the parties to the conflict in former Yugoslavia will cooperate with this arrangement as it might apply in the one case in which their cooperation would be effective: To transfer to the International Tribunal persons within their own power structure who are accused of offenses within the purview of the Tribunal. The only effect that this arrangement seems likely to have would involve captives or the leaders of a defeated enemy. This should not be surprising, given that the Nuremberg model was in fact a victors' tribunal.

A second major inconsistency between the Statute and the Westphalian legal order lies in role states are to play in the enforcement system envisaged by the Statute. It rests on the obligations of states members of the UN to "accept and carry out decisions of the Security Council in accordance with" the Article 25 of the UN Charter and the categorization of Resolution 827 as authorized by Chapter VII of the Charter. Presumably the reasons for acting under Chapter VII include not only the desire to avoid questions about the reach of Article 25 to the *jus in bello* instead of the normal *jus ad bellum* interpretation. There must (or should) have been also an apprehension that the struggle in former Yugoslavia, as an internal armed conflict, might be beyond the reach of the United Nations to regulate. The struggle in former Yugoslavia has (or at least had) been categorized by all the parties involved as an internal armed conflict. Under Article 2(7) of the Charter of the United Nations, *except for the application of enforcement measures under Chapter VII* nothing in the Charter authorizes any organ of the United Nations to "intervene in matters which are essentially within the domestic jurisdiction of any state". Clearly, unless action by the Security Council were categorized as "enforcement measures" under Chapter VII, the organs of the UN would have exceeded their authority under the Charter by exercising any purview over the conflict except, perhaps, their power to "discuss" and perhaps to pass non-binding resolutions by analogy to action taken with regard to apartheid in South Africa.

But application of Security Council decisions under Article 25 does not solve the problem. First, there are theoretical problems: Under Article 29 of the Statute of the Tribunal, only "States" are bound to cooperate in such arrests and handings over. The Bosnian Serbs are not subject to the orders of the Tribunal. They are not even

subject to the "decision state (yet?). Thus the B the Security Council on equally bound or would hundred and thirty years 25 decision of the secu governmental theory ba: The Bosnian Serbs are Bosnia-Herzegovina ag: accept the "advice" of th is represented in the UN

Second, are practi Bosnia-Herzegovina co been guilty of the offen: they can carry out an : Prosecutor. Is it expected to the tribunal people in Prosecutor of triable of armies of the Bosnian Se largest foreseeable scope Serbian or Croatian war: who would plan to puni international tribunal.

This raises a lesser model that lies behind th for its seat to be at Hagu suggests the possibility c located outside former Y is "the world" bringing fo not the perception at Ni Homma trials), where th As far as I know, there we who are potential defend: how trials in places beyon to help bring a desire for c committed in the name c accomplish the "civilizing Tokyo. As to impressing "the civilized world" tha Yugoslavians will be conv in former Yugoslavia; if breaches" during the Gul zkopf in connection with Baghdad?) are not subject Yugoslavs. It may seem of

subject to the "decision" of the Security Council in this regard, since they are not a state (yet?). Thus the Bosnian Serbs can be held bound to an Article 25 decision of the Security Council only by a logic that would hold all national liberation movements equally bound or would insert *jus ad bellum* criteria into the *jus in bello* against a hundred and thirty years of experience. Holding the Bosnian Serbs bound by an Article 25 decision of the security Council also seems to violate fundamental democratic governmental theory based on our own notion of "no taxation without representation." The Bosnian Serbs are not represented in the United Nations by the authorities of Bosnia-Herzegovina against whom they are rebelling or, judging from their refusal to accept the "advice" of the leaders of Serbia-Montenegro, by any other authority that is represented in the UN.

Second, are practical realities that get in the way. If the authorities representing Bosnia-Herzegovina could arrest those Serbians or Croatians they believe to have been guilty of the offenses listed in the Statute, they surely would. It is unlikely that they can carry out an arrest order aimed at Serbians or Croatians issued by the Prosecutor. Is it expected that the authorities of Bosnia-Herzegovina would hand over to the tribunal people in their own command structure who have been accused by the Prosecutor of triable offenses? Similarly, would the authorities of Croatia or the armies of the Bosnian Serbs hand over their own people for such trials? Ironically, the largest foreseeable scope of operation of that provision is likely to be to get accused Serbian or Croatian war criminals out of the hands of Bosnian-Herzegovinian officials who would plan to punish them anyhow, probably with harsher penalties than the international tribunal.

This raises a lesser question that also indicates some confusion as to the legal model that lies behind the Statute: The location of the tribunal. The Statute provides for its seat to be at Hague (Article 31), although the Secretary-General's Report also suggests the possibility of Geneva or elsewhere. The firmest guidance is that it be located outside former Yugoslavia. There seems to be a presumption that the tribunal is "the world" bringing former Yugoslavia back to the larger community. But that was not the perception at Nuremberg or Tokyo (or Manila — as in the Yamashita and Homma trials), where the site of the trials was the place where the offenses occurred. As far as I know, there were no offenses committed in Hague or Geneva by any persons who are potential defendants before this Tribunal. It is very hard for me to understand how trials in places beyond the reach of local media in former Yugoslavia are supposed to help bring a desire for order to that benighted area or a sense of shame for atrocities committed in the name of ethnic interest. Therefore, trials as proposed now cannot accomplish the "civilizing mission" that was an essential reason for Nuremberg and Tokyo. As to impressing the Balkan populace with the notion that it is "the world" or "the civilized world" that is running things, I doubt very strongly that any former Yugoslavians will be convinced of that if the tribunal's authority is restricted to events in former Yugoslavia; if American leaders accused of ordering war crimes or "grave breaches" during the Gulf War (Captain Rogers of the Vincennes; General Schwarzkopf in connection with the bombing of what turned out to be a bomb shelter in Baghdad?) are not subjected to the same procedures and same laws as accused former Yugoslavs. It may seem obvious to us that "genocide" is more evil than shooting down

civilian airliners, but that perception is not universally shared. Indeed, in light of our anguish over the supposed role of Libyan officials in the Lockerbie incident, there is a certain amount of hypocrisy that will be apparent to everybody but us in this matter.

Finally in this discussion of conflicting principles in the Statute of the new Tribunal as adopted by the Security Council, I would mention one of a series of what seem confusions about the international legal order in relatively minor specifics. Article 10, "Non-bis-in-idem", identifies the "crimes" at municipal law with the crimes under the "monist" law-of-war conceptions currently popular with international lawyers, thus concluding that a trial under a municipal legal order and a trial by the International Tribunal are really the submission of a single situation under a single legal order to two tribunals: double jeopardy. That notion is abandoned (in my opinion, properly) if the person who has been tried by a national court for acts constituting serious violations of international humanitarian law was tried for acts "characterized as an ordinary crime" (Article 10.2.a). But this dualist conclusion retains its monist bias in its elision: "Characterized" by whom as an "ordinary crime"? Should the judges in an international tribunal have the authority to determine definitively, as if "objectively", the legal category of a municipal process? Does trial by a military court martial for violation of military law self-evidently exclude categorization as an "ordinary crime"? Lieutenant Calley? An off duty soldier robbing a taxi driver, but tried by a military court? Should the International Tribunal be able to characterize the proceedings of a municipal legal order while purporting to interpret its own authority under a "Statute" drafted by international civil servants and adopted by the Security Council of the United Nations by states who do not expect their decisions to be applied to themselves? We have had some experience of this sort of thing, principally the United States extradition to Israel of Abu Eain, a Palestinian who planted a bomb at a Rock Festival in Galilee, by insisting that Israel try him under "ordinary" criminal law instead of the laws of war; an insistence with which Israel was delighted to concur, but which seriously misread the actual situation of the time in Israel. But I have written about that else-where (*Extradition of Terrorists, Case Note on Eain v. Wilkes*, 15 Int'l Prac. Notebook 10 (1981)) and do not propose to repeat the argument here.

There are other problems with the Statute that might assume some significance. For example, why is the date of 1 January 1991 (Article 8) asserted by the Secretary-General to be a "neutral" date? I would want to know what was happening in former Yugoslavia in 1989 and 1990 before I could agree to that; not that "reprisal" will excuse violations of those parts of the laws of war in place to protect persons *hors de combat*, but that political or propaganda advantages might be given to one side or the other by choosing a date that appears significant to them for reasons not considered by us outsiders. Were there any violations of the laws of war by either side before that date which were then rectified afterwards? Are we depriving some accuseds of a *locus poenitentiae* that the date allows to some on the other side?

There are many other traces of confusion in the Statute. Perhaps some reflect disagreements as to the pertinent model of the international legal order; I suspect most reflect advocates' haste to move the world in their favorite direction before anybody has a chance to think too hard about it. But since the Statute is to be the basis

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injustice to real people

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Article 24.3 allow return of "property acquired by criminal conduct"? A test that the Annex to the 1997 authority whose "right" to occur; are they in the same that can, "expropriate" property here?

Article 29.2 requires the production of evidence issued by a Trial Chamber. If this article applies to a case, seriously, does the requirement of production of evidence apply to evidence classified by the defendant? Suppose the defendant d

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for defining and enforcing criminal law, every elision or inconsistency risks major injustice to real people. Let me list some of them.

Under Article 1 the International Tribunal has the power to "prosecute persons responsible" for the listed atrocities. How does the Prosecutor or anybody else know who is "responsible" for an atrocity *before* the prosecution? Surely more careful drafting would have used the phrase "prosecute persons alleged to be (or 'believed to be') responsible". The same problem exists in Article 4.1.

Article 2(d): "extensive destruction... carried out unlawfully". But "unlawfully" by what "law"? This language comes verbatim from the 1949 Geneva Civilians Conventions (Convention IV) Article 147, but that does not make it appropriate for this purpose. The Convention gave to states parties the responsibility to put meaning into these general phrases. The states parties have not done so except in their municipal criminal law, which is not binding on anybody outside the jurisdiction of the enacting state. Indeed, I know of no state that has actually referred to this phrase in its municipal criminal or military law, and I know of no "handing over" of persons alleged to have committed a "grave breach", so no diplomatic correspondence or practice puts meaning into "unlawfully".

The same problem exists in Article 2(g): "unlawful deportation or transfer or unlawful confinement" by what "law"? And does the use of the word "unlawful" before two nouns and not the third mean that "lawful" transfers of protected persons are criminally punishable?

Article 9 allows the Tribunal to "request" national courts to defer to its competence. But must the International Tribunal's "request" that a national tribunal defer to its competence be obeyed? Where does the Statute say so?

Article 10.2(b) lifts the ban on double trials if the national court proceedings "were not impartial... or the case was not diligently prosecuted." But who determines if there is a case "not diligently prosecuted"? How? On what evidence? Does the new Tribunal sit in judgment on the efficacy of municipal criminal process? The Prosecutor plus one judge?

Article 24.3 allows Trial Chambers of the International Tribunal to order the return of "property acquired by criminal conduct." What is property "acquired by criminal conduct"? A taking of property by military requisition without the receipt that the Annex to the 1907 Hague Convention requires? A taking by purported civil authority whose "right" to rule is contested? But errors in handing out receipts can occur; are they in the same category as "genocide" or "rape"? And all legal authorities that can, "expropriate" private property from time to time. Does this provision belong here?

Article 29.2 requires states to comply with any request for assistance or order issued by a Trial Chamber under Article 29.2(b). As noted above, it is not clear that this article applies to a "request" issued by the Tribunal itself under Article 9. More seriously, does the requirement for cooperation in the taking of testimony and the production of evidence apply to the defendant, too? If so, any defendant demanding evidence classified by himself must be released, I suppose. Is that what is intended? Suppose the defendant demands that the Chamber request what he or she claims is

exculpatory evidence classified by the United States or United Kingdom or the Government of one of the Balkan states other than his or her own? Would we in the United States obey such an order for CIA evidence?

Many of these apparently minor problems seem to me to trace to parts of the Secretary-General's Report. For example, in paragraph 42 of that Report the Nuremberg tribunal's adoption of the 1907 Hague rules as if general international law is mentioned, but the Tokyo tribunal, which was later in time than Nuremberg, took a softer line that is not mentioned. There is no acknowledgment that the Nuremberg adoption is not supported by consistent practice. Similarly, in paragraph 47 there is no mention of the fact that the definition of crimes against humanity adopted for Nuremberg in the London Charter restricted the definition to the then current war (to avoid charging the Soviets with the same, or the colonial powers (UK and France)). But in Article 5 of the Statute dealing with "crimes against humanity" the qualification is dropped. I can understand why, and it might be good "progressive development", but it is polemical and evasive to do that without explanation or even mention of the revision made in the texts.

Paragraph 48 of the Secretary General's Report says that in the conflict within former Yugoslavia there have been atrocities and "such inhumane acts have taken the form of so-called 'ethnic cleansing'." Can this assertion be made in a legal document setting up a tribunal but before any trials have been held? The sentence is unnecessary and it strikes me as prejudging what the document sets up a tribunal to judge.

In paragraph 55 it is asserted that: "These suggestions draw upon the precedents following the Second World War"? Indeed? Tokyo? What happened to Judge Pal's dissent? Were the "precedents" applied in a system of sovereign equality? To the Soviets? Or was Nuremberg a "victor's" tribunal applying "victor's law" to the vanquished? I suggest that many of the substantive laws applied in Nuremberg and Tokyo are well-grounded in legal tradition, but not the procedures and not all of the substantive "laws".

Paragraph 75 refers to "non-member States maintaining permanent observer missions at United Nations Headquarters". Who are they? Only Switzerland? Or is this an invitation to dispute over the status of the PLO and perhaps other National Liberation Movements?

I have some other problems with procedures that are too complex to be related to specific articles of the Statute or paragraphs of the Secretary-General's Report. The basic plan is for the national police to arrest the accused and hand him/her over to some authority at the "seat of the International Tribunal." Which authority? Dutch police? And how can the "rights of the accused" then be "respected"? Suppose s/he tries to subpoena the classified records of a Cabinet meeting at which it is claimed s/he "ordered" a grave breach to be committed. Would any country hand over such records? Would they be trusted by any unbiased tribunal? But that is the sort of high-level situation we are addressing. And how can witnesses be at the same time confronted and their identity protected? Suppose the Defendant's lawyer divulges the identity to new media — is there a provision for "contempt" proceedings? Or would the defendant be deprived of her/his free choice of counsel?

The basic problem now underway is what model of the legal order of organized humanity is to be followed by each body corporate. In the former case, the world would be dominated by the world order model. And if they were the latter, Westphalian, national leaders and administrative jurisdiction; failures to result in farious prescriptions of "comity of nations" which must administer its own

At this time in the model would be accepted would seem to gain credit responsible for the liability generally known as a

An outline of this model of the Rules of International Law

CONCLUSION

The basic problem that I have with the Statute of an International Tribunal to apply international criminal law to the perpetrators of atrocities in the Balkan struggle now underway is what seems to me to be a fundamental incompatibility between a model of the legal order under which the laws of war are administered by an "impartial" agent of organized humanity, and a model under which the laws of war are administered by each body corporate of the international legal order within its own competence. In the former case, international tribunals staffed by international civil servants dominate the world order. I doubt that any great powers are willing to live within that model. And if they were, *quis custodiet custodians*; who oversees the overseers? in the latter, Westphalian, model, each "body corporate" in the legal order chooses its own leaders and administers its own law to whomever the legal order places within its jurisdiction; failures to administer the law to the satisfaction of organized humanity result in various pressures to bring the defaulting "body corporate" back in to the "community of nations" without affecting its basic authority to choose its own leaders who must administer its own law to its own people.*

At this time in the evolution of world order, I strongly doubt that any other model would be acceptable to anybody but idealistic lawyers and civil servants who would seem to gain control over the public policy of the world, but who are not responsible for the lives and well-being of real constituencies and who are not generally known as a group with deep moral insights.

* An outline of this model of the overall international legal order is given in Alfred P. Rubin, *Enforcing the Rules of International Law*, 34(1) Harv. Int'l L.J. 149 (1993).

Dr. Milan BULAJIC
Director of the Museum of the victims of genocide,
Belgrade, Yugoslavia

THE INTERNATIONAL CRIMES TRIBUNAL FOR YUGOSLAVIA 1991-1994.

(Lecture given at the Research Institute of the United States
Holocaust Memorial Museum, June 27, 1994.)

The International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, has been established by the Security Council acting under Chapter VII of the Charter of the United Nations — "Action with respect to threats to the peace, breaches of the peace, and acts of aggression."*

United States Ambassador to the United Nations Security Council, Madeleine Albright, speaking in the U.S. Holocaust Memorial Museum on April 12, 1994 said that "there is no more appropriate a place to discuss the War Crimes Tribunal for former Yugoslavia", "and there is no more appropriate place than here to sound a clarion call against indifference and towards the harder choice of dedication to the rule of law". She was right expressing "belief that establishing the truth about what happened in Bosnia is essential to — not an obstacle to — national reconciliation". But she was explicit on political solution that "Bosnia must remain a multi-ethnic state" and she asked only one side that "the Bosnian-Serbs must be persuaded to accept peace".**

As the debate in the Sixth (Legal) Committee of the 47th session of the General Assembly (1993) has shown a number of "delegations expressed either (their) strong reservations to the establishment of a court or serious doubts as to the feasibility of the idea. They stressed the numerous obstacles involved, including the surrender of a state's sovereignty, the relationship between international law and domestic laws and the undermining of the principle *aut dedere aut judicare*. The remark was also made that... it was very difficult to achieve uniformity of opinion on many basic issues concerning the creation of a court, such as who might be entitled to bring a complaint before the court, which State or States would have to give consent for the court to have jurisdiction in respect of an individual charged with a crime, which law would be applicable, what relationship would exist between the court and the Security Council..."***

Alfred P. Rubin, Distinguished Professor of International Law, The Fletcher School of Law and Diplomacy, Tufts University, commented that the Statute of the International Tribunal for the prosecution of persons responsible for serious viola-

* Resolution 827/1993 and UN Doc. S/25704/1993

** American Embassy, Wireless File, No. 315, Belgrade, April 14, 1993

*** U.N. GAOR International Law Comm., 47th Sess., Report, at 10, U.N. Doc. A/CN.4/446. (1993)

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* Alfred P. Rubin, Internati
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tions of international humanitarian law committed in the territory of the former Yugoslavia since January 1, 1991., "contained many problems of concept as well as of detail. In its Resolution, the Security Council purports to be acting under the authority of Chapter VII of the United Nations Charter, taking enforcement action to restore international peace and security, according to Professor Rubin "this source of authority solves some legal problems and creates other".

For instance: "The struggle in former Yugoslavia has (or at least had) been categorized by all the parties involved as an internal armed conflict. Under Article 2(7) of the Charter of the United Nations, except for the application of enforcement measures under Chapter VII nothing in the Chapter authorizes any organ of the United Nations to 'intervene in matters which are essentially within the domestic jurisdiction of any state'."

"Under Article 29 of the Statute of the Tribunal, only 'States' are bound to cooperate in such arrests and handings over. The Bosnian Serbs are not subject to the orders of the Tribunal. There are not even subject to the 'decision' of the Security Council in this regard, since they are not a state (yet?)... The Bosnian Serbs are not represented in the United Nations by the authorities of Bosnia and Herzegovina against whom they are rebelling..."*

* * *

The jurisdiction of the International Tribunal for Yugoslavia has the jurisdiction for crimes committed since January 1, 1991. This is in violation of the basic principle of contemporary international law, law of the United Nations, which provides that the crimes against humanity and international law i.e. war crimes, crimes of genocide are not subject of Statute of Limitation.

Professor Rubin rightfully is asking "why is the date of January 1, 1991. (Article 8) asserted by the Secretary-General to be 'neutral' date? I would want to know what was happening in former Yugoslavia in 1989 and 1990 before I could agree to that; not that 'reprisal' will excuse violations of those parts of the laws of war in place to protect persons hors de combat, but that political or propaganda advantages might be given to one side or the other by choosing a date that appears significant to them for reasons not considered by us outsiders. Where there any violations of the laws of war by either side before that date which were then rectified afterwards? Are we depriving some accused of locus poenitentiae that the date allows to some on the other side?"

The roots are deeper. The crimes of genocide committed in the period 1991-1994 have the roots in the crimes of genocide 1941-1945. Look at the maps — the crimes of genocide are being committed at the same areas (from Prebilovci in Herzegovina to Divoselo in Lika, Gospic, Tesla's Smiljan, Western Slavonia, Memorial of ustasha death camp of Jasenovac destroyed, former commander of Jasenovac returned to Croatia, Washington D.C. resident Ivo Omracanin, Pavelic's diplomat in Berlin, made public statement 1990. in Zagreb that Jasenovac is a Jewish invention...

* Alfred P. Rubin, International Crime and Punishment, The National Interest, p. 23-25; Rubin Comments on International Tribunal, S/25704

The establishment of an international criminal court, including crimes against humanity and international law would certainly strengthen universal jurisdiction and uniformity in the implementation of criminal liability on the basis of the existing international treaties (Geneve Convention of August 12, 1949, Convention for the Prevention and Punishment of the crimes of Genocide, etc.). But, the creation of an international tribunal is feasible only with the expressed consent of states, through an international treaty and only to the extent to which states are willing to be bound by its provision. We have advocated the proposal to establish a permanent international criminal tribunal on the basis of equality of States and universality.

Let me make absolutely clear my position that all perpetrators of war crimes committed in the territory of the former Yugoslavia should be prosecuted and punished, regardless of their nationality or religion, regardless of the nationality or religion of the victims, under national laws, which are harmonized with international law and by competent judicial authorities, in accordance with the principles of territorial jurisdiction.

Establishment of an ad hoc tribunal only for Yugoslavia is discriminatory, particularly in view of the fact that grave breaches of international humanitarian law have been committed and are still being committed in many armed conflicts in the world, whose perpetrators have not been prosecuted and punished.

Vietnam, Cambodia, Avganistan, Panama, Iraq, Somalia, Rwanda, etc.

Such ad hoc Tribunal could not be established for the crimes committed by the citizens of the big powers, since being the permanent members of the Security Council they could prevent it with veto. Even after the Faulkland (Melvino) war and the Gulf War such tribunals were not set up.

Ambassador Albright mentioned here those who "ask why the conflict in former Yugoslavia merit special attention. War crimes have been and are being committed elsewhere; ethnic cleansing is pepetrated elsewhere; there are other war with more victims; other wars of international aggression; other wars where outrages have been ordered from the top. Why punish crimes in former Yugoslavia and leave the likes of Pol Pot and Saddam Hussein uncharged?". Her answer was that "the U.S. Government does not believe that because some war crimes may go unpunished, all must".

* * *

United Nations Security Council has no mandate to establish an international tribunal, nor does Chapter VII of the UN Charter provide for the establishment of that Tribunal. Invocation of Article 7 para 2 and Article 29 is legally unfounded and arbitrary since Article 29 provides:

"The Security Council may establish such SUBSIDIARY ORGANS as it seems necessary for the performance of its functions".

It is obvious that an international tribunal, international court of law can now be a subsidiary organ of the Security Council.

Statute of the International Tribunal provides: "The International Tribunal and national courts shall have concurrent jurisdiction to prosecute", but "the International

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Tribunal shall have primacy over national courts", i.e.: "At any stage of the procedure, the International Tribunal may formally request national courts to defer to the competence of the International Tribunal" (Article 9).

Statute of the International Tribunal provides that "States shall comply without a due delay with any request for assistance or an order issued by a Trial Chamber, including, but not limited to: (a) the identification and location of persons; (b) the taking of testimony and the production of evidence; (c) the service of documents; (d) the arrest or detention of persons; and, particularly, (e) **THE SURRENDER OR THE TRANSFER OF THE ACCUSED TO THE INTERNATIONAL TRIBUNAL**. (Article 29, para 2).

This is contrary to the provisions of the Constitution of the Federal Republic of Yugoslavia which prohibits extradition of Yugoslav nationals, same as in the most of the European countries.

The dangerous precedent and restatement of international law, according to the UN Secretary General, professor of international law, Boutros Boutros Ghali goes this way:

"Following a determination by the Security Council in series of resolution that the situation in the former Yugoslavia constitutes a threat to international peace and security... the Security Council's decision to establish an ad hoc judicial body, AS AN ENFORCEMENT MEASURE to restore and maintain peace and security in the former Yugoslavia was taken pursuant to the power entrusted to the Council under Article 41 of the United Nations Charter, to decide what measures to employ in order to give effect to its decisions".*

This is, believe it or not, compared with "similar measure" "taken in the context of the Iraqi-Kuwait conflict where the Council established pursuant to resolution 687 (1991.), also adopted under Chapter VII, a Compensation Commission to manage a compensation scheme funded by Iraqi oil revenues".

This was not an International court of law.

New theory, which is equal with the abandonment of positive international law, revision of the United Nations Charter is that "the establishment of the International Tribunal under a Chapter VII resolution entails for all members States of the United Nations a legally binding and enforceable obligation to comply, and take whatever actions are required to carry out that decision".

Practical consequence, put in general terms, is: "A request for the surrender or transfer of an accused when emanating from the International Tribunal cannot be considered a request for extradition which emanates from a State party to an extradition treaty and governed by the relevant national or treaty law. Rather, it is an enforcement measure taken pursuant to Chapter VII of the United Nations Charter and thus **OVERRIDES ANY NATIONAL LEGISLATION**".**

* United Nations, the letter from United Nations Secretary General Boutros-Ghali to the Federal Minister for Foreign Affairs of the Federal Republic of Yugoslavia, New York, April 27, 1994.

** UN Secretary — General's Note of June 1993, addressed to all member States. Reply to the Federal Minister for Foreign Affairs of the Federal Republic of Yugoslavia, April 27, 1994.

* * *

What to the judges of the International Crimes Tribunal for Yugoslavia know about Yugoslavia? I have attended incognito the Inaugural meeting of the International Tribunal for Yugoslavia on November 17, 1993. The ceremony took place in the Hague Peace Palace, with the special representative of the UN Secretary General, Minister for Foreign Affairs and Minister of Justice of the Netherlands, mayor of the Hague, the President of the International Court of Justice, Sir Jennings, the Ambassadors from 11 countries where from judges were and other distinguished guests. No single person from former Yugoslavia.

While I served as the Secretary of the Yugoslav State Commission for War crimes and crimes of Genocide 1992-1993., the Government of the United States submitted to the United Nations seven reports on violations of humanitarian law and the Geneva conventions being committed in the former Yugoslavia. With a very small staff and limited resources I was able personally to investigate one case from the Department of State Third report:

"May 21. (1992.)—A former employee of the ZVORNIK MEDICAL CENTER reported that he was required to remain on duty in the center from April 8 until his dismissal on May 26. He said that the need for more hospital space for wounded Serbian soldiers eventually led to the mass murder of Muslim patients on May 21. At about 1:00 p.m. that day, he watched as 36 remaining Muslim adult patients were forced outside and shot to death on hospital grounds.

"Shortly thereafter, uniformed and non-uniformed Serbian soldiers moved through the pediatric center BREAKING THE NECKS AND BONES OF THE 27 REMAINING MUSLIM CHILDREN, the only children left as patients in the hospital. Two soldiers forced him to watch for about 15 minutes, during which time about 10 or 15 of the children were slaughtered. Some were infants. The oldest were about five years old. The witness said that a Serbian surgeon, who also stood helplessly, later went insane (Department of State)". (American Embassy, Special File, No. 8, Belgrade, November 9, 1992, page 5.).

Reading this I thought: "My God, if that is true, I should renounce being Serb, Yugoslav, should escape from this country somewhere under alias names and hide. So I decided to make personal investigation. Doctors from the Zvornik hospital I met personally denied this information in toto. I requested and received the medical documentation. I was not satisfied until the TV crew I have sent did not return with the film.*

With these documents I have requested Yugoslav Federal Ministry for Foreign Affairs to inform U.S. Government through the American Embassy in Belgrade. The note has been sent, but the representatives of the American Embassy never went to check in Zvornik.

* Author has drawn the attention to the audience on article by Anthony Lewis "The Level of the Beasts", published that very day in the New York Times (June 27, 1994) with his concluding remark "that judicial proceedings would help Serbs as a people recognize that their history has been stained by psychopaths and murderers who misled them. Serbs will be whole again only when they come to terms with that truth, as most Germans have with theirs".

Last year, while commission for war crimes U.S. Deputy Attorney General waiting for the denial.

During my meeting on humanitarian affairs, capacity, I strongly pressure the Department of State for two.

His reply was that Yugoslavia, advising the International Tribunal. He did not have the jurisdiction of the Security Council, with the U.S. President, to have courts.

I did not go further refused to appear before the United Nations, in the

The International of the UN Security Council PEACE. My new book "Peace". In Yugoslavia, equality for Slovenia, efforts Yugoslavia to territorial linkage with would be diminishing. right to self-determination and the Slovenes.

Instead the European Union recognized the secession of their administration of the State of Yugoslavia. foreign interference, ill of all war crimes and crimes not understand the role, no genius to draw a map.

The grave mistake Yugoslavia has been of Secretary General Per Roland Duma, Italian of State Warren Christopher.

Former Secretary of European Powers and Croatia, and then Bosnia Nations" they committed "the real problem was that

Last year, while I still held the position of the Secretary of the Yugoslav State commission for war crimes and crimes of Genocide on February 18, 1993, meeting the U.S. Deputy Attorney General, Mr. Richardson I reminded him that we are still waiting for the denial of this terrible disinformation.

During my meeting with the Assistant Secretary in charge of Human rights and humanitarian affairs, Hon. John Shattuck, on June 20, 1994., this time in personal capacity, I strongly protested that this terrible unfounded accusation from the Department of State for two long years have not been at least denied if not apologized.

His reply was that this is going to be the job of the International Tribunal for Yugoslavia, advising that the Serbia (Yugoslavia) should accept the jurisdiction of the Tribunal. He did not reply on my question whether U.S. Government would accept the jurisdiction of an International Tribunal created by the resolution of the UN Security Council, without the consent of the U.S. Congress and the signature of the U.S. President, to have privacy over the U.S. Constitution and over the American courts.

I did not go further to embarrass my host to remind him that the United States refused to appear before the International Court of Justice, as the main organ of the United Nations, in the Hague to respond to Nicaragua's successful complaint.

* * *

The International Crimes Tribunal for Yugoslavia, established by the resolution of the UN Security Council, does not have a jurisdiction for CRIMES AGAINST PEACE. My new book bears title "The break up of Yugoslav State — Crime against Peace". In Yugoslav State there was a Great Serbia, Great Croatia, all Muslims equality for Slovenia, Macedonia and my little Montenegro. With small funds and efforts Yugoslavia could have been integrated in the European Community as a territorial linkage with Greece. The importance of border lines between nationalities would be diminishing. The other peaceful solution would have been application of the right to self-determination of the three constituent peoples — the Serbs, the Croats and the Slovenes.

Instead the European Community, led by united Germany and the Vatican, have recognized the secession of Croatia and Slovenia, invoking the right to selfdetermination of their administrative territories, ignoring the right of Serbian people living in the State of Yugoslavia, since 1918. This crime against peace has been done through foreign interference, illegal importation of arms, money, mercenaries. This is the cause of all war crimes and crimes of genocide. One who is not able to understand this could not understand the roots of the Yugoslav tragedy, could not see the solution. There is no genius to draw a map which would satisfy anybody in the broken up Yugoslav State.

The grave mistake of the premature recognition of the secessionist States in Yugoslavia has been openly admitted by the main actors in the Yugoslav Crisis — U.N. Secretary General Perez de Cuellar, Lord Carrington, French Foreign Minister Roland Duma, Italian Foreign Minister Gianni de Michelis, United States Secretary of State Warren Christopher, etc.

Former Secretary of State James Baker went further stating that when "the European Powers and the United States ultimately recognized Slovenia, and then Croatia, and then Bosnia as independent countries and admitted them to the United Nations" they committed an "act in violation of the Helsinki principles". In this opinion "the real problem was that there was an unilateral declaration of independence and

the use of force to gain that independence rather than a peaceful negotiation of independence, which is the way it should have happened".*

According to Dr Henry Kissinger, former Secretary of State who became an institution, "the most irresponsible mistake of the current Bosnian tragedy was international recognition of a Bosnian state governed by Muslims. Blindly following the precedent of Germany's hasty recognition of Slovenia and Croatia, the international community established all the republics of the former Yugoslavia as independent states (except for Montenegro, which chose to remain with the new Yugoslavia).

In Kissinger's opinion "it is important to understand that Bosnia has never been a nation; there is no Bosnian ethnic group or specifically Bosnian cultural identity. Serbs, Croats and Muslims — who are descendants of Slavic Christians converted to Islam during Turkish rule and are therefore considered turncoats by the other ethnic groups — have managed to coexist only under alien rule. The last time Bosnia was the subject of an international agreement was at the Congress of Berlin in 1878. When it was organized on the basis of Turkish suzerainty, Austrian military control and local self-government — hardly a precedent for a modern national state.

I would add few historical reminders: The Austro-Hungarian Empire annexed Bosnia and Herzegovina 1908; the Sarajevo incident was *casus belli* for the First World War; when Nazi-Fascist broke up first Yugoslav State, Hitler and Mussolini have built Croat-Muslim alliance under Pavelic Ustashi Independent State of Croatia — a state genocide organization against Serbs, Jews and Gypsies.

"But whereas Croatia and Slovenia had their own identity — continues Dr Kissinger, — Bosnia was a Yugoslavia in microcosm. It is a mystery why anyone could think that Croats and Serbs, unwilling to stay together in the larger Yugoslavia, could be induced to create a joint state in Bosnia — together with Muslims they had hated for centuries".**

Through my personal experience, my mother being from the mixed christian-muslim community in Trebinje, Herzegovina, I would not speak of christian-muslim hate, having in mind many mixed marriages, but of Islamic fundamentalist declaration of present Muslim leader in Bosnia and Herzegovina, Alija Izetbegovic.

United States official position is still different. Ambassador Madeleine Albright, joined by the chairman of the Joint Chiefs of Staff, Gen. John Shalikashvili, at the dedication of a plaque marking the future site of the American Embassy in Sarajevo, "the undivided capital of independent and sovereign state of Bosnia-Herzegovina", Bosnian President Alija Izetbegovic attended, along with senior members of the "Bosnian government" on March 30, 1994. stated: "I am Sarajevan which does not sound impartial. The war fought here was not a war among three competing nationalities. It was a war between the advocates of violent ethnic separatism and the government of an internationally — recognized multi-ethnic state".***

In fact, in Bosnia a religious war is waged among Roman Catholics, Christian Orthodox and Muslims.

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■ GLOBOCOP?

Time to Watch The Water

C. DOUGLAS LUMMIS

Did you know the U.N. Almost everyone I including newspaper U.N., has responded I explain that in connection with the International Tribunal for the Former Yugoslavia now has twenty-four cells now that. Now that you mention I noticed that they knew. It has the last paragraph of an article I omitted in and around Bosnia about horrors that bring the blood when at the very end it says that going to be brought into a court relief: Human order is to be re-

"You've got to do something," my friend in Geneva. Yes, and an Actually Existing State of Nature slide over into "anything." It's the angel of retribution is Justice.

But it is precisely this "something" that leads us into one of the classic problems: most succinct and persuasive redefining political chaos by establishing which may govern us by wise laws. members of the association . . . among us" is followed by the bit long into their chains." This was on the Origin of Inequality"; it presented as a neutral umpire was powerful, "which bound new powers to the rich."

It is appropriate to cite Rousseau of what is being proposed. If the to arrest, prosecute, sentence and taking on sovereign powers hitherto to this Secretary General Boutros that the U.N. have its own permanent have the conditions for a full-fledged are seeing, in short, is the foundation hidden, of a political entity unprecipitated to drag our attention for a moment acts being committed in the form

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* C-SPAN interview of former Secretary of State J. Baker.

** The Washington Post, 5/6/1993.

*** American Embassy, Wireless File, No. 307, Belgrade, April 1, 1994.

ARTICLES.

■ GLOBOCOP?

Time to Watch
The Watchers

C. DOUGLAS LUMMIS

Did you know the United Nations now has a jail? Almost everyone I have asked this question, including newspaper reporters and experts on the U.N., has responded with a startled "No!" When I explain that in connection with the new International Criminal Tribunal for the Former Yugoslavia (I.C.T.F.Y.) the U.N. now has twenty-four cells near The Hague, they say, "Oh, that. Now that you mention it..." They knew, but hadn't noticed that they knew. It has been in the papers, usually in the last paragraph of an article about the atrocities being committed in and around Bosnia and Herzegovina. You read about horrors that bring the blood pounding to your ears, and when at the very end it says that the monsters responsible are going to be brought into a court of law, you feel nothing but relief: Human order is to be restored.

"You've got to do something," says my human rights activist friend in Geneva. Yes, and it's easy, when presented with an Actually Existing State of Nature, for the "something" to slide over into "anything." It's hard to care much whether the angel of retribution is Justice or Dirty Harry.

But it is precisely this "something/anything" mood that can lead us into one of the classic political blunders. One of the most succinct and persuasive renderings of the argument for defeating political chaos by establishing "a supreme power which may govern us by wise laws, protect us and defend all members of the association... and maintain eternal harmony among us" is followed by the blithering conclusion, "All ran headlong into their chains." This was Rousseau in his "Discourse on the Origin of Inequality"; in his telling, what had been presented as a neutral umpire was in fact a conspiracy of the powerful, "which bound new fetters on the poor, and gave new powers to the rich."

It is appropriate to cite Rousseau here, considering the scale of what is being proposed. If the U.N. takes on the powers to arrest, prosecute, sentence and imprison individuals, it is taking on sovereign powers hitherto reserved to states. Add to this Secretary General Boutros Boutros-Ghali's proposal that the U.N. have its own permanent military arm, and you have the conditions for a full-fledged world state. What we are seeing, in short, is the founding, albeit gradual and half-hidden, of a political entity unprecedented in history. We need to drag our attention for a moment away from the loathsome acts being committed in the former Yugoslavia and take a

careful look at the nature of this putative engine of justice, before we rush headlong into it.

Where does the U.N. get the power to prosecute individuals? The I.C.T.F.Y. (are we supposed to pronounce this "ickitfy"?) was established by Security Council resolutions, but that answers nothing. Where does the Security Council get such power? The legal fiction is that the power comes from Chapter VII of the U.N. Charter. Chapter VII authorizes the U.N. to deploy the armed forces of member states in peacekeeping operations. Stretch the words as you will, you cannot make them say that the U.N. has the power to put people in jail under criminal charges. On the contrary, the Charter, written by representatives of states jealous of their power, falls all over itself to insist that the U.N. may never usurp the sovereign rights of states.

What about the precedent of the Nuremberg and Tokyo trials? There individuals were tried and punished under the authority of "The United Nations." Many experts value these

With the U.N. generating criminal law, it is fair to ask, What about 'consent of the governed'?

trials as precedents in international law. I have trouble grasping their thinking, as exemplified in a conversation I participated in the other day with some experts in the field:

"The Nuremberg trials were legally flawed. They convicted people under *ex post facto* laws. But there won't be that trouble this time."

"Why not?"

"This time there is a precedent."

"What's that?"

"The Nuremberg trials."

However one thinks of this problem, there is another. The Nuremberg and Tokyo trials were *military* tribunals, carried out by conquering powers in territories under their direct rule. For better or for worse, their authority came from the right of conquest. That's why the tribunals could and did make up law as they went along. (For all their flaws, the tribunals were anyway more law-abiding than Churchill's initial proposal which was to line up the enemy leaders against a wall and shoot them.) But what is being proposed this time is to give the U.N. power to prosecute individuals from states that still retain their sovereign independence. The legal and practical problems this presents are enormous.

Another possible precedent, often cited in I.C.T.F.Y. documents, is the Genocide Convention, which declares genocide a crime punishable under international law. But detailed comparison between the Genocide Convention and the statute that establishes I.C.T.F.Y. is instructive.

The Genocide Convention is an international treaty, approved by the General Assembly and ratified by the govern-

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ments of U.N. member states according to their constitutional mechanisms. With all its care for procedure—perhaps because of it—the Genocide Convention did not endow the U.N. with radical new powers. In particular, it does not provide for an international criminal tribunal. This is not an oversight; the idea was proposed, discussed and rejected. Instead, the convention stipulates that the ratifying states make their own laws against genocide, which they themselves should enforce. And, in fact, as Istvan Deak has pointed out, far more war criminals have been punished in this fashion—that is, by states—than by international tribunals.

Although the Genocide Convention was ratified in two years by twenty countries, ratification by the U.S. Senate took four decades. The history of Senate resistance offers a fascinating glimpse into the development of U.S. guilt feelings in the post-war period. In the 1950 hearings, an American Bar Association representative testified that the convention's definition of genocide might apply to racist lynchings, or to a move "to drive five Chinamen out of town." Twenty years later another A.B.A. representative testified that the inclusion of "mental harm" might enable black Americans to make a case that segregation laws had been genocidal. At the same hearing, Senator Sam Ervin Jr. worried that the convention "would make American soldiers fighting under the flag of their country in foreign lands triable and punishable in foreign courts—even in courts of our warring enemy." This was no empty fear. North Vietnam had been threatening to do just that.

In 1986 the concern had shifted to possible prosecution of Americans by an international criminal tribunal. Senator Orrin Hatch, speaking apropos U.S. actions toward Nicaragua, warned that such international authority "would be disastrous." Now, the convention establishes no such tribunal, but it does mention vaguely that one might be set up in the future. So when the Senate finally did ratify the convention, in 1988, it attached a set of conditions designed to make it virtually impossible for any U.S. citizen ever to be prosecuted under the convention. Among those:

The United States declares that it reserves the right to effect its participation in any such [international penal] tribunal only by a treaty entered into specifically for that purpose with the advice and consent of the Senate.

There has not been the same resistance in the U.S. Senate to the I.C.T.F.Y. proposal. This despite the fact that the statute establishing I.C.T.F.Y.—Security Council Resolution 827 (1993)—grants the U.N. powers that the U.N. Charter and the Genocide Convention pointedly refuse to give it; and that it has not been subject to ratification by member states. This brings us back to the original question: Where does the Security Council get the power to pass such a resolution? The answer was given by Boutros-Ghali himself. In his opening statement to the World Conference on Human Rights in 1993 he said, referring to I.C.T.F.Y.:

In asking the Secretary-General to consider this project, the Security Council has given itself an entirely new mandate.

Actually, the United Nations began "giving itself" these powers even before the I.C.T.F.Y. resolutions were passed. In its issue of January 21, 1993, the *Far Eastern Economic Re-*

view reported that the U.N. Transitional Authority in Cambodia had begun "to arm itself with new powers," announcing that it "would form a special prosecutor's office and court system designed to indict, prosecute, sentence and imprison those deemed responsible for political crimes." Then that June the Security Council called for the arrest, prosecution and trial of whoever killed U.N. peacekeepers in Somalia.

All this took place in the absence of any international criminal law authorizing such arrests. But that primitive stage is in the past: Now such criminal law is being written. By what legislative assembly, you ask? No, not by the General Assembly, or even by the Security Council. The tribunal itself is making the law and—my informant in Geneva assures me—the document will not have to be submitted to any other U.N. organ for approval. They write it, and it's law. Just like that. So much for "consent of the governed."

Of course, the United Nations has never pretended to be a representative democratic organization. This made good enough sense when the U.N. also did not pretend to have the legislative, executive and judicial powers of a sovereign state. But now that the U.N. has begun generating criminal law, it is fair to ask, whatever happened to that cherished tenet of political philosophy that people can be obligated to obey only those laws to which they have consented?

Boutros-Ghali's speech sketches a theory of power that has no need of consent, a theory that is, to my knowledge, new. It is grounded in "human rights."

"Human rights," he says, are "absolute timeless injunctions" and are "truly universal." At the same time, "human rights . . . reflect a power relationship." Although it may be difficult for a dedicated human rights activist to see the problem here, whenever people in high places start weaving together notions of power with notions of "absolute injunctions,"



ILLUSTRATION BY PETER KUPFER

watch out. Boutros-Ghali makes he is driving at:

I am tempted to say that human do away with the distinction between internal order and the international rise to a new legal permeability, sidered either from the viewpoint from the viewpoint of political

This last vagary does not mean ventions into sovereign states; we should rid ourselves of the "The international community that fail to fulfill their obligation Boutros-Ghali, "human rights" "divine right" did in the sevente junctions, they generate an aut In the light of this theory, the pro make perfect sense. Consent wo

Despite its undemocratic cha traction. In fact, good-hearted b tracted to it. Sure, they argue, f ordinary cases. But here we have carrying AK-47s, bringing hell You've got to do something. De

But the call for a "better idea "good ideas"—i.e., that settling u as "doing something" about the s slavia. This is by no means obvio neither material means nor legal dict the big criminals—the politi imprison presidents, Cabinet me require a full-fledged, successful seem to be on the agenda. The wa fall by indicting soldiers and mili atrocities and then escaped to othe pened to be identified and arrested less small fry.

What effect will these trials h former Yugoslavia? It is argued th victims, giving them the satisfact giving the world a moral lesson. But if the trials end up prosecut

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watch out. Boutros-Ghali makes quite clear what conclusion he is driving at:

I am tempted to say that human rights, by their very nature, do away with the distinction traditionally drawn between the internal order and the international order. Human rights give rise to a new legal permeability. They should thus not be considered either from the viewpoint of absolute sovereignty or from the viewpoint of political intervention.

This last vagary does not mean that there should be no interventions into sovereign states; on the contrary, it means that we should rid ourselves of the taboo against intervention: "The international community must take over from the States that fail to fulfill their obligations." (Emphasis added.) For Boutros-Ghali, "human rights" serve the same function that "divine right" did in the seventeenth century: As absolute injunctions, they generate an authority higher than any other. In the light of this theory, the procedures establishing I.C.T.F.Y. make perfect sense. Consent would only muddle the process.

Despite its undemocratic character, the notion has its attraction. In fact, good-hearted human rights activists are attracted to it. Sure, they argue, formal procedures matter. In ordinary cases. But here we have real devils roaming the earth carrying AK-47s, bringing hell to the lives of the people. You've got to do something. Do you have a better idea?

But the call for a "better idea" presupposes that this is a "good idea"—i.e., that setting up a criminal tribunal counts as "doing something" about the situation in the former Yugoslavia. This is by no means obvious. First of all, I.C.T.F.Y. has neither material means nor legal authority to arrest and indict the big criminals—the political and military leaders. To imprison presidents, Cabinet members, generals, etc., would require a full-fledged, successful invasion, and that does not seem to be on the agenda. The war crimes trials will begin this fall by indicting soldiers and militia members who committed atrocities and then escaped to other countries, where they happened to be identified and arrested. In other words, the powerless small fry.

What effect will these trials have on the situation in the former Yugoslavia? It is argued that they will be good for the victims, giving them the satisfaction of just retribution, and giving the world a moral lesson. This is a strong argument. But if the trials end up prosecuting only the privates and

corporals, leaving the military and political commanders free, the long-run effect will be to teach cynicism.

Possibly the trials will deter further atrocities. Certainly they will deter people who committed them from leaving their countries. Just as certainly they will motivate the guilty to support their governments—their chief protection from trial—to the end. Also the trials are likely to obstruct an end to the war. It is common sense that in negotiating a truce, you promise amnesty to the soldiers on both sides. Without that, who will agree to put aside their weapons?

But it may be that the people behind I.C.T.F.Y. are less interested in "doing something" about the situation in the former Yugoslavia than in setting a precedent for a permanent international criminal tribunal. I know that some of the people who are supporting this latter proposal are acting with the best of intentions. But what can we make of the proposal itself? Would such a court be a genuinely impartial umpire? Or would it be yet another instrument to bind new fetters on the poor, and give new powers to the rich?

It is a scandal in contemporary international law, don't forget, that while "wanton destruction of towns, cities and villages" is a war crime of long standing, the bombing of cities from airplanes goes not only unpunished but virtually unaccused. Air bombardment is state terrorism, the terrorism of the rich. It has burned up and blasted apart more innocents in the past six decades than have all the autistate terrorists who ever lived. Something has benumbed our consciousness against this reality. In the United States we would not consider for the presidency a man who had once thrown a bomb into a crowded restaurant, but we are happy to elect a man who once dropped bombs from airplanes that destroyed not only restaurants but the buildings that contained them and the neighborhoods that surrounded them. I went to Iraq after the Gulf War and saw for myself what the bombs did: "wanton destruction" is just the term for it.

Let's imagine, for a moment, this Permanent International Criminal Tribunal actually existing. Might it start at the top, as the Nuremberg and Tokyo trials did, and haul George Bush, Norman Schwarzkopf and Colin Powell up on the dock? That would be a little hard for a U.N. organ to do, since the U.N. authorized their actions. Well then, maybe it could begin with the people who carried out the proxy war against Nicaragua; we have, after all, a World Court decision declaring that the United States' training and equipping the *contra* and mining the harbors were criminal acts. Or should it go back further—to the people who ruined fire and poison in Vietnam year after year? Or further yet? On my desk is *The Japan Times* of July 31, reporting that the Mayor of Hiroshima, Takashi Hiraoka, said he opposes the Nuclear Non-proliferation Treaty because it does not aim at eliminating all nuclear weapons: "I will keep saying that use of nuclear arms violates international law and constitutes a crime against humans." Should the tribunal begin by rounding up all the people associated with this criminal industry and see who they have to say for themselves?

One could go on and on with this melancholy list, but the point is obvious. Any international tribunal established by the U.N. in the context of its present power structure is not going

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to go after the really big international criminals. The striking absence of any resistance to I.C.T.F.Y. from U.S. conservative Congresspeople shows that they at least are confident that I.C.T.F.Y. is not going to develop into a weapon that could someday be used against the United States. One I.C.T.F.Y. supporter told me, "Of course, we know that's a problem. But you've got to set a precedent where you can set a precedent. You begin with what's possible, and then once you've got the legal precedent you can go after the others." Sure. First, you get the big fish to eat the bad among the little fish; then, when you have the precedent established, you go after the bad among the big fish. When I expressed my doubts that this would work, he accused me of not understanding *Realpolitik*.

But most of the people supporting I.C.T.F.Y. are not even thinking about going after the big fish. Either by cynical design or by benumbed acculturation to great-power violence, they have no image of a possible defendant other than the middling or the small. Kal Bird let the cat out of the bag when he proposed, in these pages, that countries whose governments commit mass murders should be subjected to a U.S. naval blockade [see "The Case for a U.N. Army," August 8/15]. Now, how is the United States going to blockade itself? Obviously, the thought, perfectly clear to Sam Ervin in the 1970s, that any U.S. government or military personnel might be brought to trial before an international criminal tribunal never entered his head.

Precisely in this one-sidedness, the movement to establish I.C.T.F.Y. (and perhaps a permanent tribunal) is the true heir to the Nuremberg and Tokyo trials. Robert Jackson, who resigned from the Supreme Court to become the American prosecutor at Nuremberg, was one of the major legal brains behind the proceedings. Of course he was aware that the Nuremberg trials stood on dubious legal foundations; his solution to that problem, given in a report to President Roosevelt, is revealing:

We can save ourselves from those pitfalls if our test of what legally is crime gives recognition to those things which fundamentally outraged the conscience of the American people and brought them finally to the conviction that their own liberty and civilization could not persist in the same world with the Nazi power. . . . I believe that those instincts of our people were right and that they should guide us as the fundamental tests of criminality.

As it happened, carpet-bombing, firebombing and atomic holocausts perpetrated on residential areas did not outrage the conscience of the American people at that time, so they were not crimes by definition. Similarly, I.C.T.F.Y. is also an institutionalization of selective outrage. More specifically, it seems that what we are witnessing here is a movement not to delegitimize war crimes but to delegitimize one kind of war crimes (poor people's war crimes) and to relegitimize another (rich countries' war crimes). To take Bird's article again, in it he suggests that the U.N. ought to establish "a permanent international strike force—an international posse—authorized to arrest any individual indicted by the international court." We have an example of this in Somalia. The international posse trying to "arrest" General Aidid fired into crowds of civilians, attacked villages with helicopter gunships and all

the rest—in short, committed war crimes. Any future "arrest" attempts will require roughly the same methods. But these crimes we are supposed to wink at, as we are supposed to wink at the crimes of Dirty Harry, since they are carried out in the name of justice and "human rights."

What is being founded here is not, after all, a new world superstate but a front for New World Order politics—in other words, *Q7* rule. We can be confident that only the borders of middling and small countries will show a "new legal permeability." These are the same countries whose borders were always "permeable" throughout the age of colonialism and European continental imperialism: the countries of the Third World and Eastern Europe. However much good might be achieved by, say, Norwegian or Nigerian peacekeepers protecting human rights in Los Angeles or Detroit, it's not something we are likely soon to see.

There is nothing in this that should denigrate the value of human rights watching per se. As inspiration for a grass-roots movement, human rights is a vital and precious weapon against the state, the corporation and other organized power. When it raises armies and jailers, however, the time has come to start watching the watchers.

■ 220,000 JESUS FANS CAN'T BE WRONG

Praise the Lord, And Mammon

L.A. KAUFFMAN

Anaheim, California

Laser lights cut through the air at the Anaheim Convention Center Arena, chasing the indistinct beat. A the lead singer of a heavy metal band struts across the stage in tight black pants, nearly 5,000 teenagers filled with the libidinal energies of adolescence, scream wild and gyrate to the music.

But this is no ordinary concert. The medium is cock rock but the message is blue balls. It's a supercharged sexual abstinence rally, sponsored by Youth for Christ, an organization of born-again evangelicals. The junior and senior high students gathered in the auditorium—SoCal babes in short shorts and skimpy tops, homeboy wannabes in baggy jeans, punettes with elaborately shaved hairstyles—are among some 220,000 teens who have signed the "True Love Waits" chastity pledge. "Believing that true love waits," the pledge reads, "I make a commitment to God, myself, my family, those I date, my future mate and my future children to be sexually pure until the day I enter a covenant marriage relationship."

This chastity crusade began modestly just over a year ago when a few dozen teens at the Tulip Grove Baptist Church in Nashville first signed the pledge. More than twenty-five Christian denominations and organizations have now joined the campaign, and they worked with Youth for Christ to gain

L.A. Kauffman is writing a book on the transformation of radical activism since the 1960s.

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II. CONSULTATION: ALTERNATIVE YUGOSLAVIA TRIBUNAL,
held in Amsterdam, Netherlands from 12-14 November 1993. under
auspices of the Balkan Forum, Netherlands

The International Trial of Convicted and Penalized Serbs

Dr. Milan Bulajić.

Milan Bulajić born 1928 in Montenegro, Yugoslavia, married, has three children. He graduated in 1951 at the Faculty of Law of the University of Belgrade and followed the Advanced School of Diplomacy in Belgrade, where he, graduated 1952 first in class. In 1953 he got his LL.D at the University of Belgrade. From 1949-'85 he worked in the service of the Ministry of Foreign Affairs of Yugoslavia.

From 1955-'61 as First Secretary at the Embassy in Washington.

From 1965-68 as Minister-Counsellor in Djakarta, Indonesia.

From 1971-'76 as Consul General in New York City.

From 1976-'85 he was Minister Plenipotentiary and Director at the International Law dept and Legal Council, Belgrade.

— Director of the Museum of the Victims of Genocide in Belgrade Member of the Board of International Law of the Ministry of Foreign Affairs of Yugoslavia

— Former Secretary of the Yugoslav State Commission for War Crimes and Crimes of Genocide

— President of the Yugoslav Association for the Protection of Intellectual Property

Let me first introduce myself. My name is Milan Bulajić. I Was born in Montenegro 65 years ago, so I am old enough to remember the second World War, in which joined the Yugoslav Liberation Army as a child of 13 years old. I witnessed history as a child, without any particular ideological preoccupation; a thirteen-year old boy with a gun only remembers what he has seen. I saw the terrible situation for the (people in my country from 1941 to 1945. It was a terrible, tragical, period: more than a million people were brutally killed, not as a result of war crimes, but as a result of the terrible crime of genocide. Even though my speciality is International Law History of Diplomacy, I devoted a great part of my academic life to study the origins of the tragedy that happened to the people in my country. The main origin at that time was the Nazi-Fascist aggression in Yugoslavia, and even more the enforced dissolution of the Yugoslav State that made this whole tragedy take its course.

I am mentioning this, ladies and gentlemen, because I believe that when we speak today about the contemporary tragedy in Yugoslavia, the roots lie again in the breaking up of the Yugoslav State. Because in the Federal Republic of Yugoslavia there was room for a greater Serbia, a greater Croatia, and for the Moslems in it. The national identity of my little Montenegro and of Macedonia - everybody could have his way and had possibilities of his own. Maybe it was not a perfect state, and many things still had to be improved, but it had great opportunities and it was worth the risk. My dear friend Mr. Riemens mentioned yesterday that it was the 11th of the 11th month, 1993. Well, today is 12/11/93, and, if you allow me, I want to inform you that

exactly 40 years ago I defended, in the Belgrade University, the right of people to self-determination. Forty years ago, I did not know that the research I had then done as a young man, would become so vitally important for my people and my country. The solution of the Yugoslav problems could have been very easy and simple, if the right of people to self-determination had really been applied in Yugoslavia.

Mr. Genscher, His Holiness the Pope, and Alois Mock, have misused the principle of the right to self-determination in order to break up the Yugoslav State. It was an abuse of the right to self-determination. The only way to resolve the Yugoslav crisis would have been to really apply the right to self-determination in asking the people in Yugoslavia themselves what they wanted. Not letting the State of Croatia or the Republic of Slovenia, and so on, interpret the right to self-determination, but allowing these rights, including the right of secession, to be practiced in a peaceful, constitutional way, in a way that would reflect the wish of the Serbs, the Croats, the Slovenes, and the other nationalities in Yugoslavia. Nobody has asked the people of Yugoslavia what they really wanted, for if they had been asked and given the chance to determine themselves, this bloodshed would not have taken place.

I can assure you that if the Slovenes and the Croats really would have wanted a peaceful and constitutional secession from Yugoslavia, they would have got it. Whereas now, the President of Slovenia, Milan Kučan and his follower, and particularly the new Ustashi movement in Croatia, the so-called New Democratic Party headed by dr. Franjo Tudjman, forcibly seceded from the Yugoslav Federation, in a situation where nobody was denying the rights of Croats and Slovenes. However, the right of one people must not overrule the rights of other peoples. So, not denying the Croatian people their right to secede, does not give them the right to annex Serbian people in the Republic of Croatia against their will. In this respect I would like to remind you of what I have said at the beginning of my speech, about having been a witness of history during the second World War. My generation still remembers what has happened during that period, when the Yugoslav State was broken up, and the first Independent State of Croatia was created. The Serbian people that were to be annexed, knew exactly what to expect from the second Independent State of Croatia, namely inevitable bloodshed. So, instead of having 50 to 60 thousand U.N. soldiers sent to Bosnia in order to keep peace, it would have been much easier to use considerably less U.N. forces to assist the people with self-determination in letting them express how they would want to live. If the European Community, with Mr. van den Broek and others, had really wanted to resolve the Yugoslav situation - which they, prematurely, called a crisis - they could have done it through integration into the European Community. You know well that Yugoslavia was different compared to other listed European countries; the process of democracy and market economy was well advanced. I remember that in the first negotiations we needed just a little step to enter the European Community. A relatively small funds was needed to allow Yugoslavia to enter the Community. If that would have happened, the Community could have saved Yugoslavia and prevented bloodshed. Because, in that case, the borders of the different parts and different regions of Yugoslavia would gradually have diminished, comparable to the situation within the European Community, as we could see since November the first.

I will not say that have been a definite professional diploma years, and I have never Yugoslavia, with her each other. Before the tants, but the country with a higher standard. But now our country medicine, babies are punish a whole nation Secretary of State of the will be a pariah nation on what legal basis, or nation? If they do no government, all right; the right to punish the because whenever Mr invited to dinner parties who do not even know think about that, because

Now I would like My first point is that only for us Yugoslavia are forgetting something not Serbs; nevertheless in Yugoslavia, might I think about that. And Montenegrinians or in the world, and considering tragedy would be a pre Great Britain - North to mention India. I asked them: 'What would the principle of recognition of India? They looked the whole world would think about, because, c We are at the end of the We are standing in a c We are speaking about democracy. The uproar self-defence. But it is parliament, killing hung Constitutional Court of

I will not say that we would have eliminated all the problems, but there would have been a definite way and means to continue the Yugoslav Community. As a professional diplomat I have been travelling throughout the world for about forty years, and I have never seen a more beautiful, more various, territorial system than Yugoslavia, with her nice people and her different cultures that mutually could enrich each other. Before the tragedy, former Yugoslavia had about twenty million inhabitants, but the country could easily have accommodated more than fifty million people with a higher standard of living than here in the Netherlands or even in Switzerland. But now our country is back in the nineteenth century; the sick are dying without medicine, babies are dying because they have not even milk. Who has the right to punish a whole nation? Who has the right to proclaim what Mr. Warren Christopher, Secretary of State of the United States of America, did? He said that the Serbian nation will be a pariah nation. I heard him saying that. Who has the right, in whose name or on what legal basis, on what human basis, on what moral basis, to punish the whole nation? If they do not like the government of Mr. Milošević in Serbia, or any other government, all right; they can punish Mr. Milošević, his government; but nobody has the right to punish the whole people. In fact they are not even punishing Mr. Milošević, because whenever Mr. Milošević likes to go to Geneva, he has a special plane, he is invited to dinner parties and everywhere. Who is suffering? Suffering are those people who do not even know what is going on, what it is all about in their country. So please think about that, because tomorrow it might happen to you.

Now I would like to pinpoint certain basic points which I believe are important. My first point is that the case of Yugoslavia, the Yugoslav tragedy, is not important only for us Yugoslavians: Serbs, Montenegrinians, and other nationalities - for people are forgetting sometimes, when they speak about Serbia, that in Serbia about 30% are not Serbs; nevertheless they are punished also! Why? - but that what happens today in Yugoslavia, might be an important precedent for the whole world. So let us first think about that. And do not only think, or have a sympathy for either Serbs or Montenegrinians or other Yugoslavians. Think about yourself and the other countries in the world, and consider what might happen to many other Countries, if the Yugoslav tragedy would be a precedent. You can start with any part of Europe: France - Corsica, Great Britain - Northern Ireland, Spain - the Basque Country, Italy - North Italy, not to mention India. I met a few colleagues of mine, very distinguished Indians, and I asked them: 'What would it mean if Mr. van den Broek or Mr. Carrington would apply the principle of recognition from one community of nations to some particular states of India?', They looked at me with a certain look and one of them answered: 'Brother, the whole world would be in blood up to their knees. So this is really something to think about, because, once started, that principle cannot be confined to one country. We are at the end of the 20th century, we are just on the threshold of the 21st century. We are standing in a completely different balance of power in Europe, in the world. We are speaking about democracy, whereas everybody has his own standard of democracy. The uprooting of Yugoslavia was apparently interpreted as a case of self-defence. But it is called democracy when Mr. Jeltsin targets his guns on the parliament, killing hundreds of people, forbidding political parties and dissolving the Constitutional Court of Russia. And that is democracy?

So if you speak about the role of the law in the world, the only alternative for any kind of democracy, think about Yugoslavia and what has happened there in the name of the right of self-determination. For the dissolution of Yugoslavia, the breakup of the Yugoslav State, was a most severe violation of the basic principle of International Law. I just mentioned the right of self-determination. I can speak about this right for hours; it is my work. I can also speak about the right of intervention. I can speak about many, many aspects, but it was definitely a violation of International Law. Ironically, all this started in 1991 and has been continuing ever since, while the U.N. General Assembly pronounced 1991-1999 the United Nations Decade of International Law. And 1991 was the year in which started the violation of International Law in my country in which you can find the roots of all the war crimes and crimes of genocide committed in Yugoslavia. Speaking about the role of the law in the present world, how is the present situation, what is the role of the U.N. Security Council? What is this political body of five permanent members and temporary members? Who decides over the fate of my country? Who are they to whom we can appeal against the U.N. resolution? Nobody is and we can appeal nowhere. The International Court of Justice in the Hague, in your country, a tradition of law and justice, does not play any role in finding what is right and what is wrong with the U.N. Security Council. I have dealt with this quite a long time. But the fateful resolution 757, approved on May 13th, 1992, was passed. The whole nation was sentenced. The sanctions were imposed, the embargo was imposed. What was the basic scenario of this big resolution? Great punishment, sentence against the whole nation! Let me name an example. In the centre of Sarajevo a bomb exploded, killing 16 people in the breadline. It was a massacre! The very moment there were two TV crews in the centre of Sarajevo, showing to the whole world the bloodshed, people dying in the very front of the camera. How could it happen that the TV crews were there just in time? We all know that a bomb explodes without any timing. Unless those who were there knew about the time. From the Serbian side immediately came a public statement that on that day no rocket had been fired, because the Serbs were on the mountains, and they made absolutely clear that a rocket would leave a crater or would leave parts of the rocket there. Nothing was found there! So the evidence was: it would have been impossible for the Serbs to bomb the people in the breadline. That happened on the 27th of May. On the next day, the 28th of May, the U.S. Department of State held a press conference in which the official spokesman of the U.S. Government made a statement that this terrible crime, committed in the centre of Sarajevo, had been committed by the Serbs. Some reporters asked: 'Sir, the Serbs have denied that they have done so!' 'No. We know better!' That was on the 28th of May. On the 29th of May The Washington Post took up the official source of their own State Department, showing this terrible Serbian crime all over the world. On the 30th of May: sanctions. Is that not prepared? Is that not a real scenario?

On the 22nd August 1992 The Independent published a complete denial of what was said to have happened in the centre of Sarajevo, reading: **MOSLIMS SLAUGHTER THEIR OWN PEOPLE.** Only then everybody started talking: 'It was not a crime committed by the Serbs. This did not influence anything. And yet, a little bit later, my former colleague Dr. Butros Butros Ghali, professor of International Law, whom I knew before he became Minister of Foreign Affairs, was preparing his report

on the very day that which cost us lives and back, until the Security Council contained a different Security Council pass Yugoslav Ambassador defend, and to say the for the guilt of the Serbs

Who is the aggressor?

In terms of International Law, the U.N. definition of the so-called Serb Y aggressor in its own country, the rule of World War II, the reason why we are here in Former Yugoslavia. A lishing an International something, because I know at the end of my career, my life, I can tell you I establish an International charter of the U.N. is SECURITY COUNCIL SEEMS NECESSARY. That is the only authority. It can not establish a subsidiary organs. So on that is not a court to not a political institution, a is that what is going to not really a court of law

Another question: Yugoslavia only? Why international Court of institute. Namely, on the one of the main organs reasons. Now, Dr. Butros attitude and competence war lords - if you want document for the U.N. Peace, Dr. Butros Ghali particularly for the International to be inaugurated next Why? Up till now nobody

A court in your subsidiary organ

on the very day that the U.N. Security Council was passing this terrible resolution which cost us lives and blood and everything, But somehow his report was stolen, kept back, until the Security Council passed its own resolution. Mr. Butros Ghali's report contained a different judgement of what was happening in Yugoslavia. And so the Security Council passed the resolution. To whom we could appeal? To nobody! The Yugoslav Ambassador, was not allowed, or else he might have asked to be heard, to defend, and to say that this was not true. We are right in asking who was responsible for the guilt of the Serbs, those 'terrible' Serbs, those 'aggressors'.

Who is the aggressor?

In terms of International Law there is a definition of aggression. If you apply the U.N. definition of aggression, you will see that it does not apply to the Serbs or the so-called Serb Yugoslav Army, because which army in the world can be an aggressor in its own country? Yet, we cannot appeal to anybody in the world. Is that the rule of World Democracy? So be aware, it might happen to you one day! Now the reason why we are here is the International Court of War Crimes Committed in Former Yugoslavia. Again the Security Council has passed a resolution, now establishing an International Court. Well, ladies and gentlemen, it is my duty to tell you something, because International Law is my field, and I am neither at the beginning nor at the end of my career. With all the arguments I have learned in my work during my life, I can tell you that the U.N. Security Council did not have the legal power to establish an International Court of War Crimes, because the only legal basis in the charter of the U.N. is article 29. As it is only three lines, I'll read it to you. THE SECURITY COUNCIL MAY ESTABLISH SUCH SUBSIDIARY ORGANS AS IT SEEMS NECESSARY FOR THE PERFORMANCE OF ITS FUNCTION.

That is the only authority of the U.N. Security Council as to the establishing of organs. It can not establish an International Court of Law, because it can only establish subsidiary organs. So on that basis the International Court is a subsidiary organ. Well, that is not a court to me. A subsidiary organ can not be a court of law; it can only be a political institution, and nothing more than that. So my conclusion for the discussion is that what is going to be established next Wednesday, on the 17th of November, is not really a court of law.

Another question: Why establish an International Court of war Crimes for Yugoslavia only? Why establish it at all? If you read article 65 of the statutes of the international Court of Justice, you see that all could be done by this, already existing institute. Namely, on the basis of its own statute, the International Court of Justice is one of the main organs of the U.N. that can establish special chambers for special reasons. Now, Dr. Butros Ghali, a very nice and very bright man, who has the proper attitude and competence to indicate future ways for the world community in handling war lords - if you want to call them so - has written a very important and visionary document for the U.N. Security Council, i.e. the Agenda for Peace. In this Agenda for Peace, Dr. Butros Ghali visualizes a greater role for the international judiciary, particularly for the International Court of Justice. Then why will the court that is to be inaugurated next Wednesday, be limited to Yugoslavia? To one country only. Why? Up till now nobody has answered that question. Please note that in the Iraq, the

U.N., i.e. the U.S., have had their Desert Storm Operation. Of course you have not had the opportunity to see the babies that were killed in the Desert Storm Operation! It is important to know that nonetheless there was never established an International Court for War Crimes in Iraq. Blue helmets from the U.S. and thus from the U.N. were sent to Somalia, but there will not be established an International Court for Somalia, nor for Vietnam, or Granada, or Haiti. There has been implemented a blockade of Haiti, but no International Court! So why is there an International Court established only for Yugoslavia?

Again the answer is a political one: this court is a political institution to legalize political sanctions that are - without any authority - punishing a whole people. This is very bad, indeed, and I am glad that I have the chance to say this and to speak on this subject, right here in the Netherlands nearby the place where this Court will start next week.

Next question: The mandate of the International Court for War Crimes in Former Yugoslavia takes effect from the first of January 1991! Why? Now this is rather curious, my dear friends, because the basic principle of international law concerning war crimes is that war crimes and crimes of genocide are not subject to the statute of limitation. So there neither is nor could be a time limitation as far as Yugoslavia is concerned. It is as if nothing has happened before 1991, whereas, on the contrary, there has happened a lot that can explain the tragedy of my people and make for a fair and realistic judgement of the events.

Nevertheless, the Court is there, like it or not. Our voice, unfortunately, was not strong enough. I think that my profession was greatly to blame for the fact that our voice was not strong enough to point out to the world the injustice and illegality of this International Court. My distinguished friends in the U.S.A., where I have been living and working for more than 10 years - so I know them well and respect them - have kept quiet with respect to the official position of the U.S. government.

So, how is the agenda? What is the sense of the work to be done by this International Court for War Crimes in Yugoslavia?

Mr. Izetbegović, the fundamentalist muslim-leader in Bosnia-Herzegovina, and his Foreign Minister Silajdžić initiated this International Court for War Crimes in Former Yugoslavia, they have documents that reflect their ideas. The idea is individual responsibility. The idea that this International Court for War Crimes in Former Yugoslavia should only deal with individual responsibility, is something I can accept as a lawyer. As a lawyer I can accept that anybody guilty of war crimes, has to be punished. Anybody who has killed somebody, regardless of nationality, of faith, has to be taken to a court of law to be punished. I do not even want to raise the point about those who are guilty of killing children and babies. For them I do not even accept the Bible teaching us to condone such sins. But what would you resolve by that, in terms of justice, of a precedent, within the world community today? No, that is not a solution. That is only a political instrument for laymen, for those who are not lawyers, who do not have experience in the field of war crimes. You see, in whole areas all evidence of individual war crimes might be completely destroyed, not to mention individual participation in massacres, in burnings down, and other atrocities. It would take years to get evidence and so far there was no procedure for the International Commission

of War Crimes, that headed by the lawyer of procedure whatever hundreds of thousands invited to Copyright criteria, without rule basis they would be just this court is only established groups, certain political proposal that before are responsible for the international law, in the frontiers of every country all the individual crimes Yugoslavia, has been other country in the world of crimes never happened standard for an independent bloodshed in Bosnia-I I submit to you to take guilty, who are responsible such terrible war crimes that is the great alternative should hear in the ground wednesday, the 17th of Well, do not expect my roots are in our country back to myself, to the out of it as a lieutenant German Nazi forces are headed by Pavelić and against Serbs, Jews, Gypsies Nuremberg did not bring Yugoslav State. Some of themselves, working and the Vatican was from the only against a communist State as against the Yugoslav Hungary, and fascist Italy by no means distressed by official representative of two thousand pages. I was political party and that I everybody who respects KILL.

That's why I say that it is:

of War Crimes, that has been established by the Secretary General of the U.N. and headed by the lawyer Frits Calshoven who was later replaced by Mr. Bassioni. No rules of procedure whatever have been laid down about how to gather these documents of hundreds of thousands of crimes individually committed in Yugoslavia. Everybody was invited to Copyright Dr. Milan Bulajić, 1993. send whatever they wanted, without any criteria, without rules to prescribe what kind of documents are acceptable and on what basis they would be judged. So, what kind of justice can one accept from that? Clearly, this court is only established for political reasons, for political aims, attacking certain groups, certain political groups and their leaders. That is why I submit to you as a basic proposal that before we go over to individual responsibility, we first have to see who are responsible for the break-up of the Yugoslav State against the basic principle of international law, including the Helsinki Final Act, recognizing the integrity of the frontiers of every country in the world. In that responsibility you will find the roots of all the individual crimes and the crimes of genocide. This country of mine, called Yugoslavia, has been living 70 years and of course there were problems, like in any other country in the world. But before the break-up of the Yugoslav State, those kinds of crimes never happened. Before Bosnia-Herzegovina, which did not have any basic standard for an independent state, was recognized as such, there was no need for bloodshed in Bosnia-Herzegovina. Again I ask you: Why? Who stand behind all this? I submit to you to take this as the basic question for our future discussion. Who are guilty, who are responsible for this? And why create in Yugoslavia an environment for such terrible war crimes and crimes of genocide? That is, in my opinion, the basis, and that is the great alternative about which we are discussing here, and that is what we should hear in the group called International Court for War Crimes that starts next wednesday, the 17th of november. Who are really guilty?

Well, do not expect me to say that only some foreign forces should be blamed. The roots are in our country and first we have to look for them in Yugoslavia. Again I come back to myself, to the 13 years old boy who luckily survived the whole war and came out of it as a lieutenant of 16. I remember very well who were the cause then! Those German Nazi forces and their satellites in the Ustashi Movement in Yugoslavia, headed by Pavelić and others. Those were proven guilty of the crimes of genocide against Serbs, Jews, Gypsies and Croats of Yugoslav orientation. But after the war, Nuremberg did not bring up for trial the Ustashi or Pavelić. Neither did the New Yugoslav State. Some of them escaped to Germany, U.S., or Latin America, organizing themselves, working and preparing what is now coming to light in Yugoslavia. Besides, the Vatican was from the beginning against any Yugoslav State on the Balkans. Not only against a communist state! His Holiness was as much against the Royal Yugoslav State as against the Yugoslav Socialist State. When Nazi Germany, Nazi Austria, Hungary, and fascist Italy and Albania broke up the Yugoslav State, the Vatican was by no means distressed by the factor Ustashi. They send R. Marcone to Zagreb as the official representative of the Pope. About this I wrote a two volume book with about two thousand pages. I went to the Vatican to show them that I do not belong to any political party and that I do not have anything against the Roman Catholics. I respect everybody who respects the first of the Ten Commandments: THOU SHALT NOT KILL.

That's why I say that it is a crime when an archbishop engages himself in killing people

just because they have another faith or another ethnic origin. Never has the Vatican, nor the Pope, condemned what Archbishop Stepinac has done in Yugoslavia, on the contrary.

In 1950 the Pope appointed the war criminal Alois Stepinac as Cardinal, and that was the reason of the break-up of diplomatic relations between the Vatican and the Yugoslav State. So, personally I was very angry when the Vatican recognized the Roman Catholic States of Croatia and Slovenia just before Roman Catholic Christmas, on 23 December 1991, and established diplomatic relations within two days, before the members of the European Community I regret the fact that my country did not have the power and the strength to break relations with the Vatican again! The other, very important, cause is United Germany, particularly after the fall down of the Berlin Wall. Few people did warn on that day. We heard Mrs. Thatcher mentioning what she thought at that time, but we did not hear her saying at that time, what menace would come to Europe from the side of United Germany. But, I think, that in fact we are using a wrong term. United Germany was not united within the right of self-determination; this very concept of self-determination that was so seriously abused by Mr. Genscher in the break-up of the Yugoslav State! It was an 'Anschluss' like in 1939 with Austria, for it was not a unification of two German States. It was an 'Anschluss' of East Germany to Federal Germany on the basis of the latter's constitution. And that is a proven fact!

You see, Mr. Genscher had an important meeting with The Pope on the 30th of November 1991, and that alliance decided the fate of Yugoslavia. A very close friend of mine, an American scientist, has informed me that at the Maastricht Meeting of the Ministers of Foreign Affairs of the European Community, Mr. Genscher kept his eleven colleagues from December 9th, 10 a.m., up till December 10th, 4 a.m., forcing them to accept secession of Croatia and Slovenia from the Yugoslav State, which is synonymous with the break-up of the State of Yugoslavia. Although there were also some internal reasons for the break-up of the Yugoslav State, it would not have been possible without such a strong foreign intervention. In particular from the Vatican and Germany, and of course Austria, Italy, Hungary; names should be mentioned: Genscher, The Pope, Turan, Mock and De Michaelis, who is today accusing all the others, although he also participated. As for Mr. van den Broek, I would like him to hear me right now, I would love to see him and to question him starting from my stenographic report of the Meeting of the Yugoslav State's Presidency on the 30th of June 1991, when he was making promises to the Yugoslav leaders, giving his word, his guarantee that he would preserve the Yugoslav State. But he was in the front row with Mr. Genscher destroying the Yugoslav State. I would like to ask him: 'Sir, what happened with your guarantees to my country, to the integrity of my country? Would you tell me what happened in the Maastricht Meeting and at other places? The facts, one single fact, please, although we could go through this much longer! On 13 January 1992 only the Vatican and Germany had established diplomatic relations with the Roman Catholic States of Croatia and Slovenia, but two days later the other members of the European Community had joined them. In the Bible is written 'And ye shall know the truth, and the truth shall make you free. 'I am a searcher of truth, so in order to find the truth about the fate of the wretched people of Yugoslavia, I wanted

to go to the Vatican. anything but helpful. I sent a personal letter to my research in the Vatican. He was very research in the Archives the next moment he said not even born in 1922, 'No!'

I said: 'Why not?'

'It is a principle.'

I said: 'I am the President. Property. Name to me, which forbids me to see published 12 volumes a showing me the document could you answer my question?'

'No!'

'Could you give me some?'

'No.'

'Can we talk?'

He looked at me in a certain way, the only thing which reveals the truth, and by those from the truth in the name of which we find ourselves you can help us to establish about the publication of 'You probably know even is not the case. I have formed my opinion our task is to for War Crimes that state of all the people living Montenegrins, but a

For the embargo or military power of Yugoslavia The Serbian Academy Science of foreign countries what is going on in the world not the truth of my people going on in the Europe: the reports of the Ministers changed their general stance doing everything possible were the reasons that we

to go to the Vatican. I told them that truth is my religion. The first time they were anything but helpful. The second time the President of the Serbian Academy of Science sent a personal letter to our Federal Foreign Minister, asking him to officially notify my research in the Vatican. I was received by the Prefecto of the Archivo Secreto Vaticano. He was very nice; he issued all the documents to me, allowing me to do research in the Archivo Secreto Vaticano. And I was happy for two minutes, because the next moment he said: 'Only up to 1922.' I said: 'And what about after 1922? I was not even born in 1922, I am interested in the Second World War.'

'No!'

I said: 'Why not?'

'It is a principle.'

I said: 'I am the President of the Yugoslav Association for the Protection of Intellectual Property. Name to me, please, any law in Italy or the Vatican or any international law which forbids me to see the documents you have published.' The fact was that they had published 12 volumes about World War II, but now they were raising principles against showing me the documents they were referring to. So I said: 'Well, Your Eminence, could you answer my questions. Could you tell Me, is it true or not?'

'No!'

'Could you give me some documents that you do not consider secret?'

'No.'

'Can we talk?'

He looked at me in a certain way, and offered his apologies. So, as I already told you, the only thing which remains to me, is to show you how difficult it is to come by the truth, and by those from whom I expected not only the truth, but the help to establish the truth in the name of the principle prescribed in the Bible. That is the situation in which we find ourselves. Now, when we are here in Amsterdam in the Netherlands, you can help us to establish the truth. Some friends of mine said to me, after talking about the publishment of another six volumes of my research of more than 5000 pages: 'You probably know everything we know and much more.' I said: 'Unfortunately this is not the case. I have found some answers, but they have opened more questions.' In my opinion our task is to establish the truth, not only before the International Court for War Crimes that starts next week, but for the future of Yugoslavia, for the future of all the people living there. I am not speaking only about my fellow Serbians and Montenegrinians, but about all the Yugoslavs.

For the embargo and the sanctions are not only directed against the economic or military power of Yugoslavia; they cut all the channels of communication with us! The Serbian Academy of Science can no longer cooperate with the Academies of Science of foreign countries. We do not have access to the basic documents, so we see what is going on in the world in our fight to establish the truth, not my personal truth, not the truth of my people, but the Truth. What we need to see here is what has been going on in the European Community. What was going on in Maastricht, what were the reports of the Ministers visiting Yugoslavia? What was the main reason why they changed their general statement about a unified and united Yugoslavia, all of a sudden doing everything possible to break up that country? To punish a whole people! What were the reasons that we do not know? Did they perhaps know something that we do

not know yet? We might understand that. We might perhaps find some guilt in ourselves. But finding out what were the real reasons, is the only way to grab the truth. And then to see before the International Court for War Crimes who are really responsible. That is the only way. I still believe that an honest court would give us a chance. It is much better than meetings of the Foreign Ministers of the European Community, because in any court of law you have at least a prosecution and you have a defence. I suppose that the International Court of War Crimes Committed in Former Yugoslavia will have certain rules of procedure, but, frankly speaking, I have not much faith in it. If it would be possible, I would like to go there on the 17th; at least to attend the show, the inauguration of the International Court, and try to detect what rules they are supposed to follow. I think that is the important thing to do, to really see what way justice is going. Not justice only for Yugoslavia, but justice for the whole world.

I am now coming to the end of my evaluation and I would like to say: Please, believe me, this is not only our question, it is not our problem that we are raising today. For after Yugoslavia more dangerous cases might be coming. But we fought against it, we are still fighting, and we will continue to fight. It is even part of the struggle to come here to Amsterdam, for now I have to leave Belgrade at 21.00 and travel the whole night in order to be able to get a plane on Budapest Airport. But we keep trying. Your understanding is so important to us; the fact that, here in the Netherlands, colleagues of mine, countrymen, and Dutch friends, confirm that we are not fairly treated. Really, we are sometimes treated as a pariah nation. But why? Are we not as normal as any other normal being, I and my friends living in misery? Can you imagine that an elderly neighbour of mine, older than I am, living on his pension which has now dwindled to 5 DM and tomorrow maybe 4 DM, cannot buy a single medicine? That I have to go to the store, and queue for hours to get a little milk? And the babies; babies are dying in the hospitals. I wrote a letter to a friend of mine in the Netherlands, Prof. Paul de Waart of the Amsterdam University, and I mentioned to him that one of the Belgrade surgeons had been writing a letter to Butros Ghali to ask him for a piece of ethical help. He said: 'I have 300 children as patients who urgently need a heart operation. I have only the means to operate 30 children. Would you please make this selection for me, for I can not.' I ask you again: Who has the right to punish? Who are punished? When you ask the man in the street what is going on, he does not even know, nevertheless he is paying the price. Our soccer players, our basketball players, our dancers, cannot go outside Yugoslavia. What is their guilt? Are those the human rights of the New World Order?

Those are the questions we would like to pose before the U.N. Tribunal. Who has the right to punish a whole people? And then condemn the U.N. Security Council, then condemn Germany, the European Community, who have done this. Because they do not have the right!

Otherwise we will create a legal basis for hell on earth.

This is what I have to say

*Professor Sjef P.
He is one of the initiators
(in formation).*

Chairman, ladies and gentlemen, Mr. Riemsdijk, member of the Balkan Commission, shall just make some important first meeting to sit together and to open a tribunal about the war in Yugoslavia. I am not here as a representative of the group which has been practising already for many years. I mention afterwards. For me, as a psychiatrist, but as a psychiatrist of the war, as a professional should not exist in human act.

In all circumstances, leading to a code of conduct, which for other people is not so much different from the Geneva version of the Convention and especially the order should be my first concern to me. Even under secret, I wrote down a guide at the International Medical Conference of the European War Circumstances. We should become active again then to formulate my interest in this topic, or in the future, and then short now. That I could be the days of the crisis, the start of my professional psychological hospital.

The Idea of an Alternative Tribunal

Prof. Sjef P. Teuns

Professor Sjef P. Teuns is a psychiatrist and psychoanalyst and lives in Amsterdam. He is one of the initiators of the 'European Medical Juridical Committee against Torture' (in formation).

Chairman, ladies and gentleman. Just before the opening of the conference the chairman, Mr. Riemens, asked me to introduce myself here. Because I am not a member of the Balkan Forum, and because I was not prepared to deliver a paper, I shall just make some remarks why I am here, why I decided and like to join this very important first meeting of a group of people from different countries from Europe, to sit together and to see what to do with the terrible fact that the U.N. have decided to open a tribunal about Yugoslavia, in a few days from now. I am not a politician, I am not here as a representative of a political party or a certain group, unless it should be the group which has loose contacts with the medical group against torture, that has been practising already in the last twenty years a certain activity, which I will shortly mention afterwards. First of all I will speak in my own name as a professor, as a medical doctor, as a psychiatrist, not only as a child psychiatrist, as it was said in some paper, but as a psychiatrist of live from birth to death, as I prefer to call it myself. But to speak as a professional should never mean that you speak as a neutral person; neutrality does not exist in human activities, I think.

In all circumstances, especially medical and psychical, people have to act according to a code of conduct, which means for a medical doctor the Hippocratic oath, but which for other people who offer themselves as an instrument for the help of others, is not so much different. The code of conduct is to be regarded as a concretion of the Geneva version of the Hippocratic oath adopted by the World Health Organization and especially the order of its passages is important: The health and lives of my patients should be my first consideration. I will hold in confidence that all my patients confide to me. Even under secret I will not use my knowledge against the loss of humanity. I wrote down a guide about this code of conduct, twenty years ago, for the Amnesty International Medical Group, who invited me in Oslo to do so. That was the starting point of the European Medical Juridical Committee against Torture in Prison and War Circumstances. We hope now that the group from those days can be reanimated and become active again in these terrible Yugoslavian war circumstances. I was asked then to formulate my personal opinion, and perhaps if there are people who are interested in this topic, we can come together tomorrow, or the day after tomorrow, or in the future, and then I can explain myself a little bit further in order to keep it short now. That I could do that twenty years ago was not so difficult, because those were the days of the critical medical people. But for myself I had seen it already from the start of my profession, forty years ago, when I refused as a resident in the psychological hospital to do electroshocks and other acts against humanity. It costed

me almost my career but I got an alternative; I could start in a new clinic, which was not a bad experience in those days.

In the meanwhile we were confronted ten years later, thirty years ago, with the first explanations of the Holocaust people. In Holland there was the famous doctor de Wind, who was one of the survivors of Auschwitz, one of the few medical people who went there on their own to help their other Jewish colleagues to survive. He was a fighter from the very beginning, he survived, but it costed him twenty years to be able to open his mouth, to tell us about the terrible experience he had had. And this was the start I think, from dr de Wind, that all over the world the inhumanity of the Holocaust came to the open. Shall we wait again twenty years after what is happening now in Somalia, Bosnia, etcetera, for the victims of these warcrimes?

We were closely related to the Medical Committees of Algeria at the end of the fifties, the Vietnam Committee, the Medical Committee for the Portuguese Colonies, Mozambique, Angola etc., so that we could express ourselves then for the European situation, which was not a bloody situation in the beginning of the seventies, in 1973, when this conference in Oslo took place, but nevertheless there was a terrible oppression which we called then 'the white torture', and which is still going on. Later on, now five years ago, the breaking down of the Berlin Wall, though already some years before, in '86, was the end of the world frontiers and the world became one world.

Then years ago we were confronted with a world of peace, not any longer a first, second and third world, but a world of people who preferred peace above terrible war situations. But it was not true. In '86, at a time when the pact of Bandung was given to the world, it was also the 40th anniversary of Unicef, which came into being after WW II for the use of the victims of the second World War, and then my friend Claude Schubert from Unicef said in his speech on this anniversary: Since the second World War until '86, in forty years, there have been 150 local wars in the world, with as many victims as in the first World War, which you can still remember. That is ten years ago! How many more victims are there now, since there are wars in so many places! That is the reason that some of us decided that a Medical Juridical Committee should come into being for all these wars all over the world. But we as Europeans should concentrate ourselves first of all on the Yugoslavian situation. Then some weeks ago, at the end of September, there was a World Congress in Hamburg on Children, Wars and Persecution, the victims of wars and persecution, in two days time. There we gave for the first time to the open our ideas about a tribunal on criminal colleagues, medical doctors, psychiatrists who collaborate against mankind and abuse their tools and themselves to torture and to kill human beings. And secondly, we warned not to wait twenty years after this war to give psycho-social help, but to mobilize psycho-social teams that can give mental help to the medical teams of the Red Cross and the Flying Doctors, etc. That if we give medical help it should be medical and psycho-social as well.

This was heard by some of the organizers of this conference today, especially Mr. Petrović, who is here somewhere, I think, and he and the chairman Mr. Riemens invited me here to express myself about our ideas of such a tribunal against our criminal colleagues, like the worst of all dr. Mengele, and now our colleagues elsewhere in the world, especially those in Europe. But in the meantime it came in

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discussion if such a professional tribunal could be combined with the more politically oriented tribunal like the Balkan Forum is organizing here today. This is still an open question, and can be discussed in the following days. I do think the organizing committee went one step too far when they announced already that I should give some ideas of an alternative tribunal. I can do that of course, everybody can have ideas about it, it need not be professional as a medical man, but of course I support very much the idea of an alternative tribunal. Just two words about this: What does it mean, a tribunal for Yugoslavia, the question was asked already. I do not think that we can either, for there is no profession in the world that can answer that difficult question. Not long ago a very important book came under my eyes, written by Mr. Tailor about the Nuremberg Trials, his personal memory. He wrote the book, having been one of the judges in the tribunal in Nuremberg. What he says is that it has been a misjudgment that other countries, other nations, the U.N., the world could have a right to judge over a nation, and that, however difficult the situation would be there, nevertheless they should give the task to the countries themselves. That we, as other European countries, as part of the U.N., should ask and should support Yugoslavia to organize its own tribunal. This is one of the ideas I can give you.

And the second I mentioned already, is: Could it be combined in a more general, political juridical tribunal together with a more special medical, juridical tribunal. I am very glad that my friend and Dutch writer-activist Maarten van Dullemen is here, who was one of the pioneers, one of the first organizers of the Russell Tribunals: the Vietnam Tribunal, now thirty years ago, in Stockholm. I think he can be of great help in the discussions which we will have in these coming days. Thank you very much.

Reactions and Discussions

Mr. D.A. Leurdijk and Dr. Milan Bulajić

Dick Leurdijk is a member of the Netherlands Institute of International Relations 'Clingendael' in The Hague. He wrote many articles and case-studies about the crisis in former Yugoslavia.

Reaction of Dick Leurdijk to the speech of Milan Bulajić. I just want to react with a number of remarks on what Mr. Bulajić told us with respect to his views on the establishment of the International Court, the International Tribunal.

May I start by reading a few citations from the relevant resolution of the Security Council. It has a number of considerations for taking the decision, but then it says, acting under chapter seven, which is the operative part of the resolution: 'The Security Council decides hereby to establish an International Tribunal for sole persons responsible for serious violations of International Humanitarian Law, committed in the territory of the former Yugoslavia since the first of January 1991.' Seen in this perspective, as it stands like it stands, in the way I read it, in other words:

here in this resolution it is only said, it is meant by the Security Council, to establish an International Tribunal for the sole purpose of prosecuting persons responsible of serious violation of International Humanitarian Law. That, in other words, is a very broad definition. It does not say: We are looking for special cases. In fact it says: We are interested in all kinds of cases, wherever and by whomever they have happened, be it only on two conditions.

1. They should have been committed in the territory of the former Yugoslavia.

2. Since the first of 1991. So in that sense as I see it, in principle I do not see what could be against it. It is indeed much better than what we had in the time of the Gulf War. At that time it was completely impossible to have an institution established like an International Tribunal, because at those days there was no political support for such an initiative. It was discussed at that time. In that perspective this decision by the Security Council is a step forward, but at the same time I would say: It is a step forward along the lines of the text that I wrote, at the same time there are a number of remarks to be made along the lines that were mentioned by you. In the first place: why only for Yugoslavia? It is presented as an ad hoc decision by the Security Council. In other words, it was deliberately chosen by the Security Council not to establish a general International Tribunal for all kinds of cases. No, it was specifically meant to be dealing with issues in the former Yugoslavia. That was a political choice, and let us not forget that the decision was taken on the base of a debate that took place in the Security Council. And one of the permanent members, China, was explicit, saying that it was to not interested in having anything like an International Tribunal for prosecuting international humanitarian crimes. It was only possible to accept this resolution, as far as the position of China was concerned, exactly given the fact that it is meant only for the purpose of prosecuting cases in the former Yugoslavia.

A second thing: Why not the International Court of Justice?

Well this has to do with the relationship between the Security Council and the International Court of Justice, and this is maybe a legal approach, but it should be mentioned anyhow. I think, and I agree in that respect with you, that it is a political decision; the Security Council chose for this option instead of opting for a possibility by which an international agreement would be necessary, in order to establish an International Tribunal. In this case the Security Council took a political decision to establish the Tribunal. Then the question of the individual responsibility, which is also very crucial in this respect, but as I said before, I think it is a big step forward from the perspective of the protection of humanitarian rights. Given the facts that in this resolution for the first time individuals are made responsible for what they have done in terms of possible ways of violation of international humanitarian law. That is the other side of the picture. And the last remark would be with respect to the main question that you raised. The most fundamental question as I see it, that has to do with the principal question of who is to be blamed for breaking up Yugoslavia? I for myself would say that is not only a legal question, but in the first place a political question. That could be the main element of your suggestion to establish an Alternative Tribunal for Yugoslavia with this as the main theme and the main question. As far as the decision of the Security Council is concerned with respect to this International Tribunal, we should take care of the elements of the precise whereabouts of the

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Security Council, to take this decision in the form in which the Security Council has opted for it. Thank you!

Reaction of Milan Bulajić to Dick Leurdijk.

Thank you very much Mr. Leurdijk, but I have been confirmed in my opinions even more by what you said. Because you said that this Court has been established particularly for breaches of international humanitarian law. Well I like to remind you, Sir, that all the Conventions of Humanitarian Law have been passed and rectified in the Yugoslav Legal System. For this reason, all International Humanitarian Law is part of the Yugoslav National Legal System. So for this reason the Yugoslav Court should be first asked to judge on violation of international rules of humanitarian law. You have said an ad hoc Tribunal. Again: why an ad hoc Tribunal only for Yugoslavia? Why have they not established an ad hoc Tribunal for Iraq, Somalia, Vietnam, Afghanistan, and I do not know whatever country? But I appreciate your saying, that it is really a political choice. It is a political decision. But I do not understand, why you said that the main crime, the crime against peace is, who is responsible for breaking up the Yugoslav State, it is legal, political, and then you said this is a political choice also. So why political choice there, and not political choice here? For all this I really do not see that this is a big step forward. I think it is a big step backward!

Counterreaction of Dick Leurdijk:

Apart from what you said I forgot one thing to add, which is maybe interesting for the discussion as well. One of the main themes, one of the main issues in the report that was basic to the adoption of this resolution by the Security Council, was mentioned by the Secretary General, when he said in his report: It is only possible for the International Tribunal to come out with a pronouncement, as far as the question of the guilt of an individual person goes, when the person involved is physical present before the International Tribunal. This in itself, I think, is an other illustration of the limits of the International Tribunal. In other words, given the facts that we cannot expect any possible candidates for prosecution, so to say, to invite themselves to go over to the Tribunal and to present themselves and say: Well, here I am, and please come out with your verdict; given this fact, I do not see any effect with respect to the International Tribunal under the present circumstances. And this of course takes a lot of potentials away!

Yugoslavia and the Liability.

Rik Min

Rik Min was born in 1946 and studied Electrotechnics at the University of Technology in Delft, Netherlands, where he got his Engineering degree in 1975. He took his doctoral degree in Maastricht, Netherlands in 1982.

He is working as a scientific staff member/lecturer at the 'Twente University' in Enschede, Netherlands since 1982.

As a member of the NCPN (New Communist Party of the Netherlands), he is a committee member for the district Twente, as well as a member of the Party Council.

I thank the organization for their invitation. It shows that you have a broad vision and really want to cooperate with groups to discover the real truth. Let me express my thesis right away: In my opinion Genscher, Kohl and v. d. Broek have, willingly or unwillingly, either one is as bad, caused the misery in Yugoslavia. It were these persons and the Croation separation movement who started the crimes against ordinary civilians. From 1965 or let us say 1972 the Croation nationalists, these fascists, undermined the Yugoslav state. Van den Broek, and now Kooymans are both accomplices to the civil war which is now going on because of their attitude concerning the recognition of the separation. Their behaviour and that of the coordinated European media is criminal. Aware and unaware they caused ethnical cleansing because of their recognition of Croatia, Slovenia and Bosnia-Hercegovina and thus the breakup of Yugoslavia. If they did not know this; they are not capable of leading the Netherlands and they endanger the world peace. As we know, in socialist (or ex-socialist countries) the population is usually properly assimilated. Especially in these kind of countries you play with fire, with people, with refugees, with death and rape, when you pursue nationalism and separatism. I am against this kind of nationalism. The recognition of these national ambitions by v. d. Broek (and up to now repeated by Kooymans) was disastrous. Charging the Serbs with the guilt was and is conscious deception of the masses. In my opinion this is a criminal act (a political crime) in the sense of the Nuremberg Laws, committed by the government and a Minister of a so called democratic and free country. I accuse them of being an accessory to this war, to ethnical cleansing, to the refugee problem, to the innocent death and wounded in these areas, and consciously or unconsciously lying and twisting the facts (murder of a nation). If they did not foresee this, they are unquestionably not capable of the function of Foreign Minister and Chairman of the European Community.

Many writers agree with me, as there are:

— Szirmai (NRC, 12 August 1992).

— Warren Christopher, Minister of Foreign Affairs of the U.S. (who knows better himself), accusing Bonn as "accessory to" and they have made a "big mistake" (18 June 1993).

— Our Dutch ambassador van Walsum in Bonn (Haagse Post / De Tijd and NRC, 29 May 1993).

I accuse some journalists, like:

Michel Stein (in June 1993) for his provocation to donate his price to Minister Pronk permitting him to buy ammunition for it.

— Hofland, who thinks this is normal (NRC, 26 June 1993).

— Dick Verkijk (CIA spy or a hundred percent intriguer).

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- KRO television, for repeating lies, again and again, such as:
- a) the shooting at a queue of people at the bakery shop (May 1992).
- b) the shooting at a churchyard during the funeral of a Muslim boy (4 August 1992).
- c) rapes.
- d) wilful murder on journalists (for instance on 13 August 1992). Always indicating the Serbs as guilty. These are fascist methods: conscious provocations to evoke escalations.

What are we doing in Holland?

- writing and distributing declarations
- 16 July 1992 (VCN)
- Easter marches 1993— Sending letters to politicians:
- v. d. Broek / Lubbers (26 November 1992)
- v. Traa / M. J. Faber
- Kooymans (7 March 1993)
- Sending letters to the newspapers
- the first on 12 November 1991 to Tubantia, Enschede, Holland
- Enschede / Holland: a Picket Line: every week (since September 1994) in front of the town hall with members of the former broad Peace Movement "War is no solution".
- Perhaps in the future a Picket Line (with banner) by our air base Twente, home base of the F16 airplanes (as a signal to the political parties PVDA and Groen Links not to take worse points of view then they do now).

What must be done?

- Turning back the national ambition of Croatia etc.
- Turning back the recognition of Croatia, Slovenia and Bosnia-Hercegovina.
- Admitting the mistakes made by Germany and Holland (government and ministers).
- Stopping imperialistic rooting in ex-socialist countries; countries are apparently not allowed to develop themselves; the East European countries are not allowed to be a rival of the European Community (this is abundantly clear).
- And at last: Accusing the media: especially the Volkskrant! I thank you very much for your attention!

Prospects for Yugoslavia Today.

Joseph Gerratt

Joseph Gerratt was born in September 1938. He attended the Northampton Grammar School from 1950 till 1957, and Hertford College in Oxford from 1957 till 1961, where he got his degree in Chemistry in 1961. Dr. Joseph Gerratt married in 1961 and is now father of three daughters and one son.

November 7th 1993

The tragedy which has engulfed Yugoslavia is horrendous. Those of us who knew the country and its peoples warned time and again that 'the disintegration of Yugoslavia would be horrific. There would be bloodshed and population movements reminiscent of the partition of India..... Instead of a new post-Cold-War Europe, we would face one of the most serious problems since 1945'.* Although a detailed analysis of the events that led to the break-up of Yugoslavia is always illuminating - and indeed, is practically inescapable when discussing the present - I think that the situation which faces what remains of Yugoslavia is now so serious, that we must try to concentrate on what can be done. This is the aim of my present remarks. At the beginning at least, the Croatian nationalist cause won a great propaganda victory: Croatia was seen as a small 'European' nation struggling for freedom and democracy against an unregenerate 'un-European' and 'Communist' régime in Serbia. At last, I think that Europe as a whole now realizes that this picture is untrue. The sheer savagery of the HVO in Bosnia has been enough to make those in positions of responsibility in politics, at least in some countries (but not all) on this side of the Atlantic, and in the media, think again. Similarly the early success of the Izetbegović régime in portraying itself as somehow both Muslim and 'multicultural' has now been severely dented. Those of us who argued that such a multicultural entity was Yugoslavia itself, were simply ignored. If Croatia and Slovenia are allowed to secede on a purely ethnic basis, then Bosnia itself has no future: Bosnia can only exist within the larger framework of Yugoslavia. The right of 'national self-determination' allowed to a raucous nationalist régime in Zagreb and to a self-satisfied and selfish little régime in Ljubljana - cannot be denied to the Serbs of Bosnia. If Croats cannot be forced to live in a truly multicultural Yugoslavia, then the Bosnian Serbs cannot be forced to live in a fake multicultural entity called Bosnia.

However, as we all know, this is not how it seems to the United States and to Germany: The savage sanctions imposed upon Serbia and Montenegro were supposed to make the people of these republics see the 'truth'. The sanctions are causing enormous difficulties for them, but have otherwise failed in their purpose. I believe that, whatever the suffering inflicted ('a quiet genocide' in the words of a Belgrade doctor), the sanctions will continue to fail. It is now clear to every-one that Izetbegović never really intended to come to any agreement with the Serbs, or indeed with the Croats. In this he has always been quietly encouraged by the State Department - which

* From a letter, written on May 16th 1991, by the author to Neil Kinnock.

seems to have its fin now also fairly clear. remarks, printed in 'if we support a unita Yugoslavia' - a piece contrast, had always s than later, the intere remain united: There may do - short of com to go along with this winter which is now a forces are receiving a with the clear encour Vare, by forces suppe Throughout the winte both international and Hogg, the deputy fore the British parliamen the English siege of C starved until its burgho they did so, the Engli believe, is the general i off the Croats, then se Serbs, who, it is thoug is the strategy. I, for or as wrong about this as scenario? First of all survival. 'Free market come second.*

To this end ther chaos of the black marl station, so be it. The c necessity of life. Enou austerity and frugality. worth asking why have it because the Serbs di ministers in Scotland c Scots do not drink? Bu ('CCCC' in cyrillic) ser should not be forgotten forces in Europe. It is cc around Mounts Igman : ship', said one BBC re realized that the Serbs. Then will it also be the t on what they have gainc

* In fact during World V tives and Labour. Criti learn a lot from this.

seems to have its fingers everywhere. In fact the essential hypocrisy of the Croats is now also fairly clear. They never intended to live in a 'multicultural Bosnia'. In recent remarks, printed in 'Glasnik' the organ of the HDZ, Franjo Tudjman openly said that 'if we support a unitary Bosnia, then we might as well have remained within a unitary Yugoslavia' - a piece of logic which is as breathtaking as it is true. The Serbs, by contrast, had always said exactly what they meant. While it has been argued that sooner than later, the interests of Germany and the USA will collide, for the present they remain united: There will be no lifting of sanctions, whatever Serbia and Montenegro may do - short of complete capitulation. Every other member of the EC will be forced to go along with this. Izetbegović has decided to continue the war throughout the winter which is now almost upon us. In spite of continued squealing, it is clear that his forces are receiving a good quantity of weapons - mainly, I believe, through Slovenia with the clear encouragement of the Clinton administration. The recent success at Vare, by forces supposedly without any arms, is proof enough. The strategy is clear: Throughout the winter, the Bosnian Muslims will receive large quantities of aid from both international and governmental sources, while the Serbs will be starved. Douglas Hogg, the deputy foreign minister of the UK, wrote in a recent letter to a member of the British parliament, that the Serbs had not even asked for help. It reminds one of the English siege of Calais in 1347, immortalized by the statue of Rodin: Calais was starved until its burghers came out, manacled and with ropes around their necks. When they did so, the English, moved by Christian pity, merely put out their eyes. That, I believe, is the general intention in this case also. When the Muslim forces have finished off the Croats, then sometime next spring, Izetbegović will be ready to turn upon the Serbs, who, it is thought, will by then be fatally weakened by hunger and disease. Such is the strategy. I, for one, do not believe that it will succeed. Europe and the USA are as wrong about this as about everything else so far. But what can be done to spoil this scenario? First of all there is Serbia itself. It is war and the immediate objective is survival. 'Free market economics', full parliamentary democracy itself even, must come second.*

To this end there must be discipline. There must be an immediate end to the chaos of the black market. If that means armed guards at every supermarket and petrol station, so be it. The currency is worthless. Instead there must be coupons for every necessity of life. Enough of complaints. There is no other way but the hard road of austerity and frugality. We here will of course continue to do what we can to help. It is worth asking why have the Serbs adopted the slogan 'Samo sloga Srbina spašava'? Is it because the Serbs display an excessive zeal for unity? One might ask why Calvinist ministers in Scotland continually inveigh against the evils of drink. Is it because the Scots do not drink? But in all earnestness, now is the time to take the 'SSSS' slogan ('CCCC' in cyrillic) seriously. It is a matter of life and death. Meanwhile however, it should not be forgotten that the Bosnian Serb army is now one of the most formidable forces in Europe. It is committed, experienced and well-led - as the recent engagements around Mounts Igman and Bjelašnica showed: 'An operation of consummate generalship', said one BBC reporter of the commander, General Manojlović. When it is realized that the Serbs cannot be broken, then will it be time for Europe to rethink. Then will it also be the time for Croats, Muslims, Macedonians and Slovenes to reflect on what they have gained and what they have lost by breaking up Yugoslavia.

* In fact during World War II in Britain, the government itself consisted of a coalition of Conservatives and Labour. Criticism was confined to a few voices at the fringes of politics. The Serbs could learn a lot from this.

Attempt to a Conclusion

Milo Anstadt

Because of his Polish descent Milo Anstadt was somewhat predestinated to be interested in the Yugoslavian problems. During his work as a journalist, he had a lot of opportunities to get acquainted with "the world of the Slavs" closely. He wrote a few books and made some documentaries for the Dutch television being about the Slav peoples. The first time he visited Yugoslavia was in 1958. After that he has been there so often, he felt like it had become his homeland, also because of his familiarity of one Slav language already. The falling apart of Yugoslavia gave him the feeling of losing something very dear.

The European war horrors started in our century in Sarajevo and it is again in

Sarajevo that they mark the end of this age. The beginning as well as the end of the 20th century were characterized by optimism. In the time between, movements were pursuing the ambition of making mankind happy; nothing has been found so devastating as this aim. In 1900 the Western people believed in the realization of rationality and humanity, in the victory over poverty and the establishment of a decent society. Although Christians, liberals and socialists had different ideas of what that society would look like and how it could be achieved, there was little doubt about history leading us into a happier era.

The first World War entailed a deep disappointment and partly undermined the faith in the rationality of mankind. Nevertheless, there were still a lot of people who cherished the conviction that man is good. However in order to develop this inherent virtuousness, a radical change in the social structure would be needed and that change was called communism.

For centuries Europe has been knowing contrasts between national states. It was quite generally accepted that only national states could bring prosperity and that therefor competition between states was inevitable, even advisable. However, it should be possible to compete in peace. Against the nations, Marx had put the classes, with their opposite interests. In the slogan "Workers of the world unite" an anti-nationalistic ideology found expression to which millions of Europeans, during a large part of the 20th century, coupled chiliastic expectations.

In 1939 people were far less surprised about the break-out of the war than they had been in 1914. For some its cause was due to the last convulsions of imperialism; others, on the contrary, considered the threat of the 'godless' bolshevism as the main cause of the armageddon. In the West, enough was left of the ideas of Rationalism and Enlightenment to fight the battle against the barbarian national-socialism under the banner of the defense of democracy and humanity. Communism was looked upon as a lesser evil and it were certainly not the less important politicians who thought that the Soviet system was amenable to making it more humane and democratic. However, the aggressive and despotic extension of power of the Soviet Union after the

second World War (left camp) and a rea

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The Europeans was understood that t thout the spirit of hun Central Europe. Wher

second World War was unacceptable to many people (even for quite a number in the left camp) and a reason to reject communism

During the Cold War the American way of life started to dominate and together with that the belief in a militant democracy. The expenditure of the states was rising exorbitantly and, on the long run, was experienced as such a burden that there began a gnawing at the welfare state. Liberalism with an American slant was winning ground in Europe under the name of Thatcherism: less of the state and more individual responsibility instead of state care. There came a new wave of optimism, a belief in the blessings of competition. Many people were blinded to the fact that the growth of productivity that was caused by this competition, had the casting out of workers as a result and that this must cause a structural economical crisis.

Although man had not turned out as good as was expected at the beginning of this century, and Rationalism and Enlightenment were much too simplistic to embrace the entire scale of humanity, it looked as if it were possible to organize a peaceful world and make the organization of nations see to the maintenance of the human rights. There was just one big obstacle: the non-cooperative communism, which committed the more outward obstruction as the interior problems became the more and more hopeless.

Meanwhile, the Western world got convinced that the era of the ideologies was over and that the superior democratic society could be managed pragmatically, by common sense. The American Fukuyama went one step further as he explained that history had reached a final point and that the structure of society was completed. The problems that mankind was facing were all soluble within the possibilities of society. Yet, an attentive observer could already notice, that the consumptive society invoked new social tensions as well as feelings of discomfort and resentment, which on the one hand affected the sense of public responsibility and on the other hand created a desire for a meaningful ideology, if so desired religion.

With the leadership of Gorbachov in the Soviet Union, it seemed that even there people had come to the conclusion that democracy and a market economy were the panacea for all the problems. Gorbachov's perestrojka and glasnost resulted indirectly in the collapse of the mouldered communistic edifice. The people from the West were ready to believe that now finally the conditions for the realization of a balanced and sound world order were fulfilled. They were moved to tears by the fall of the Berlin wall. Would the twentieth century fulfil after all the promise of a peaceful and humane society? Soon this hope was shattered. The end of communism did not bring the expected solidarity and détente. The ideals that the West had cherished: freedom of religion, freedom of culture, the right of self-determination, that were demanded by many people, were far from beneficial, a source of misery for them. The civil war in Yugoslavia was only one of many that were going to strike the world.

The Europeans were not wondering about the civil wars in Africa and Asia. It was understood that those were produced by underdeveloped, primitive people without the spirit of humanity and tolerance that had come to bloom in Western and Central Europe. Whereas the atrocious events in Yugoslavia were, for many, a most

unpleasant surprises, because they were concerning people which had been believed to belong more or less to their own cultural sphere.

No slaughter whatever got so many attention of the media as the one in Yugoslavia. Reading the newspapers and watching TV one could presume to be very well informed about the things happening there. Only later it turned out that the presence of a complete army of journalists was no guaranty for an accurate news coverage. Worse still, it appeared only too often that the medium was the message.

The media caused a lot of excitement, as if something totally new and unprecedented was going on there, something completely alien to us, in no way belonging to our time and spirit. It is remarkable that this excitement is especially massive in Germany among the children and grandchildren of those who gave this age the signature of extreme cruelty. The slow destruction of Sarajevo has a disenchanting symbolism, as if we are shown in a mirror how unrealistic all the theories were that put our hopes in a peaceful and humane future, and that we should never forget that between Sarajevo and Sarajevo sixty million people have fallen victim to murder and slaughter in Europe.

Historians and sociologists are trying to give an explanation of the origin and the specific character of the civil war in Yugoslavia. Most of them evoke a picture where the events seem to arise from the shadows of yesterday. This historical approach has been given due attention in my book 'Scheuren in de Heksenketel' ('Fire, burn; and caldron bubble'). Yet, the author has to ask himself the question whether the civil war can really be satisfactorily explained from the past, or whether it should, perhaps, also be considered in the light of the future, to become more or less understandable.

Although there are important similarities between the people of former Yugoslavia, there is also the fact that these people live in the borderland of three religions, which, after the disappearance of the utopian dogma communism, started again to express their own traditional culture.

The West might have been able to cover the rearing differences with a carpet of prosperity, maybe temporarily, or even lasting. It did not do so, thus enabling the political and religious antagonists to revive the rudimentary tensions. The American politicologist S.P. Huntington recently wrote:

'During the cold war the world was divided into the First, Second and Third worlds.

Those division is no longer relevant. It is far more meaningful now to group countries not in terms of their political or economic systems or in terms of their level of economic development but rather in terms of their culture and civilization.

Civilization identity will be increasingly important in the future, and the world will be shaped in large measure by the interactions among seven or eight major civilizations. These include Western, Confusion, Japanese, Islamic, Hindu, Slavic-Orthodox, Latin American and possibly African civilization. The most important conflicts of the future will occur among the cultural fault lines separating these civilizations from one another.*

* Samuel P. Huntington: 'The Clash of Civilizations?' Foreign Affairs, Summer 1993, Vol. 72, No.3, pp. 23, 25, 48. Council on Foreign Relations, Inc., New York, U.S.A., 1993.

According to identity. In many places identity and to pay 'fundamentalistic'. 'I de siecle'. The religion the national boundaries

Huntington na in the near future. H context. May only his civilization identities that each civilization consciousness is incre be more frequent, me the same civilization. between the West and

If Huntingtons the to Yugoslavian civil religions of the Byzantine and to fuse together. power. Based on that Balkans. Another old Rumanians and Serbs the other side.

Neither the rational penetrate other cultures looks as if the Western century we can establish beginning. Neither the about that the non-Western overcome the Western

In Eastern and Southern traditional religions are countries Poland, Slovakia Western humanism on from the West. The Orthodox formed by eastern cultures hostile towards the attitude

The Muslims in Islam with the global restoration all Western external, non-Western religions: from that, some fascist the general confusion of

According to Huntington the national state has lost importance as a source of identity. In many places in the world, religion has started to take care of a substitutional identity and to pave the way for the development of movements which we call 'fundamentalistic'. 'Desecularisation' is a highly remarkable phenomenon of our 'fin de siècle'. The religions are offering a basis for identity and dedication that exceeds the national boundaries and unites cultures.

Huntington names a series of factors why he expects clashes between cultures in the near future. However his further considerations will be left undiscussed in this context. May only his final conclusion will be quoted: 'This article does not argue that civilization identities will replace all other identities; that nation states will disappear, that each civilization will become a single coherent political entity,..... civilization consciousness is increasing;..... conflicts between groups in different civilizations will be more frequent, more sustained and more violent than conflicts between groups in the same civilization..... A central focus of conflict for the immediate future will be between the West and several Islamic-Confucian states'.

If Huntingtons hypothesis is correct, we observe the shadows of tomorrow in the to Yugoslavian civil war. Over a period of more than thousand years, the Christian religions of the Byzantine and Roman rite have not been able to settle their differences and to fuse together. It was not Christianity that separated them, but the urge for power. Based on that same urge for power, another front is arising right through the Balkans. Another old front reappears between the Orthodox Greeks, Bulgarians, Rumanians and Serbs at one side, and the Islamic Turks, Albanians and Bosnians at the other side.

Neither the rationalistic nor the christian Humanism has been able to deeply penetrate other cultures. With the spread of Western technology to the world, it aonly looks as if the Western values have also been transferred. At the end of the twentieth century we can establish that the influence of the West is less than it was at the beginning. Neither the white rule, nor the missionary work have been able to bring about that the non-Western religions and cultures left the field. Now that they have overcome the Western arrogance, they are easily recovering.

In Eastern and Southeastern Europe it is the arrogance of communism that the traditional religions and cultures feel freed of. The Roman Catholicism of the Slav countries Poland, Slovakia, Slovenia and Croatia, has underwent the influence of the Western humanism only to a small extent and because of that it is culturally alienated from the West. The Orthodox church, in Russia as well as in the Balkans, which was formed by eastern cultures and in turn has helped to form those cultures, is generally hostile towards the attitude to life in the West.

The Muslims in Bosnia were becoming westernized until they were confronted with the global restoration of Islamic power and moved to a spiritual U-turn. Despite all Western externals, the people of former Yugoslavia are rooted in their own non-Western religions and cultures, which seem to have gained a new viability. Apart from that, some fascistic ideologies make themselves felt and intensify the chaos within the general confusion of mind of the post-communist era.

In that chaos, the different ideas about life and bondings of ethnic groups living together on a relatively small territory became conscious: different opinions about God, humanity, man, woman, individual, community, freedom, authority, marriage, sexuality, etcetera, and particularly about cross-border relationships between Roman Catholic, Orthodox and Muslim worshippers. It was this kind of differences that mutually generated fear, threat and the urge for power. Since it was not possible to erect isolating walls between one another everywhere, people started to chase one another away. The Croats were the first who rejected the Serbs from their country. Next the Serbs turned against the Croats and Bosnian Muslims and when the Bosnian Muslims had gained more force, they mainly threw themselves on the Croats. There is a possibility that the peoples of former Yugoslavia, in doing so, take an advance of future dramas.

In the beginning of our century people believed in the coming of a universal culture.

At the end of our century, it seems further away than ever.

Chess and Politics, the Master Strategy of President Tudjman

Robert Stallaerts

Robert Stallaerts studied at the University of Ghent and at the Economical Institute of Belgrade. At the University of Ghent he obtained his doctorate with a thesis on Yugoslavia. Now he is lecturer at the Centre of Ethics at the University of Antwerp (UFSIA)

INTRODUCTION

THE SYMBOLS, THE CHESS BOARD AND JASENOVAC

The chess board was accepted as the coat of arms of the Croatian nation. It is chosen by Tudjman as a symbolic expression of the sovereignty of the Croatian nation at the start of the independence process. At the Second Convention of the HDZ in October 1993, Tudjman proposed to commemorate all-war victims at one place in Jasenovac.

Both symbols were widely contested, not to say rejected by a part of the population.

The choice of the chess board as coat of arms and of Jasenovac as commemorative place are more than symbolic for the way of thinking and acting of the Tudjman regime.

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strategy of the Tudjman

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— Secret negotia

Results?

Are we satisfied

Will the game ru

Can we alter the

THE CHRONOLOGY

The chronology of the history between these two acts lies bare the political strategy of the Tadjman regime.

We will focus here only a few basic problems. One of the most important is the policy towards the problem of the Krajina.

Once independence assured, the problem of highest priority was in fact the restoration of the territorial integrity of the country. Partially linked is the Bosnian problem. The character of the regime and the criticism of intellectuals is a third essential theme. In our analysis of the chronology of the events, we will concentrate here only on the last year.

DESCRIPTION OF THE GAME

Who is who?

Presentation of the main characters:

Franjo Tadjman, Hrvoje Šarinić, Slavko Degoricija.

Slobodan Prosperov Novak, Vlado Gotov, Ivo Banac.

Vance, Owen, Stoltenberg, Vollebaek.

Goran Hadžić, Milan Martić, Veljko Džakula, Dušan Ećimović, Raznjatović Arkan, Šešelj, Milošević.

(Parties are described in the annex). What is at stake?

The statute of the Krajina and its people, approximately one third of the territory (one fourth if the Adriatic Sea is counted also).

Which moves in time?

Chronology of selected moves:

— First Maslenica Offensive (Why and why at this moment)

— Second Medak Offensive (Why and why at this moment, with effects in Krajina)

— An open letter to Tadjman to ask his dismissal

— Tadjmans intervention before the UN on the prolongation of UNPROFOR

— Tadjman Proposal on the intervention of the Nato (Council of Europe Meeting in Vienna)

— Second Convention of the HDZ: centre politics and intellectuals

— Secret negotiations in Norway

Results?

Are we satisfied with the game?

Will the game run out of time?

Can we alter the rules of the game?

WHAT TO DO?

Basically, we have a choice between several ways of action.

They are linked to the Bosnian problem;

Republika Srpska Krajina - Srpska Republika

— Non activity: doing perfectly nothing or talk a little about it

— Military intervention: to stop violence and resolve refugee problem

— Mediating the ongoing peace process as before

— Mediating the UNPROFOR along Croatian and UN-Council of Security lines

— New tracks: partitioning of Krajina and compensations in Bosnia-Herzegovina?

SYMBOLS. THE CHESSBOARD AND JASENOVAC

THE CHESSBOARD COAT OF ARMS

The Tudjman regime has accepted some emblems that originate in the times of the early Croat kingdoms.

One of them is the coat of arms with 13 red and 12 silver squares arranged intermittently in a 5 times pattern. It is a very old symbol of Croatia resembling a red and white chess table. Croatian historic tradition ascribes the use of the coat of arms to the reign of Stjepan Držislav (969-997), whose status of king was officially recognized by the Byzantines. Its use was confirmed by 15th century documents.

This old coat of arms crowned with the Zagreb, Dubrovnik, Slavonia, Istria and Dalmatia coat of arms is the new symbol of the contemporary independent Republic of Croatia.

The emblem irritates the Serbs of the Krajina, as it was also used by the Ustasa regime in the Independent State of Croatia (1941-1945).

JASENOVAC

At the second Convention of HDZ, Tudjman proposed to commemorate all victims of fascism, communism and the Great-Serbian aggression in one place: Jasenovac.*

Jasenovac was a concentration camp during the Second World War where about 200.000 Serbs, Jews and Gypsies fell under the hands of the Ustašas. The exact number of victims is disputed by both Serbs and Croats. The memory of these killings is used by Serb politicians to express their aversion to the Tudjman regime.

* Drugi opći Sabor HDZ. Iz izlaganja predsjednika HDZ-a dr. Franje Tuđmana. HDZ ostaje pokretač hrvatskog preporoda. Vjesnik, 16.10.1993, p. 2-3.

Tudjman's new psychological signifi

Maslenica is a of Croatia (Croatia particular position o important then any Dalmatian lands by t

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On January 22 protect the region. A control of UNPROF struction of free comr was set up and offici and shooting from th

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The second offe: region south of Gospi: Njegovina in the pin: replied by shelling Ka: berg summoned Tudj: and the Krajina Serbs: Samobor, Kutina and military targets, amor: announced a 24 hour: Mig-21 which had attac: signed an armistice un

Tudjman's new proposal is thus again a sign of his basic underestimation of the psychological signification of the world of symbols.

SEVEN SELECTED MOVES

MASLENICA OFFENSIVE

Maslenica is a bay and strategic region near Zadar, connecting the northern part of Croatia (Croatia proper) with Dalmatia. The Venetians already appreciated the particular position of the place. They wrote in a report of 1994 to the Senate: 'more important than any other region, because it permits to prevent any invasion of the Dalmatian lands by those who want to conquer them'.

The Krajina Serbs effectively succeeded to separate northern Croatia from Dalmatia by bombing and destroying communication means in this area. The frontier to area was transformed in a pink zone, theoretically under control of UNPROFOR. This did not stop the air attacks of the Serbs.

On January 22, 1993, the Croatian army undertook a four day campaign to protect the region. A new agreement was made. Border areas were placed under the control of UNPROFOR again, not without exacting some guarantees for the reconstruction of free communication lines. A new impressive project for a Maslenica bridge was set up and officially inaugurated by president Tudjman. However, Serb shelling and shooting from the Krajina continued.

GOSPIĆ OFFENSIVE

Second larger scale offensive of the Croatian Army in September 1993 on the Knin region. The Maslenica offensive of January 1993 was the first larger offensive of the Croatian Army. Its aim was to restore the order in the pink zone associated to the Knin region. The UNPA and pink zones had been created after the sixth month war in 1991 between the Krajina Serbs and Zagreb. The continuous shelling of the Gospić region provoked a new Croatian offensive. Critics noticed that reasons of interior political strategy were not wholly absent in the timing of the new offensives. The Maslenica offensive set in shortly before parliamentary elections, while the Gospić offensive preceded an important internal HDZ party meeting.

The second offensive started on September 9, 1993, with an attack on the Medak region south of Gospić. The Croatian forces took three villages, Citluk, Divo Selo and Njegovina in the pink zone of the UNPROFOR sector South. The Krajina Serbs replied by shelling Karlovac. A UN intermediation campaign was set up and Stoltenberg summoned Tudjman to stop the offensive without delay. The fighting went on and the Krajina Serbs shelled Lučko (a suburb lying 8 km from Zagreb), Jastrebarsko, Samobor, Kutina and other places. The Krajina Serbs made public a list with fifty military targets, among them seven locations in Zagreb. The same day Tudjman announced a 24 hour armistice. On September 14, the Serbs shot down a Croatian Mig-21 which had attacked the region of Vrginmost. The next day the fighting parties signed an armistice under UN mediation. The Croatian Army shall retreat from the

villages conquered near Gospiš and the zone comes under the control of UNPROFOR. The shelling continues. According to the Krajina Press Agency (denied by the Croats) the Croatian Army shelled Knin, the capital of Krajina in the evening of September 16, 1993. As a revenge, the Krajina Serbs shelled Zadar, Šibenik and Biograd. On September 18, 1993, UNPROFOR officers reported on the destruction and deliberate killings during the Croatian retreat from the conquered villages. In the next days, the Croatian Army even shot on blue helmets, who evacuated victims from the Medak region. Commander of UNPROFOR Jean Cot handed over a protest note to the Croatian government. The Croats denied most of the facts and some of the arguments were accepted by UNPROFOR.

Finally, the armed conflict extinguished slowly. Once more, the conflict did not degenerate into a generalised war between Serbia and Croatia. However, threatening is the fact that in this clash both parties have used new weapons. The Serbs fired off a Frog-7 surface-to-surface missile, the Croats set in Migs to attack the Serbian positions.

FREE SPEECH, DEMOCRACY AND THE PRESIDENTIAL REGIME

On September 20, 1993, the journal Erasmus publishes an open letter of six intellectuals (Ivo Banac, Krsto Cviic, Slavko Goldstein, Vlado Gotovac, Vesna Pusic, Ozren Zunce) to president Tudjman to ask his dismissal.* Three major reasons for discontent were presented. First, the policy towards Bosnia-Herzegovina is inconsistent. Second, enterprises are not privatized but statized. And third, the whole society is usurped in a totalitarian way by the HDZ. The president has too much power. Criticism is not allowed. To be Croatian means to be HDZ and support the government unconditionally.

The complaint of authoritarianism and the lack of tolerance has not been expressed many times. It was recently revived by Slobodan Prosper Novak, the Croatian PEN-president.** He spoke on the arrogance of power and the supposed degeneration of the regime. It closes on itself and it hides itself in populism and phraseology on democracy. His sharp criticism was unexpected and had a larger effect for three reasons. First, it came from within.*** Novak organized before the International Pen Congress in Dubrovnik, seen in Croatia as patriotic realisation. Second, he spoke on October 2, 1993, in Germany, addressing over the radio an international audience. It is supposed Croats abroad, even if critical at home, should be loyal outside. And third, the moment of his speech seemed unhappily (or scrupulously?) timed: he spoke just before the Security Council of the UN had to accept a new Resolution, on the prolongation of Unprofor.

* Intelektualci traže Tudjmanovu ostavku. 'Doveli ste nas do ruba nacionalne tragedije'. Euro Bosna, 15.10.1993, p.13. Sokol, Smilko. Tko stoji iza predsjednika. Danas, 12.10.93, p.18-19. Jović, Josip. Neugodan govor. Danas, 12.10.93, p.33. Vurušić, Vlado. Vlado Gotovac: Slučaj prospera Novaka pokazuje: da nema svijeta, vlast bi počela i hapsiti. Globus, 15.10.93, p. 3-4. Horvatić, Dubravko. Iz Yalta i Londona ne vide se ruševine. Vjesnik, 12.10.1993, p. 6-7

** NOVAK, Slobodan Prosperov. Plivati protiv struje. Vjesnik, 7.10.93, p. 10-11. (Speech given on October 2, 1993 in Munich introducing a concert of the Zagreb Filharmonija). On the reactions on this speech, see a.o. Barišić, Marko. Kritičari i lesinari. Danas, 12.10.93, p. 7.

*** A variation on the theme: once again the revolution eats its children. Has Tudjman read a Danilo Kiš?

This all opens the nature of Croatian expression of criticism of the press against blind obedience to an alternative order.

The preliminary nature of the usurpation and the usurpation of power that there is at least some expression of themselves.

If this tolerance is an Alternative explanation

1. Does it stem from the fact that Tudjman had to take into account the nationalistic ideology?

2. How much tolerance was it a necessity?

3. Is totalitarianism a system or situations of explosion of violence?

4. Is authoritarianism the heir of the supposed order in 'How we survived'?

Of course President Tudjman answered shortly and pointed to the election of intellectuals of the country.

He also only referred to the HDZ to the case of HDZ.*** At the Congress of the HDZ unexpectedly elected to elaborate on his declaration of speech. Though this was a statement by writers loyal to the statement that HDZ During the period of debate in Croatian press the HDZ and a possible

* Drakulić, Slavko. moj cenzor. De B

** Predsjednik Tudjman, 12.10.1993, p.

*** Drugi opći sabor i kretač hrvatskog p

**** Završen Drugi Opći sabor, 17.10.93, p. 2

This all opens a basic debate on the character of the Tudjman regime and the nature of Croatian society. It opposes tolerance against totalitarianism, democratic expression of criticism against unconditional acception of patriotism and freedom of the press against blind support of national power structure. It opens the question on an alternative order.

The preliminary question is of course: Is the criticism on the lack of democracy and the usurpation of power in societal life by the party really valid? One must observe that there is at least some level of repressive tolerance. Critics are heard and can express themselves.

If this tolerance is really repressive, how can we then explain the totalitarianism? Alternative explanations can be sought in several directions.

1. Does it stem from the ideology of nationalism, the means by which HDZ and Tudjman had to take power? What are the contributions and limitations of the nationalistic ideology in the construction of a democratic society?

2. How much has it been fed by the dynamics of the conflict in former Yugoslavia? Was it a necessary feature because of the war with Serbs?

3. Is totalitarianism inherent on the conflict resolution on a low level in any new system or situations, especially in a war situation? Is this also the explanation of the explosion of violence?

4. Is authoritarianism just inherited from communism? Is HDZ-ism the natural heir of the supposed totalitarianism described in every day live by Slavenka Draculic in 'How we survived communism.'*

Of course President Tudjman did not resign. In his monthly press conference he answered shortly to some of the criticisms in the open letter.** Essentially, he points to the elections as the legitimate base for the execution of political power. The intellectuals of the open letter ignore the rules of the game of democracy.

He also only made an allusion in his speech before the Second Convention of the HDZ to the case of some envious and dilettantish intellectuals, critical of the HDZ.*** At the Convention there was only a reaction of Hrvoje Hitrec, who was later unexpectedly elected as member of the presidency of the HDZ. He asked Tudjman to elaborate on his declaration on the 'writers and pharisees'**** in his introductory speech. Though this intervention of Hrvoje Hitrec aimed at the rehabilitation of writers loyal to the HDZ and the Croatian regime, it does not wholly prove the statement that HDZ is just a monolithic monster that drives society into one direction. During the period before the Second Convention of the HDZ, the main point of debate in Croatian press was exactly the skirmishes between the left and right wing of the HDZ and a possible rift.

* Drakulić, Slavenka. Hoe we het communisme overleefden en bleven lachen? Een praatje met mijn censor. De Brakke Hond. 1992, nr. 33, p. 30-45.

** Predsednik Tudjman na redovitoj konferenciji za novinare. Srbija i dalje nastavlja agresiju. Vjesnik, 12.10.1993, p. 3.

*** Drugi opći Sabor HDZ. Iz izlaganja predsjednika HDZ-a dr. Franjo Tudjmana. HDZ ostaje pokretač hrvatskog preporoda. Vjesnik, 16.10.1993, p. 2-3.

**** Završen Drugi Opći Sabor Hrvatsko demokratske zajednice. I pomirljivi i polemični tonovi. Vjesnik, 17.10.93, p. 2-3.

TUDJMAN'S MOVE BEFORE THE UN SECURITY COUNCIL

On October 4, 1993, the Security Council accepted Tudjman styled resolution 871 on the prolongation of the UNPROFOR mandate. The prolongation of the mandate of UNPROFOR in Croatia was bound by Tudjman on severe conditions of effective evaluation and execution. The complaint about the inactivity of UNPROFOR was as well a permanent rallying place of the opposition against Tudjman. The list of shortcomings is great: territorial integrity of the country has not been restored, refugees could not return home, vital communications between several parts of Croatia can not be restored and there are still very material damages and civil victims of the continuous shelling. Therefore Tudjman threatened before the Security Council to strengthen the mandate of the UNPROFOR in order to attain these goals. If the problems could not be solved by UNPROFOR, Croatia could engage all means to restore its territorial integrity. Russia made objections to the explicit reference to the New-Yugoslav cooperation and the binding of the sanctions on the solution of the Krajina problem in Croatia. After a day of postponement, resolution 871 of the Security Council was accepted. The president declared afterwards that UNPROFOR had to change from peace keeping to a peace making force. The resolution was presented as a personal victory of President Tudjman on the eve of the Second Convention of the HDZ*.

The resolution was very badly received at the Krajina region. Especially the leaders of the Knin region tried to put under pressure more moderate leaders of Slavonia.

TUDJMAN PROPOSALS ON NATO INTERVENTION

On October 8, 1993, Tudjman presents his new proposals to resolve the crisis in former Yugoslavia with the help of NATO on occasion of the Conference of the Council of Europe in Vienna**. The NATO only reacted with a statement that its covering of the air in Bosnia Hercegovina was extended to the Croatia territory.

TUDJMAN'S PARTY

The Second Convention of the HDZ, the party who obtained the majority of parliamentary seats in the elections since the fall of the communists, took place in mid October 1993. In the period before the Second Convention, there was a lot of tension between the wings of the party; the left-wingers of the party (Josip Manolić, Stipe Mesić) are called the partisans - as they held also functions in the communist Yugoslavia - and the managers - as they press economic transformation and privatization. The right wing considers itself the authentic, original and 'right' side of the HDZ that contributed most to the massive electoral victory of the party. It thinks it did not get the government posts it deserved since they were given to the newcomers of the left and the 'managing' part of the HDZ. The left accuses the right wing of on being conservative, extremist and anti democratic, advocating a policy that will govern

* Izjave predsjednika Franje Tuđmana povodom Rezolucije 871 Vijeća sigurnosti UN. Hrvatska politika naišla konacno na razumijevanje Vjesnik, 6.10.1993, p. 3. Diplomatska pobjeda Hrvatske. Vjesnik, 12.10.1993, p.1

•• Predsjednik Tudjman u Zagrebu. Nato može riješiti rat. Vjesnik, 10.10.93, p. 3.

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On November 10, 1991, he spoke to the press. Concerning the war, he was seen as an integral part of the solution. He offers the Serbs in Bosnia a way out of the conflict. He offers a nation. Concerning the future of the London type, he was seen as a man of Germany, Russia, Tu

Again, the role is striking.

* Glavaš, Branimir. R

.. HDZ Pobjedio je

... Drugi opći Sabor Hrvatske
kretač hrvatskog pro-
mokratske zajednice

**** Interview, Dr Franjo
tić, Srdjan. Pijetel sa

Croatia by ideology and by force and that will bring the country into isolation. Some members of the HDZ argue that in the internal elections people of the right centre always have dominated. Others think that the lines of division in the party are not so clear. Probably this is true: the more from the centre (Zagreb), the more members and leaders are radical and right wing oriented. Observers attended a split at the Second Convention.

At the Second Convention the first significant move came from the right. The conservative county prefect of East Slavonia, Branimir Glavas had accepted an amendment that deprived not elected members of the presidency of their right of election in that organ. As most left wing figures (Mesic, Mamelic) had a seat in the organ, their political influence was contained.* But the most significant action came from President Tudjman himself.** He presented his preferred list of candidates and recentered the party totally. The representatives of the extreme wings retired or were elected away. Tudjman closed the ranks of the party on the centre.*** A new statute and party program was adopted, giving the HDZ a Christian-Democratic flavour. This move was not as radical as sometimes presented in the period before the Convention. One of Tudjman's remarkable proposals in his introductory statement, the Jasenovac declaration, has not always been received very well.****

SECRET MOVES IN NORWAY

On November 2, 1993, Tudjman explained his latest peace proposals in a speech to the press. Concerning the Croatian, he repeats his known standpoint that it must be seen as an integral part of Croatia. But in a spirit of national conciliation, Tudjman offers the Serbs in Croatia the statute of ethnic community instead of national minority. He offers as well economic assistance and reconstruction without discrimination. Concerning Bosnia Hercegovina, instead of a general conference of the London type, he wants to limit the conference to the concerned and only France, Germany, Russia, Turkey and the US.

Again, the role of NATO instead of the UN as peacekeeper or even peacemaker is striking.

Glavaš, Branimir. Razbili smo 'menedžersku' struju. Danas, 19.10.1993, p. 6.

** HDZ. Pobijedio je Tudjman. Danas, 19.10.1993, p. 5-6.

*** Drugi opći Sabor HDZ. Iz izlaganja predsjednika HDZ-a dr. Franje Tudjmana. HDZ ostaje pokretač hrvatskog preporoda. Vjesnik, 16.10.1993, p. 2-3. Završen Drugi Opći sabor Hrvatske demokratske zajednice. I pomirljivi i polemični tonovi. Vjesnik, 17.10.93, p. 2-3.

**** Interview, Dr Franjo Tudjman. Jasenovac će biti mjesto pomirbe. Danas, 26.10.1993, p. 8-9. Matić, Srdjan. Pijetet samo žrtvama. Danas, 2.11.1993, p. 7.

An armistice will be asked within fourteen days. Territorial questions will be settled by bilateral negotiations, or if they fail, by a special commission of the conference on former Yugoslavia*.

On November 4, 1993, Zagreb and the Krajina Serbs signed an armistice for East Croatia. British and French diplomats were present during the negotiations led by the UN negotiators. The truce goes in on Sunday November 6, 1993.

An announced meeting of Tudjman and Milošević, announced by the Serbs of Krajina, did not take place. Or was it too secret until now? Did we miss the confrontation between the two kings and the essence of the game?

WHAT CAN AND MUST BE DONE?

Basically, we have a choice between several ways of action. All are linked to the Bosnian problem, as the link between the Republika Srpska Krajina and the Srpska Republika is imminent. (On June 14-15, 1993, a Referendum in the Republic of Krajina of Croatia approved of the union with the Serb Republic in Bosnia. Under pressure of Milošević, the effective union was so far postponed). And all depends crucially on the answer to the basic question: has a people the right to chose by referendum the state to which it belong ('ethnic criterion'), or is for the recognition of a state diplomatic history decisive ('political historic criterion'). In other words, do the Serbs have the right to form their state on Croat territory or are the republican frontiers of Croatia agreed on in 1943 prevalent?

Probably no compromise can be found between these opposite visions. Sticking to this opposition was the basic cause of war.

— Complete non-activity

The right of foreign intervention is questioned and the efficiency of any action doubted.

— A second, completely opposite, strategy is military intervention at a large scale.

The legitimation for this can be found in the necessity to stop violence (victims, material damage) in order to resolve the refugee problem (return and uniting of families) and economic problems (communications).

Main questions are the efficiency of the action and the willingness to act of the intervening powers. At the moment these conditions do not seem fulfilled.

— Continuity in peace-keeping

UNPROFOR mediates in an unstable environment. It can end in a Cypruslike division of Croatia. Tudjman reacted precisely against this evolution with his move to the UN Security Council and Resolution 871.

— The UN Security Resolution 871 promises more.

* Naucet, J.-B. Zagreb tente de relancer le processus de paix. *Le Monde*, 4.11.93, p. 5.

Weapons must be returned. The Croatian UN has not the means

— Is a new track

The device of observation that the rivalries between the

The leaders of the state because they were

After the Gospoć Knin. During the meeting in the Interior, Milan Martić of corruption and in order to support each other. E

Martić seems not allied to Vojislav Vukobratović, region from West Slav

One can imagine as an autonomous region in exchange Croatia could give the Dubrovnik region.

In reality this is not the case. In negotiations in Norway, Croatia has been signed - and the Zagreb government

Of course, this is a compromise to the republic lines and it is a compromise to the ma

* Carić, Marko. Razgovor s Pijancem Martić bez veštaka. *Slobodni Tjednik*, 15.

** Rumours go that Babunović of the Croatian press, Blažević, Davorka, Vrba, Slobodna Dalmacija, 2

*** As has been suggested in Prague (tajnog) spor

**** La situation dans l'ex-Yougoslavie. *Le Monde*, 9. 1

Weapons must be put under control, a mixed police force set up and refugees returned. The Croatian sovereignty over the Krajina has to be restored. It seems the UN has not the means to realize this.

— Is a new track possible?

The device of a new solution for the Krajina problem has to start from the observation that the Krajina Region is not homogeneous and that there are deep rivalries between the leaders of regions.

The leaders of West Slavonia Veljko Džakula and Dusan Ećimović were arrested because they were said to have held secret negotiations with Zagreb.

After the Gospić offensive Hadžić was accused of incompetence by the SDS of Knin. During the meeting of the Krajina Parliament in Beli Manastir, Minister of the Interior, Milan Martić from Knin and Goran Hadžić from Slavonia accused each other of corruption and incompetence.* Goran Hadžić and Slobodan Milošević (and Arkan) support each other. Earlier Milošević dropped Knin-politician Milan Babić.**

Martić seems now to collaborate again with Knin-mayor Milan Babić and is allied to Vojislav eLj. One division of the kind could be to divide the militant Knin region from West Slavonia with Banija and East Slavonia with Baranja***.

One can imagine that East and West Slavonia should be reintegrated in Croatia as autonomous regions and Knin should unite with the Bosnian Serbian republic. In exchange Croatia could get perhaps a part of Hercegovina and better integrate its Dubrovnik region.

In reality this is perhaps already happening.**** Following a round of secret negotiations in Norway at the beginning of November 1993, an armistice for East Croatia has been signed between the Krajina Serbs - Goran Hadžić was the negotiator - and the Zagreb government on November 4, 1993.

Of course, this approach gives up the division of former Yugoslavia along the republic lines and it partially recognizes the use of ethnic criteria. It only seeks a compromise to the main question cited in the beginning of this paragraph.

* Carić, Marko. Razgovor sa zlikovcem Goran Hadžić. Pijanac Martić bez veze trabunja. Slobodni Tjednik, 15. 10. 93, p. 27-28.

** Rumours go that Babić will return, even supported by Milošević. So far this is pure bespeculation of the Croatian press. Blažević, Davorka. Vraća li to Sloba Babić? Slobodna Dalmacija, 20. 10. 93, p. 2.

*** As has been suggested by a comment in a German radio program. Njemačka: Zagreb i Beograd na pragu (tajnog) sporazuma o UNPA? 'Krajina' iz tri dijela. Vjesnik, 19. 10. 1993, p. 8.

**** La situation dans l'ex-Yougoslavie. Des combattants serbes bosniaques ont retenu trois 'casques bleus'. Le Monde, 9. 11. 1993, p. 8.

ANNEX DATA ON ACTORS AND STAKES

ARKAN. Zeljko Ražnjatović (Arkan) is the leader of a Serbian paramilitary formation. With his 'tigers' Arkan fought and killed as a wild cat in Eastern Slavonia. He contributed to the ethnic cleansing of the region and the affirmation of the New Serbian Republic. Arkans tigers still occupy positions in the front line of East Slavonia and they also function as the personal guard of the president of the Serbian Republic of Krajina, Goran Hadžić. During an internal rebellion of the Serbs in the village Mirkovci just before the commemoration of two years of Serb rule on July 22, 1993, Milan Martić, Minister of the Interior of the Serbian Republic of Krajina threatened to call in Arkan and his troops to crush the local revolt. Arkan indeed appeared on the second anniversary of the Serb occupation of Mirkovci, but peace had already been restored. In the beginning of October 1993, the gang of Arkan escorted the president Goran Hadžić into the Baranja (q.v.) and provoked an incident with Belgian Blue Helmets.

BABIĆ, MILAN Mayor of Knin. Former member of the communist party and delegate at the Fourteenth Congress of the League of Communists in 1991. After the collapse of the communist party, he joined the Serbian Democratic Party (SDS). Assisting Jovan Rasković (q.v.), he became the second political leader in rank in Knin. He transformed the resistance movement into a well-armed and highly motivated militia. He organized the referendum on political autonomy of the Knin region during August-September 1990, and defended the town with Milan Martić and Lazar Macura against the Croatian militia. In doing so, he got the assistance of the Yugoslav Army. He became president of the self-proclaimed parliament of the Republic of the Krajina. He clashed with Milošević later on, when Beograd seemed to retreat under pressure of the international community and refused (or at least postponed) a union with the Krajina. Babić refused to accept the Vance plan and was not eager to receive the troops of the UNPROFOR (q.v.) in the Krajina. Consequently, the parliament of the Republic of Krajina dismissed Babić as its president during its second session in Glina in favor of Milan Paspalj.

BANAC, IVO (1947 -). Born in Dubrovnik. Professor of history at Yale University. Editor of the journal East European Politics and Societies. He got a prize for his study of the nationality question in Yugoslavia. In the autumn of 1993, he wrote with five other Croatian intellectuals in the journal Erasmus an open letter to president Tudjman. They criticized his policy and asked him to resign.

DEGORICIA, SLAVKO (1931 -). Born at Kompolje near Otočac. Participated in the Croatian Spring (q.v.) and was removed from political functions. In 1991, he became member of parliament and president of the Council of Communities. He takes high functions in the HDZ and becomes minister of the Economic Reconstruction (1991 - 1992). He is reelected member of the House of Representatives. He is appointed by the Croatian Government to lead the negotiations with the insurgent Serbs of the Krajina.

GOTOVAC, VLADO (1930 -). Intellectual and writer. During the Croatian Spring, he was editor of Hrvatski Tjednik, the influential weekly of the Matica

Hrvatska. He was jailed from 1971 to 1975 and given two years of publication.

During the Tsentatives for the H intellectuals an oper him to resign.

HADŽIĆ, GORAN Vinkovci (q.v.). He organized the refere Republic in Bosnia. conspiracy against not prevent him from once left when he was officially recognized leaders because he was vna. At the beginning paper Borba that th with Croatia, even i constitutive people

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OWEN-STOL mediators Robert Ov the Vance-Owen plan referendum. The Owe along ethnic lines. T Connections of strate; in principal guarante stration. The new com

Hrvatska. He was sentenced on the charge of being 'nationalist and separatist' and jailed from 1971 to 1974. Because of persistent contact with western emigrant circles and interviews to western reporters, Gotovac was sentenced again on June 5, 1981, and given two years of prison and four years of denial of the right to public activity or publication.

During the Tudjman regime he was elected member of the House of Representatives for the HSLS (q.v.). In the autumn of 1993, he wrote with five other Croatian intellectuals an open letter to president Tudjman. They criticized his policy and asked him to resign.

HADŽIĆ, GORAN. Serb leader of East Slavonia. He was born in Pacetin near Vinkovci (q.v.). He became president of the Republika Srpska Krajina (RSK, q.v.). He organized the referendum on the union of the Republic of Krajina with the Serbian Republic in Bosnia. He was accused by the Croatian authorities of subversion and conspiracy against the territorial integrity and safety of the Croatian state. This did not prevent him from negotiating with the Croatian authorities in Geneva, though he once left when he was not treated with the honours reserved for the president of an officially recognized state. He was supported by Milošević against other Krajina leaders because he was inclined to accept the Vance-Owen plan for Bosnia-Herzegovina. At the beginning of September 1993, he declared in an interview to the Belgrade paper Borba that the Serbs in Croatia could not accept any longer a confederation with Croatia, even if the constitution was changed and the Serbs were declared a constitutive people of the Croatian nation.

After the Croatian Gospić offensive (q.v.) in September 1993, the SDS of Knin accused Hadžić of incompetence and asked for his dismissal. Nevertheless, he took part on behalf of the Krajina in the secret negotiations with Zagreb in Oslo at the beginning of November 1993.

MARTIĆ, MILAN. Minister of the Interior of the Serbian Republic of Krajina and head of the militia in Knin, most militant stronghold of the Krajina.

NOVAK, SLOBODAN PROSPEROV (1951 -). Born in Belgrade. Prof. of Croatian literature at Zagreb University. As president of PEN-Croatia, he organised a meeting of PEN-International in Dubrovnik that had just been devastated by the war.

In the autumn of 1993, he was criticized by the highest Croatian authorities for his independent and critical interviews on the situation in Croatia that he presented during an introductory speech to a Croatian cultural manifestation in Germany.

OWEN-STOLTENBERG PLAN. Global plan for Bosnia-Herzegovina of the mediators Robert Owen and David Stoltenberg. This plan was the next in line after the Vance-Owen plan, when the latter had been rejected by the Bosnian Serbs in a referendum. The Owen-Stoltenberg plan is based on a division of Bosnia-Herzegovina along ethnic lines. The three constitutional peoples each get their own republic. Connections of strategical importance between dispersed areas or towards the sea are in principal guaranteed. Sarajevo will be under UN- and Mostar under EC-administration. The new compromise took for granted the reality of the Serb territorial gains

during the Bosnian war. The plan grants Serbs 52% of the territory, the Croats 17% and the Bosnians the remainder.

The recognition of the principle of ethnic division and the manifest acceptance of the military fait accompli could have adverse implications for the solution of the Serb problem in Croatia. Tudjman found it necessary to reject publicly such line of thought. He was nevertheless thought to agree with the ethnic division of Bosnia-Herzegovina under influence of the Hercegovian lobby in his government, led by Minister of Defence Gojko Šušak.

RSK, Republika Srpska Krajina -The Serbian Republic of Krajina. The statehood was symbolized by the opening of an own frontier passage with Hungary at Knežev. The President of the Republic is Goran Hadžić (q.v.), its Prime Minister Djordje Bjegović and its Minister of Foreign Affairs is Slobodan Jarčević. All three defend the independence of the Serbian Republic of Krajina and the secession from Croatia. A fusion with the Serbian Republic (SR) of Bosnia has been approved of in a referendum, but the realization of this plan has been postponed under pressure of Belgrade.

The device of a new solution for the Krajina problem has to start from the observation that the Krajina Region is not homogeneous and that there are deep rivalries between the leaders of regions. The leaders of West Slavonia Veljko Džakula and Dušan Ećimović were arrested because they were said to have held secret negotiations with Zagreb. After the Gospić offensive, Hadžić was accused of incompetence by the SDS of Knin. During the meeting of the Krajina parliament in Beli Manastir, Minister of the Interior Milan Martić from Knin and Goran Hadžić from Slavonia accused each other of corruption and incompetence. Goran Hadžić and Slobodan Milošević (and Arkan) support each other. Earlier Milošević dropped Knin-politician Milan Babić. Milan Martić seems to collaborate again for the time being with Knin-mayor Milan Babić and is allied to Vojislav Šešelj. One division of the kind could be to divide the militant Knin region from West Slavonia with Banija and East Slavonia with Baranja. One can imagine that East and West Slavonia should be reintegrated in Croatia as autonomous regions and Knin should unite with the Bosnian Serbian republic. In exchange, Croatia could get perhaps a part of Hercegovina and better integrate its Dubrovnik region. In reality, this is perhaps already happening. Following a round of secret negotiations in Norway 1993, an armistice for East Croatia has been signed between the Krajina Serbs -Goran Hadžić was the negotiator - and the Zagreb government on November 4, 1993.

ŠARINIĆ, HRVOJE (1935 -). Prime minister of the uniform HDZ government formed after the elections of 1992. Its first government session took place on August 13, 1992. Adviser to the President and Director of the Bureau of National Security. He was said to lead secret negotiations with the Krajina Serbs in Norway at the end of October 1993. At the same time, he brought Marko Marković, journalist of 'Slobodni Tjednik', before the court on the accusation of diffamation.

ŠEŠELJ, VOJISLAV. Born in Eastern Hercegovina. He was sociologist and dissident under the communist regime. In the postcommunist period, he became the leader of the Serbian Radical Party (Srpska Radikalna Stranka -SRS). He considered

himself to be the hero of World War II. Šešelj's Radical Party started before the off war. It started with provocations in Vukovar and then in the party of Šešelj grew into a Serbian president's support groups. In the autumn of 1991, Milošević, who in turn was accused of crimes. Milenko Petrović, a village in East Serbia.

SRPSKE OBLASTI. The area conquered from Croatia was placed under UN administration. It has its parliament in Knin. Ećimović and Mladen Markač are the authorities and since September 1993 (q.v.) the arrest of the three was well and asked the government suggested to the government. Raska. Raska is the

TUDJMAN, FRANKO. Croatia. He joined the army in 1945. After the war, he worked in the Yugoslav People's Army. History of the Labour Movement in the history at the University of the Socialist Republic of Croatia. Board of the Matica. He was sentenced to two years in prison. He got three years in prison in February 20, 1981. In 1981 he was one of the members of the Union (HDZ) and elected in which Tudjman was elected him in 1990 to the opposition to organize for a second term by elected on the HDZ.

VANCE PLAN. To define a solution to the Protection Force (UN) to restore previous living conditions and integration of the territory.

himself to be the heir of Draža Mihailović, the Serbian četnik leader during World War II. Šešelj's Radical Party established a paramilitary branch. In the spring of 1991, even before the official proclamation of independence of Croatia, Šešelj's militia started with provocative actions in Croatia. During the war, they were fighting in Vukovar and then dispersed themselves over all regions disputed by the Serbs. The party of Šešelj grew into the greatest opposition and second party in Serbia. The Serbian president Slobodan Milošević more than tolerate the activities of the Šešelj groups. In the autumn of 1993, Šešelj withdrew his support to the government of Milošević, who in turn arrested several members of Šešelj's militia on charge of war crimes. Milenko Petrić and his gang were accused of murder of four Croats near Šid, a village in East Srem.

SRPSKE OBLASTI ZAPADNE SLAVONIJE. A part of West Slavonija was conquered from Croatia by the Serbs in the war of 1991. In the beginning of 1992, it was placed under UNPROFOR as Sector West. The Serbian Krajina of West Slavonia has its parliament in Okučani. Its leaders were the Serbs Veljko Džakula, Dusan Ećimović and Mladen Kulic. They participated in the peace talks with the Croatian authorities and concluded the Daruvar agreement. After the Gospić offensive during September 1993 (q.v.), the hard-liners of the SDS party of Knin asked the dismissal and arrest of the three leaders. The parliament of Okučani hardened its position as well and asked the removal of UNPROFOR control posts in West Slavonia. It suggested to the government in Knin to assume a new name: 'Zapadna Raska' or West Raska. Raska is the name for old Serbia.

TUDJMAN, FRANJO (1922 -). Historian and first President of independent Croatia. He joined the communist resistance in 1941 and became a partisan general. After the war, he worked in the Ministry of National Defence and the Headquarters of the Yugoslav People's Army (1945 - 1961). He was director of the Institute for the History of the Labour Movement of Croatia (1961 - 1967) and associate professor of history at the University of Zagreb (1963 - 1967). He was member of Parliament of the Socialist Republic of Croatia (1965 - 1969). He was a member of the Managing Board of the Matica Hrvatska. For his role in the Croatian Spring (q.v.), he was sentenced to two years of prison on October 12, 1972. Acting as a persistent dissident, he got three years more of imprisonment and five years ban on public activity on February 20, 1981. In 1989, at the beginning of the collapse of the communist regime, he was one of the most important founding members of the Croatian Democratic Union (HDZ) and elected president of the HDZ. The party won the first free elections in which Tudjman was chosen Member of Parliament. The majority of the sabor elected him in 1990 to be the first president of Croatia and neglected the claims of the opposition to organize direct presidential elections. His mandate has been prolonged for a second term by direct presidential elections. In the autumn of 1993, he has been elected on the HDZ convention for a second term as president of the HDZ.

VANCE PLAN. The Vance plan, agreed to by Belgrade and Zagreb, tries to define a solution to the problem of the Serb revolt in Croatia. A United Nations Protection Force (UNPROFOR) is installed to prevent further armed clashes and to restore previous living conditions. Zagreb sees as the ultimate goal of the plan the integration of the territories in Croatia, while Serbs seem to use the plan as a vehicle

to obtain autonomy in the long run. There are several sectors (UNPA-Regions). Dependent on the number, force and organisation of the Serbs, the outcome could be different for the various regions. It also closely depends on the attitude of the Serbs in Bosnia. The Krajina was surrounded in the South by a pink zone (q.v.) near Zadar. On January 22, 1993, the Croatian army started here a four-day offensive to liberate the Maslenica region. The government wished to restore the connection between the north of Croatia and hitherto isolated Dalmatia. A new UNPROFOR agreement for the Maslenica area was signed by Zagreb and the representatives of the Krajina Serbs. However, on occasion, President Tudjman threatened to use force again, if the full integrity of the Croatian territory should not be restored at the end of a new six-month UNPROFOR mandate. But already in the beginning of September 1993, continued shelling by the Serbs of the Maslenica bridge and the Gospić area led to a new offensive. The Tudjman army took three villages near Gospić and the Krajina Serbs began shelling more intensively Tudjman's Croatia, including a suburb of Zagreb.

VANCE-OWEN PLAN. Proposal first presented by Cyrus Vance and David Owen in October 1992 as a basic solution to the Bosnian problem. This Bosnian-Herzegovinian state should not depart from the principle of central government, but the plan simultaneously respects the existence of the three ethnic communities, though dividing the country in ten provinces. Each nationality gets three regions and Sarajevo will be common area. The Croatian sphere contains the larger part of Hercegovina and a province in the north, adjacent to Croatia. It was no surprise that the Croatian Bosnian leader Mate Boban signed the plan as first party on January 4, 1993. After some time, the Muslims accepted the plan under international pressure. Even the Bosnian Serb leader Karadic gave his accord conditionally, but ultimately the Bosnian Serbs rejected the plan in a referendum.

A threat of military intervention by President Clinton was not really supported by the European powers. A new, weaker, program of action seemed to respect more closely the actual military and strategic situation. The Vance-Owen plan was dropped, or at least significantly altered. New negotiations lead to a proposal that accepts the actual division into three ethnic regions bound by a loose confederate union.

VOLLEBAEK, KNUT. Norwegian diplomat and assistant of the co-president of the Internal Peace Conference at Geneva. He is a negotiator in the peace talks between Krajina Serbs and Croats. He obtained the signing of the 'Erdutski Sporazum'.

Following a next round of secret negotiations in Norway in the beginning of November 1993, an armistice for East Croatia has been agreed between the Krajina Serbs and the Zagreb government.

January 22, 1993

September 9, 1993
Gospić after continued shelling

October 4, 1993
UNPROFOR mandate for New Yugoslavia is problem.

October 7, 1993
policy and cruelties

October 8, 1993
the help of NATO on

October 15-16

November 1-2
Serbs are broken off

The Truth

Gottfried Nien
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fighting for the Defense
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unity-processes" based
FRG; in this way of h

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German "Profanity-p
KRET" 3/1988) and h
the "Bunte Liste" dur
engagement led to a
publication of Dedijer
in German.

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CHRONOLOGY

January 22, 1993 — Beginning of the Maslenica Offensive.

September 9, 1993 — The Croats take three villages from the Krajina Serbs near Gospić after continued shelling of the town Gospić.

October 4, 1993 — Resolution 871 of the UN Security Council extends the UNPROFOR mandate in Croatia with six months. The lifting of sanctions towards New Yugoslavia is linked to a cooperative attitude of Belgrade in the Croatian problem.

October 7, 1993 — UNPROFOR accuses the Croatian Army of scorched earth policy and cruelties during the offensive in Medak.

October 8, 1993 — Tudjman presents his new proposals to resolve the crisis with the help of NATO on occasion of the Conference of the Council of Europe in Vienna.

October 15-16, 1993 — Second Convention of the HDZ.

November 1-2, 1993 — Secret negotiations in Oslo between Zagreb and Krajina Serbs are broken off without result.

The True Background of the Yugoslavian Civil War

Mr. Gottfried Niemietz

Gottfried Niemietz is a lawyer in Freiburg. As local councillor of the "Bunte Liste Freiburg" he became well-known because of his consequent and dauntless fighting for the Defence of Democratic Rights. During the last years Mr. Niemietz represented a lot of accused Atheists and opponents of the Church in many "Profanity-processes" based on the medieval par. 166 StGB, which were carried out in the FRG; in this way of he became the most famous defender in these cases.

Furthermore he contributed decisively to the publicity and protest which the German "Profanity-processes" worldwide gained, with publications (i.e. in "KON-KRET" 3/1988) and lectures, domestic and abroad. (In 1985 he spoke as a delegate of the "Bunte Liste" during the World Congress of Atheists at Vijayavada, India). This engagement led to a close cooperation with Professor Dedijer, and also to the publication of Dedijer's book "Jasenovac, the Yugoslavian Auschwitz and the Vatican" in German.

Ladies and Gentlemen, dear friends,

I am glad that here and today I am given the opportunity to present my views about the causes of the Yugoslavian civil war to you. I particularly appreciate that by this symposium an attempt is being made to create an antipublicity against the tribunal

against rest-Yugoslavia, which will be staged in The Hague in a few days. In regard of the drumfire of propaganda mainly run by US-Germany against Yugoslavia, and particularly against Serbia, this symposium is an - even if small - possibility to disturb a little the stage play that has to be expected, and which, under the guise of judicial independence, will certainly continue and consolidate the slanderous attacks carried on up to now; the verdict, so to speak, has already been fixed. This is why I hope that the press of this country, with its much more democratic tradition than my home country, will report extensively and objectively about the course of the debates taking place and the views being uttered here.

'We shall force rest-Yugoslavia to its knees.' This declaration of war, for this threat cannot be called anything else, does not come from Franjo Tudjman, but from the Great West German Foreign Minister Kinkel, whose idea, by the way, the Hague tribunal was, which - contrary to now - would certainly have had its justification for the condemnation of the American war crimes during the Vietnam War or at many other occasions. Significantly, however, such a demand was not made by anyone, neither by Mr. Kinkel nor by any other of our Model-Germany Democrats. Yet this would have become them quite well, if they were serious about all their humanity and democracy speeches, particularly in regard of the war crimes committed on their own doorstep, the authors of which, on the contrary, came to hold high offices in postwar Germany, up to the position of Federal Chancellor. Or expressed metaphorically: Should Idi Amin or Baby Doc brand some violation of human rights by some neighbour tribe at the International Court of Human Rights, it would have the same credibility as the initiative of Kinkel.

And the German Minister of War - the officially used term 'Minister of Defence' only serves to conceal the true purpose of this ministry, for I ask you what is there to defend? Germany is not being attacked by Yugoslavia after all - and the German Minister of War R  he now demands that German soldiers as well may play a little Rambo in Yugoslavia.

These statements of German politicians show how fast the wheel of history is presently turning; for about two years ago Kinkel's predecessor, Foreign Minister Genscher, still felt obliged to exercise restraint, at least verbally. 'But we can not march German soldiers into Yugoslavia, as long as people are living there who still remember the fascist occupation force', were his words then. They build on the forgetting, on the short memory of the people, on which the perversion of history prospers excellently and thus makes any dirty trick possible. All the more important it is to work against this collective forgetting and the conspiracy of silence, by building up an antipublicity and naming the facts.

Already in December 1991, we, that is the Bund gegen Anpassung (Alliance against Conformity), a small and meanwhile probably the sole opposition in Germany, have published a leaflet in which we presented our position on the Yugoslavian civil war. This leaflet, by the way, has been reprinted in our periodical KETZERBRIEFE (Heretical Letters), no. 29, of which I have some copies with me. This issue also contains extensive evidence of the German interference on the side of Croatia, which we, that is Dr. Peter Priskil and I, had the opportunity to collect and investigate on the spot, so to say, during a visit in Belgrade in January 1992 at the invitation of the

Serbian government
our point of view on

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Serbian government. In the following I should like to briefly present my, respectively our, point of view on the causes of the civil war.

Starting point of the conflict was the violent secession of Slovenia and Croatia from the multi-people's state of Yugoslavia. After the death of Tito, whose unquestionable merit it was to free the country from the fascists, and later even from the tutelage of Stalin, and to unite it, it slowly disintegrated into its components. The driving force besides Slovenia was most of all catholic Croatia, once again gravitating towards the 'West', that is US-German Europe. In this it was supported not only by the Vatican, which immediately came up with 4 billion dollars, which after all is equivalent to one quarter of the entire foreign debts of entire former Yugoslavia, but in the front line also by the Germans, propagandistically as well as military. Besides the Vatican, the Germans were even the first ones to diplomatically acknowledge Slovenia and Croatia and thus were the pathbreaking model for the other European countries, as already 20 years earlier in the case of the politically motivated Berufsverbote. Just as it had been Pius XII and Hitler a little more than fifty years ago to demolish Yugoslavia, it now have been Wojtyla and all German parties represented in Parliament. The names have changed, the constellation has remained the same.

Disregarding the fact that there is only one who benefits from this particularism, namely the Romans of the 20th century, that is the Americans, it now should have been the time to carry out a divorce after the 'marriage of convenience'. Now, however, the fact took its toll that Tito, in order not to endanger the national reconciliation of his torn country by new, pedantic quarrels and probably also, to make a later breaking apart more difficult, kept the inherited and utterly unjust borders of his united countries and just played them down as 'administrational borders'. That made it much easier for Slovenia and Croatia to separate 'their' countries from Yugoslavia cartographically, simply by declaring the former internal borders to external boundaries, even if this lacked any legal as well as moral justification. For it will be evident to anyone, and certainly is also illegal according to any European civil law, if one of the divorced parties claims the house as well as any valuables it contains for himself, for the only reason that at the beginning of the differences he by coincidence is staying there, while the other one has temporarily moved out. Therefore it is more than justified if rest-Yugoslavia resists such an unjust distribution.

Yet there is another reason to refuse approval of the 'determination' of this border: the experiences from the second World War. It is not without reason that all history text books withhold the fact that during the second World War, in the so-called Independent State of Croatia, approximately 800.000 orthodox Serbs, Jews as well as Sinti and Roma, have been brutally murdered under the leadership of Pavelić, the leader of the Ustashi, who had been installed by the Nazis. This genocide, by the way, is not concealed because of the participation of the German Nazis, but because of the ringleader role of the Catholic Church who seized the opportunity to do away with the unloved competition, i.e. orthodoxy, which since the schism had been a thorn in its flesh that needed to be removed, and thus to bring about, so to speak, the Endlösung, the final solution for orthodoxy.

Now the result of this illegal determination of borders by Croatia was that by the witkeeping up of the old Croatian borders, which had been the outcome of the

partial preference of catholic Croatia as former part of Austria-Hungary versus the 'schismatic' Serbia, in the first place large parts of Serbian territory were annexed by Croatia, particularly the Krajina, and in the second place Serbia was cut off from the sea - the latter explains Serbia's fight for Dubrovnik. Because of their historical experiences, the Serbs living in Croatia feared, that sooner or later they would suffer the same destiny as 50 years before in the Independent State of Croatia.

This fear is by no means unfounded. In his book 'Bespuća povijesne zbiljnosti' ('Deviations from Historic Truth' / Irrwege der historischen Wahrheit), published in 1989, today's President of Croatia, Franjo Tudjman, justifies genocide as a 'natural phenomenon' which is 'not only allowed but recommended'. That this work is not merely a slip, but that Tudjman is dead serious about this, is proven by photographs of bestially slaughtered Serbian civilians which we saw during our visit to Belgrade in the Military Museum, and by the film that could be seen on the second channel of German television on September 4, 1991, showing mutilated Serbs tortured to death. Most significant of the character of the propaganda spread by nearly all mass media against rest-Yugoslavia is the fact that these Serbs were passed off as Croats assassinated by Serbs. The victims were flatly rendered criminals. Up to the present day, television and the whole press are refusing to correct this lie. On the other hand, a TV film was prohibited in which I disclosed this account to the German public as a falsification of history and named the factual criminals, that is Tudjman's 'Black Legions'. The reason given was: the film was harmful to young persons. As was only to be expected the German courts gave their placet to this measure of censorship; a fact that gives us a foretaste of The Hague.

The fears of the Serbs living in the Krajina apply to the same extent to those living in Bosnia-Herzegovina, of course. It goes without saying that of this matter not a single word is to be read in the world press. On the contrary the Serbs are presented as a bloodthirsty people, insatiable and aiming at the position of 'World Power on the Balkan' - and this comes straight from the horse's mouth, that is the I American world policeman and his European background singers. Just as it is nowhere to be read that the Kosovo originally was populated by Serbs, who were driven away during World War II by Mussolini and replaced by Muslims. Unfortunately Tito - and despite all his merits this has to be criticized - maintained this state of affairs instead of making this injustice undone. Particularly this last example, to which many others could be added - of which there is one, namely the supposed rape of more than 60.000 women, that I will put in a different light towards the end of my lecture - explains very well, why the mass media trample on the principle of the 'audiatur et altera pars'. Because if the victim of these unisonal slanderous attacks were given the right of a reply, the entire structure of lies would collapse like a house of cards.

As a solution of the conflict in the Yugoslavian civil war, we suggested already in the leaflet I mentioned before and which was spread all over the FRG in December 1991, that the problem of the Serbian/Croatian boundaries should be dealt with according to the model of the Polish/German frontier; for there is no reason whatsoever to treat the former Ustasha state any better regarding its eastern territories than the former Hitler state regarding its corresponding territories. Either a referendum on the future nationality is to be carried out in every district of the areas with le mixed

population, modelle is to be privileged r proceeding after W man/Polish frontier. of all. It reveals a lot they not only refuse demands of the Sert even with military in particularly the mid lack of basic food as And as the determin nian people could n being prepared: the

And so we co international laws, inner-Yugoslavian n however, after the ir USA do not miss an over the world. Whil existence of the Sov having withdrawn lai of an atomic counte and the breaking up anyone who does no claiming its indepen the ground - the exa deprive even the last plans of world suprei to understand this ol to notice in discussion completely wrong, w the services of the U Nations. Above all, / ambassador Warren : saying 'we know that Army', obviously am the organizers, but tl their US-American n One should, however to embrace the wron by the example of Y and again against all peaceful aims whatso surrender voluntarily

population, modelled on the proceeding after World War I, or the victim of genocide is to be privileged regarding the allotment of territory following the model of the proceeding after World War II, in analogy to the agreement on the present German/Polish frontier. Nobody will seriously doubt that this is the most justified solution of all. It reveals a lot about the US-German Europeans' love of peace and justice that they not only refuse to put this into practice, but also immediately answer the justified demands of the Serbs with the embargo, which equals a declaration of war, and now even with military intervention. Because of the embargo not only the entire economy, particularly the middle-class economy, has collapsed, but meanwhile there is also a lack of basic food as well as vital medicaments, which are almost impossible to get. And as the determination for self-defence of the Serbian as well as the Montenegrin people could not be broken in spite of this stranglehold, now the final blow is being prepared: the military intervention. From whom does violence come, after all?

And so we come to answer the question about the reasons for this breach of international laws, for this is exactly what the interference of foreign states into inner-Yugoslavian matters represents. At least since the Vietnam war, in any case, however, after the invasion of Grenada, everybody should have understood that the USA do not miss any chance to achieve their explicit goal: to attain the supremacy over the world. While they had to be somewhat cautious in the beginning, facing the existence of the Soviet Union, because - in spite of its decay and irrespective of its having withdrawn largely from the aims of its founder Lenin - it still involved the risk of an atomic counterblow, they got the green light after the fall of the Eastern bloc and the breaking up of the Soviet Union. Since that moment they are able to butcher anyone who does not surrender to them voluntarily - and they do so, too. Any state claiming its independence from under the US-American boot is mercilessly razed to the ground - the example of Iraq is proving this; and it is not the only one. This fact deprive even the last doubtful one of the possibility of is not taking notice of the US' plans of world supremacy. It is to be observed, however, that still many people refuse to understand this obvious matter, an attitude we unfortunately once and again had to notice in discussions we had during our stay in Belgrade. The UNO's role was judged completely wrong, which is already proven by the fact that Milošević himself asked for the services of the UN-troops in 1991, a singular event in the history of the United Nations. Above all, Americans were judged being pro-Serb, and the statement by US ambassador Warren Zimmermann published in the magazine 'Danas' in January 1992, saying 'we know that the Croats are victims of Serbian aggression and of the People's Army', obviously amazed those with whom we discussed. To them, the Germans were the organizers, but they did not notice that the Germans just did the dirty work for their US-American masters, though readily and with passion. I don't want to deny that. One should, however, be careful not to mistake the slave for the master, in order not to embrace the wrong person. What consequences result from such illusions is proven by the example of Yugoslavia. In Belgrade, we warned in numerous interviews once and again against allowing UN-troops to come into the country, for they have no peaceful aims whatsoever but will finally direct their guns against Serbia if it does not surrender voluntarily. Unfortunately, we were to be right.

Even if today the situation has become more difficult as a result of wrong judgements and subsequently missed chances, this must not be a reason to keep up any illusions or errors. To close one's eyes to reality has never been of any benefit. It is crucial to understand that the UNO is nothing but the USA's Sunday choir which wants to force Serbia to its knees because it refuses to become dependent from the Great-German bloc reinforced by the European Community, a bloc which itself is nothing but a little dog dancing to the Yankee tune. 'Divide et impera' was the Romans' maxim and it is the maxim of

the USA, too. A multitude of tiny minor states - even fighting each other - will never again be a danger to the world power USA. The USA know very well what power they owe to their alliance of states - which wages war to the knife against refractory ones. This is why they support any separatist movement - unless their allies are weakened by it - that is, they only support movements loyal to the USA: Of course, they hate a Kurdistan independent from fascist Turkey just as much as the Catholic Church hates the Orthodox Church or other rival religions. This is why they are supporting Croatia striving for an affiliation with US-Europe and are fighting rest-Yugoslavia which demands independence.

As the so-called independent tribunal of The Hague, initiated, as I mentioned already, by the author of the slogan 'we shall force rest-Yugoslavia to its knees', namely the German Foreign Minister Kinkel, is constituted of thoroughly baptized Christians, judges by the grace of the USA, it will condemn the accused, intending to bomb free the way for the military intervention out of Somalia-humanitarian reasons in case rest-Yugoslavia does not capitulate in the last minute to this absolute supremacy. Thus the last chapter, so to speak, of this part of history is to be 'written', after the path was cleared by an incredibly slanderous propaganda, the climax of which certainly are the supposed aff rape camps. By the latter anyone who was still practising solidarity with Serbia and Montenegro, should be scared away. In this case the principle was followed that the bigger a lie is, the more likely it will be believed - this idea of the cognitive dissonance reduction comes, by the way, from a German police psychologist and has proven very successful up to now in Germany - knowing, that some of the thrown dirt will stick. For some of that story has to be true, as the faithful and well-behaved subject reasons while munching his sausage, otherwise the media wouldn't report it. And the Greens and the feminists chimed in immediately of course, and, on large-scale posters, branded these atrocities supposedly committed more than 60.000 times. Anyway, anyone, before being intimidated by the massiveness of this slanderous propaganda, would immediately have thought that this - if only in regard of the number! - were absolutely impossible. And it is untrue indeed! As Arnold Sherman, whose book on the present civil war will be published by our publishing house soon, researched on the premises, there have man been about 450 cases of rape. The Serbian People's Army has immediately examined all of these cases, and without delay severely punished the culprits. After these lies as were spread internationally with a huge effort and had achieved the desired effect, it was not heard of again. Very much the same as just before the Gulf war, when the most incredible lies were spread to justify the bombing of Iraq - for example that Iraqi soldiers had murdered Kuwaiti babies, which, as one year later could be read in small newspaper notes, had been the invention of a US advertising

company, which had horror news. After on most people in the hammered into the brought to a stop, The Hague, by the independent Intern will do - then once into Yugoslavia, even who remember the anymore, but blue.

Today's sympathetic, hopeless, situation. works of 'Operation and it should at the last - freedom-loving known to all of you, the latter can only be

Joan Phillips in Balkans and Eastern three years, including publications as *Diver* and *Living Marxism* war in Yugoslavia, Jo She is the co-produ which was filmed on several international England, Germany, I She is currently rese

There is no such everyday language of is really no such thing

company, which had been paid 10 million dollars by Kuwait for the circulation of such horror news. After this propaganda, rigidly spread by a streamlined press, had worked on most people in the sense that now according to 'their own' opinion - read: the one hammered into their heads - this 'genocide' on the part of rest-Yugoslavia had to be brought to a stop, now the final act in this dirty play is put on stage: the tribunal at The Hague, by the verdict of which the bombing of Belgrade shall be sanctioned. If an independent International court declares Serbia and Montenegro guilty - and that it will do - then once again German soldiers - as well as others, of course - may march into Yugoslavia, even if, as Genscher put it, there are still people alive in that country who remember the fascist occupation force. Because today one doesn't dress brown anymore, but blue.

Today's symposium will certainly not change the present, admittedly rather hopeless, situation. In case it should, however, succeed in throwing a spanner into the works of 'Operation Barbarossa à la Orwell', it has in my opinion, fulfilled its purpose; and it should at the same time become the basis for the cooperation of - possibly the last - freedom-loving individuals and organizations. A great thinker in history well-known to all of you, once said 'We have nothing to lose but our chains'. To get rid of the latter can only be of advantage. Dignity, however, is irretrievable.

War Crimes — Myth and Reality

Joan Phillips

Joan Phillips is a freelance journalist, researcher and author, specialising in the Balkans and Eastern Europe. She has travelled extensively in the region over the past three years, including the war zones of Croatia and Bosnia. She has written articles for publications as diverse as The Times Educational Supplement, The Green Magazine and Living Marxism. Her critical documentary about British media coverage of the war in Yugoslavia, *Journalists at War*, was broadcast on Channel 4 on 24 August 1993. She is the co-producer and co-director of a video documentary, *The Hidden War*, which was filmed on location in Bosnia, Croatia and Serbia, and has been shown at several international film festivals. She has lectured and given many public talks in England, Germany, Holland, Italy and France about her experiences covering the War. She is currently researching material for a book on Yugoslavia.

WHAT IS A WAR CRIME ANYWAY?

There is no such thing as a war crime. The term has been accepted into the everyday language of international politics. Yet closer inspection suggests that there is really no such thing as a war crime. The notion of war crimes is an ideological

construction, used to brand as criminals those of whom the Western powers disapprove - and used, by implication, to boost the moral credentials of the West itself.

BARBARIANS AND GENTLEMEN

The assumption behind the war crimes discussion is that atrocities are committed by a few particularly evil men with a propensity to behave like barbarians. The implication of singling out war criminals in this way is that other combatants act like gentlemen during a war, play by the rules of cricket, and are guilty of nothing. In reality, war creates an environment in which everybody involved is brutalised. Atrocities are committed on all sides of every conflict, anybody can become capable of doing things which were unthinkable beforehand. The only distinction to be made is that some parties have a lot more power than others and a greater capacity to inflict atrocities.

WHEN IS A WAR CRIME NOT A WAR CRIME?

It's funny that nobody mentioned war crimes after the Gulf War, when the US-led allied forces killed perhaps 200,000 Iraqis. The public image of the 42-day bombing campaign in 1991 was one of hi-tech warfare, a robo war against military targets. The reality was a war of attrition waged against the entire Iraqi population. Western forces dropped 250,000 bombs. Only 22,000 of these were smart bombs (guided missiles). The bulk of the bombing was carried out by B52s flying at 40,000 feet. They have only one function in war: carpet bombing. On 13 February 1991, pilots sent a laser-guided missile down a ventilation shaft of a bomb shelter in Baghdad. At least 300 people, and possibly as many as 1600 were killed. The American and British forces used napalm. They used fuel air explosives: which create a gas cloud that blasts a shockwave over 50,000 square feet destroying everything in its path and suck the oxygen out of human lungs. They used 'daisy cutters': 15,000 lb bombs containing gelled slurry explosive. The Western forces also used some low tech killing methods. In the first two days of the ground offensive, the Americans employed tanks and earth movers to bury 1000s of Iraqi soldiers alive. Sand was piled into Iraqi trenches as armoured tanks poured machine gun fire into the ditches, making surrender impossible. According to General Anthony Moreno, 'what you saw was a bunch of buried trenches with peoples arms and things sticking out of them'. Moreno was never called a war criminal. Nor were the allied troops who turned the road to Basra, later known as the highway of death, into a human inferno. As Iraqi conscripts, Palestinian refugees and civilians fled from Kuwait city down the road to Basra they were slaughtered. The massacre was dubbed a 'turkey shoot' by US airmen: an estimated 25 000 were killed. are not called war crimes The strange thing is that massacres are not called war crimes when they are carried out by those with the most Power to commit atrocities - the forces of the USA, Britain or their allies.

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Since the Nazi trials at the end of the 2WW, there has been no mention of war crimes. Not when the Americans slaughtered an estimated 4m people during the war in Vietnam and Cambodia. Nor when the British conducted massacres while he putting down anti colonial rebellions in Kenya, Aden and Malaya. Nor when British paratroopers shot dead 14 Irish civilians on Bloody Sunday. Nor when the French tortured and killed Algerians who resisted their rule. Of course, there have been occasions in the past when US or British forces were accused of going too far. But the inquiries and commissions reluctantly set up in response have not been declared as grandiose international tribunals. And they have never suggested that the accused be considered war criminals. Indeed the common concern has been to play down the importance of these incidents and to let those responsible off as lightly as possible.

MY LAY

The modern American equivalent of Amritsar was probably the My Lai massacre of 1968, when US troops wiped out an entire Vietnamese village in four hours. The details of the massacre remained a US army secret for 18 months, until they were revealed by Pulitzer prize-winning journalist Seymour Hersh in the New York Times in November 1969. Lieutenant William Calley was then tried by the army's internal court martial - on charges of killing at least 109 'Oriental human beings', one of them 2 years old. In 1971, Calley was sentenced to life with hard labour. He appealed and the sentence was reduced to 20 years. He appealed again and it became 10 years. He appealed once more and was released in 1975. On the personal orders of president Richard Nixon, Calley served his sentence under 'house arrest', in his army apartment. He did not spend ONE DAY in prison.

A POLITICAL LABEL

Calley and many other Western commanders whose massacres well documented have never been considered war criminals or paraded in chains before the world. Yet unknown Serbian, Croatian and Muslim soldiers, with only a fraction of the destructive firepower at the disposal of the West, had already been found guilty of war crimes by the Western media before the tribunal was even set up. Clearly the category 'war crimes' has nothing to do with the numbers killed or the circumstances in which they died. It is a political label, invented by the western allies to be stuck on foreigners as they see fit. It is used to brand as criminals those of whom the western powers disapprove - and used, by implication, to boost the moral credentials of the west itself.

UN WAR CRIMES TRIBUNAL

This is the significance of the UN decision to set up a tribunal to investigate allegations of war crimes in Yugoslavia. It institutionalises the distinction between a morally superior west and the inferior peoples of the rest of the world. We should note

in passing that Western foreign policy emphasises this distinction at every possible opportunity. The assumption behind the West's war crimes initiative is that the source of violence and barbarism is to be found over there - in the East and the third world. By comparison, the great and the good over here are assumed to have clean hands, and be qualified to decide the fate of the guilty. What the war crimes discussion means is that some of the poorest and most powerless peoples on Earth are being blamed for causing war and oppression around the world - while the wealthy and powerful in the west are absolved of all guilt. 'They' are held responsible for the crimes: 'we' are responsible for meting out the punishment. In this way, the global scourge of war, for which the Western powers are primarily responsible, is twisted into an argument for the defence of their authority.

WHO'S TO BLAME FOR YUGOSLAVIA?

Yugoslavia is a perfect example of how this works. Everybody here is familiar with how the war is seen in the West. The predominant image on our TV screens is that of bestial Balkan murderers and good Western peacekeepers. It suggests that the problem in Yugoslavia is the bloodlust of the people who live there and the solution is a good dose of Western intervention. In fact this is an inversion of reality: the West is largely responsible for the problem in Yugoslavia, it cannot therefore have any solutions to offer. What we are seeing is a bloody civil war and awful atrocities but not because people in the Balkans are savages, but because once a certain dynamic is unleashed there is a tendency for things to get out of control. If you have seen your family butchered, there is a good chance that you might want revenge.

I would argue that the West is more to blame than the Yugoslavs for the death and destruction in the Balkans. For now I would simply make the point that the cynical and selfinterested intervention of competing Western powers started a full blown war in Yugoslavia and has kept it going since. ever since The Western powers have never had the interests of Yugoslavs, whether Croats, Muslims or Serbs at heart. They have intervened for their own ends, at the expense of all the peoples of the Balkans. All will pay a high price for thinking that the West would come to the rescue of anybody. The truth is that the West has created an almighty mess, but is of getting away with blaming the victims. What right have the powers which destroyed Yugoslavia - the USA, Germany, Britain, France - to pass judgement on the Yugoslavs? These governments should be pilloried for their role in carving up Yugoslavia: instead they are the ones doing this pillorying. Unless we expose the hypocrisy behind the very idea of a Western run war crimes tribunal, the Western powers, which have all got blood on their hands, will never be called to account for what they have done in the Balkans.

CONCLUSION

In 1982, when British troops recaptured the Falklands Islands from Argentina they were hailed as old-fashioned heroes who had gallantly 'yomped' their way to

victory. A decade later, netted, shot and murdered, appointed to investigate they will not end up in the hands of the British squaddies ne

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victory. A decade later, evidence has finally surfaced that British paratroopers bayoneted, shot and mutilated Argentine prisoners of war. Scotland Yard has been appointed to investigate. But even if the paras. were to be charged, we can be sure that they will not end up in the UN tribunal dock with the Serbs and the rest. Sir Nicholas Bonsor, a Tory, recently made clear that, regardless of the facts about the atrocities, British squaddies never, never, never shall be war criminals:

'I think it is an insult to them', he declared, 'to suggest that we committed war crimes'.

In other words, it is not necessarily a war crime to bayonet an unarmed prisoner and cut off his ears: all depends who is on either end of the bayonets.

The Disintegration of Yugoslavia within the Framework of the Balkan and Eastern Europe

Dr. Raymond Detrez

Dr. Raymond Detrez (Antwerp, 1948) is producer at Radio 3 of the BRTN and is teaching history of the Balkans at the Catholic University of Leuven.

He published, besides innumerable translations "Neighbours' Quarrel at the Balkan", "From Neighbours Quarrel to Civil War" and "Minority Problems in South-East Europe" (Utrecht, Netherlands, 1988). In a special number of the magazine "Restant" which appeared in 1992 the article: "Grigor Parličev - a Case Study in Balkan Nationalism".

"Nationalism is a political principle" which holds that the political and the national unit should be congruent (Gellner). The establishing of own national states has been the goal of all people of the Balkan since the beginning of the 19th century. One aspect of nationalism is irredentism: the aim to incorporate territories, inhabited by co-nationals, to the own national state. Irredentism still is a firm part of foreign policies of the Balkan states. Minorities are contrary to the idea of a national state. Besides, the presence of a minority can cause the danger of irredentic aggression by the neighbour-country. That is why there has often been tried to eliminate the minority or the minorities by assimilation, ethnic purges, "population exchanges" and this kind of things. "Nationalist sentiment is the feeling of anger aroused by the violation of the principle, or the feeling of satisfaction aroused by its fulfilment" (Gellner). Because the Balkan is an excellent example of a region with strongly mixed populations, all borders create minorities, every state has a problem with minorities and/or feels irredentic rancour or ambitions. The nationalistic ideal - congruence of nation and state - proves to be unattainable in this region. This permanent frustration could explain the intensity of nationalism at the Balkan.

After Worldwar 2 the traditional pattern of rivalries and alliances at the Balkan was disturbed by the arising of two ideological blocks and the accompanying military

alliances, the NATO and the Warsaw-pact. The existence of the two blocks had a stabilizing effect in the beginning. Quarrels within the respective blocks were kept under control to preserve the collective defensibility. The same thing happened with differences between countries, which were part of the several blocks, in order to avoid its escalation into a world war.

Balkan-countries that did not belong to either one of both blocks, Albania and Yugoslavia, took advantage of this status quo. To Yugoslavia it was an external factor, that furthered the cohesion between the different republics. After Worldwar 2 there was some improvement in the situation of minorities in the communist Balkan-countries. They got more collective cultural (sometimes also political) rights than they had before. On the other hand, individual civil rights of minorities and the majority were shrunk by the communist system. Minorities had the feeling of being suppressed "as a minority", while the majority thought herself to be a victim of the positive discrimination of the minority by the communist authorities. In the first years after Worldwar 2 every expression of nationalism was wrong. However, the obligate proletarian internationalism supplied as a matter of fact the justification for the ideological legitimacy of the suppression of the East European countries by the rule of the Soviet Union. Destalinisation made room for a substitute-nationalism; "patriotism", defined as "proud of the socialist native country". The collapse of the mobilizing power of the communist future-ideal made it necessary that a new source of social energy, called nationalism was made available. In the historical and political debate a synthesis was accomplished of Marxism and Nationalism, which presented the communist era as a culminating point of national history, thus legitimating the monopoly of power of the communist party. But not only the communist leaders, also opponents of the system took advantage of nationalistic arguments while they were fighting communism out of concern for the national values.

After the collapse of the communist system, a new situation arised in the Balkan countries. A parliamentary system with various parties was introduced. Economic reforms, that straightened the path for a free-market economy, led to social tensions. A strong polarisation arised between reformminded peoples and conservatives. The postwar international connections needed a revision.

As was to be expected, the disappearance of the blocks increased the chance of the outbreak of local disputes. The disintegration of Yugoslavia would have increased the tensions between both blocks too much during "the cold war" and would not have been tolerated. The situation of minorities changed radically. On one hand the maturity of minorities increased by the extension of individual civil rights, on the other hand their collective rights suffered more often. Minorities again have become the object of irredentic speculations. These developments have contributed to the internal instability of the former communist Balkan-countries and casted a cloud upon their mutual relationship. After the end of communism the former C. P. establishment was left only nationalism of the ideological twinspan marxism/nationalism. This appeared to be the proper way to maintain their former powerfull position electorally. The opposition, often "theoretically" fortified by nationalist former-dissidents, just as well took greedy advantage of the same means to gain power. At the end, minorities as well as majorities established nationalist parties. This all led to a nationalist electoral

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upbid, at which politicians demagogically anticipated on ancient guidges, traditional enemy-images, nationalist myths, and so on. It was almost impossible to democratic opposition-parties to gain any political influence without joining this national upbid. The nationalistic fundamentalism made any dialogue impossible.

The Constitution of 1974 gave the republics and autonomous regions in Yugoslavia such enormous competencies, that they, as Ramet convincingly stated, in some aspects worked as independent states in a loose federal connection, kept together by the Yugoslavian Communist Confederation. While every republic and every autonomous region in the federal government was looking after his own "national" interest, decisions concerning the common interest were taken by often changing coalitions. In the federal state the problem of congruency of nation and state could be solved in a much easier way than it would have been the case with completely independent states. The solution was an extremely complex political construction, where territorial, political and economic advantages and disadvantages would counterbalance each other for all people, nationalities and ethnic groups. The ambiguity of many partly solutions could only lead to serious problems in a situation of crises. The crises, that arised in the eighties, was caused by:

- the collapse of the communistic ideology and the political and moral authority of Yugoslav Communist League (YCL).

- the economic crises, that struck Yugoslavia heavily was asking great sacrifices of the richer northern republics Slovenia and Croatia, while the poor South (especially Kosovo) still felled wronged.

- the dispute over the energy with which the political and economic reformations had to be executed; Slovenia and Croatia had radical points of view, while the other republics were more conservative.

- the fundamental dispute over the future of the federation; Slovenia and Croatia pleaded for a loose federal connection; Serbia was an advocate of the fortifying of central power (the federal government).

Because of the character of the federal structures, these political and economic contrasts were "understood" in terms of ethnic and national contrasts.

At that point the nationalist demagogy of the political leaders played a decisive role. After the disintegration of the political and economic structure, Yugoslavia also broke up territorially. Concerning the new frontiers all involved parties took the principle of the congruency of nation and state as a starting point. Due to the fact that the frontiers between the different republics within the Yugoslavian federation were not the same as the ethnic frontiers, separation movements arose and irredentic wars broke out. Bosnia, only considered as a national state by the Muslim minority, will be ruined because of the separatism of the Serbian and Croation minorities and the Serbian and Croation irredentism. Because of the break up of Yugoslavia into independent states, the situation of various former-Yugoslav people is thoroughly changed. In former times all Yugoslavs were equal-judged civilians of a multi-national federal state, were no ethnic group was having a dominant position. The new states were national states, dominated by the national citizens and their minorities should be satisfied with the constitutional guarantee that their (minority) rights would be

respected. The nationalistic rhetoric of the new political leaders however was just little reassuring and promoted separatism.

The disintegration of Yugoslavia has sweeping consequences for the entire peninsula. The question Kosovo has not been solved yet and seems to be unsolvable without the involvement of Albania. The fate of the Albanian minority in Macedonia also highly depends on the developments in and around Kosovo. The question of

Macedonia is even more complex. Bulgaria and Serbia have irredentist claims on the entire territory and the independent republic of Albania, on the western part of it. At the same time, Bulgaria and in particular Greece are horrified for the irredentist claims of Macedonia on parts of their territory. Meanwhile the Albanian-Greek dispute on North-Epire/South-Albania has also become acute again. Especially the Macedonian question has led to the arise of a new pattern of virtual alliances - an asymmetric cross which has ousted the old symmetric "cross" (a vertical axle Bulgaria-Greece on a horizontal axle Yugoslavia-Turkey). The vertical axle is now formed by Serbia and Greece, who do not have controversial interests in Macedonia and prefer a weak Albania. The horizontal axle consists of (Bosnia)-Albania-Kosovo-Macedonia-Bulgaria-Turkey and is for the time being less solid.

The conflict in Yugoslavia also has evil aspects for Europe and the European institutions. The economic loss (caused by interrupted connecting roads, the boycott against Serbia, the costs of humanitarian help and the military presence, the relief of refugees) and the moral damage (the discord between the Twelve and between the E.C. and the U.S. regarding former Yugoslavia, the incompetence to solve the crises diplomatically or military, loss of prestige because of incompetence and lack of sticking to principles) are considerable. An unacceptable denouement of the Bosnian war for the Muslims would saddle Europe with a Palestinian or Kurdian problem of own workmanship and besides of own soil. Furthermore evokes the increasing rivalry between Greece and Turkey uneasiness. Turkey has normal to outstanding relationships with Greece's northern neighbour-countries Bulgaria, Albania and Macedonia and has revealed herself as military super power in the region. Greece felt threatened by the diplomatic, economic and military support of Turkey to Albania and Macedonia. In a conflict about Macedonia both NATO-n member-states would oppose each other. In that case other smouldering seats of fire (Cyprus, West-Thracia) could blaze up again. Also certain developments in Hungary and Italy, where right-winged parties insist on revision of the border-treaties concluded with Yugoslavia, give reason to concern. Finally, the nationalist fundamentalism at the Balkan should not be seen apart from the increasing nationalism and the growing ethnic intolerance in the whole of Europe.

As a kind of conclusion some crucial misjudgments made by the E.C. and the U.N. with respect to Yugoslavia could be considered. There was just little attention for the complex interdependency of the various elements within the Yugoslavian federal constitution and thus for the consequences of the recognition of Slovenia and in particular Croatia for the entire federation. As a result of systematic disinformation and wishful thinking the life chances of the republic of Bosnia have been grossly overestimated. The counterbalance between the three ethnic groups in Bosnia was determined by the political relationships between Serbs and Croats in the entire

federation; when disturbed and the federation or at least strategic and political ways to put an

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Literature:

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federation; when Croatia disjoined herself from the federation, this balance was disturbed and the fate of Bosnia was sealed. Only the keeping together of the federation or at least of Croatia, Bosnia and Serbia could have saved Bosnia. The strategic and political motivation behind the ethnic cleansing was not recognized, and thus ways to put an end to it were not considered.

But is Europe itself after Maastricht not also too much an alliance of national states and cannot offer another solution for ethnic problems in a convincing way but the foundation of new national states?

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Moral or Criminal Suit against the Destroyers of Yugoslavia?

Dr. Sima Mraović

By the break up of the international treaties, which guarantees a state - as a subject of international law - the territorial integrity as well as the sovereignty and noninterference in internal and external matters, Yugoslavia has been demolished by a criminal act, and her peoples are charged with a war and a genocidal blockade of all cultural, scientific, sport and economic relations with the international community.

Every moral conviction of all individuals and states, who were actively participating and supporting, thus causing the Yugoslavian tragedy and especially in cases where leading persons from international and cultural life are involved, is of unknown importance.

Inspired by the RUSSELL TRIBUNAL about the Vietnam war, I, myself am an advocate of an International moral suit about Yugoslavia, which, grounded on facts, will convict those involved in the destruction of Yugoslavia.

Nevertheless, noticing the extend of the human tragedy in former Yugoslavia as well as the immense consequences of the destruction of that country, only moral conviction of those involved in the crime of destroying Yugoslavia not followed by identification and subsequently, grounded on existing international laws, conviction and penalisation, this will not bring peace and will not return the lost territories to the people of former Yugoslavia. Not to mention the possibility to estimate a new territorial state with the support and agreement of the international community. Moral conviction will, in the end, only have little influence on the lifting of the destroying sanctions against the people of the Federal Republic of Yugoslavia.

The reestablishment of the undisputed and legitimate rights of the citizens of former Yugoslavia, especially of the Serbian majority, at a joined state and their return

in the international community is asking inevitable for our determination and solidarity as well as the mobilisation of our friends all over the world, requesting an international lawsuit to identify, convict and penalise the aggressors of the state of Yugoslavia.

The International Tribunal against warcrimes committed in the former Yugoslavia, which has been formed by the Security Council of the United Nations, can easily be seen as servicing the conviction of the Serbian people and will soon be starting. Knowing this, one should ask: is it possible and is it moral to use the decisions of that court for opposite purposes, namely the defense of the legitimate requests and interests of the peoples of former Yugoslavia, especially of the Serbian peoples?

In the continuation of my dissertation I would like to explain a thesis which proves that against the state of Yugoslavia has been committed aggression and thus a crime against peace and security of all mankind, and after that I will explain a few possible consequences in case this will be documented and proved to the International Tribunal.

According to resolution 177 from 1947 the General Assembly of the United Nations has formed a committee for international law which has the objective to define crimes of international character, accepted and added to the procedures of the Nuremberg Tribunal - such as crime against peace - separately.

In 1991 the committee accepted the draft: "Code for crime against peace and mankind", which defined b.o. in section 15 AGGRESSION and in section 17 INTERVENTION. Please allow me to quote them partly.

Section 15 paragraph 4 indicates that: "independent of the declaration of war, aggression is defined as"..., point (F): "The fact that, approved by a state her territories are made available to another state to enforce aggression against a third state. Point (G) indicates that: "The stationing of gangs and mercenaries by a state or in her name in another country to take part in a war conflict against another state must be qualified equal to aggression".

Section 17 defines intervention: "Intervention in inner or outer affairs is stated as; - the support or organisation of terroristic activities, financial support of such activities or the support by weapons to realise such activities thus damaging a state and deprive her of the right for sovereignty".

In accordance with section 15 and 17, our charge will be documented, that a crime against peace has been committed against the state of Yugoslavia. Also will this court, based on evidence and facts, establish if warcrimes, crime against mankind and genocide are committed in former Yugoslavia. Considering the specific nature of crimes of international character as is relevant in this case, we can distinguish two categories:

CAUSING CRIMES; as is crime against peace, and **RESULTING CRIMES** containing warcrimes, crime against mankind and genocide. In the case of the Yugoslavian tragedy it is clear that without the causing crime there would not have been resulting crimes.

The war conflict Yugoslavia did not yet recognized and criticized. Yugoslavia is more against warcrimes in world's opinion.

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In other words, crime will be ignored

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The conclusion of state of Yugoslavia has sovereignty a civil war follows:

1. All decisions of the administrative board voided.

2. By the identification of the former Yugoslav damages.

3. Citizens of the to live in a united state, and not according to the

4. The destroying subject of aggression will injustice sanctions will t

The warconflicts in former Yugoslavia are not yet finished. Those who destroyed Yugoslavia did not yet reach there goals. But, although the danger of escalating is well recognized and criticism at the powers intervening and harming the sovereignty of Yugoslavia is more often heard, the process of forming the International Tribunal against warcrimes in the former Yugoslavia is speed up to mislead once more the world's opinion.

The intention is clear: condemnation of the results and not the causes.

In other words, by the charge and conviction of the resulting crimes, the causing crime will be ignored or eased.

The Security Council of the United Nations already nominated the judge of the international court, already determined the category of the crimes to be condemned. Because of lacking information about the competencies, defined for the court, based on utterances until now, there is a justified doubt that the court will only investigate the resulting crimes. If this turns out to be the case, it will show the international community exactly the weakness of the court.

In the name of the initiative committee and the Serbian World Society, I submitted a appeal to the United Nations for an initiative of an international lawcourt about crime against peace which could be included in the International Tribunal against warcrimes committed in the former Yugoslavia.

If the Security Council will accept our request, it will not be difficult to prove that aggression against our state has occurred and thus a crime against peace has been committed.

If the Security Council and the International Tribunal refuse our request, they will disqualify themselves in front of the international community and their respect will be considerably affected.

What could contribute the conviction of the crime against peace to the national interests of the citizens of Yugoslavia and especially the Serbian peoples.

The conclusion of the international courtlaw based on proof that against the state of Yugoslavia has been committed aggression and that as result of harming her sovereignty a civil war has been caused, could in international law be handled as follows:

1. All decisions concerning the recognition of the secessionist territories within the administrative borders of former Yugoslavia and the sovereign state would be voided.

2. By the identification of aggressors and perpetrators of the civil war, citizens of the former Yugoslavia would earn the full right to request for compensation of war damages.

3. Citizens of the former Yugoslavia who, by referendum expressed their wish to live in a united state, will get the right to form their state according to their rules and not according the rules of foreign interests.

4. The destroying and genocidal sanctions against the state which has been subject of aggression will get invalid and those who implemented and imposed these injustice sanctions will be compelled to compensate the material and moral damage.

The aim of this dissertation is not to offer a possible solution to our tragedy. The aim is to point out just one way that could lead to our unification and the way of defending our national interests, which was not given enough attention until now. And even if we did so, we did not believe in it strong enough.

The International Tribunal against warcrimes committed in the former Yugoslavia which aim perhaps could be to humiliate and disunite us even more can also be used the other way around. It all depends on ourselves.

It can be the beginning of our respectable comeback within the international community.

A Letter to Minister President Ruud Lubbers of the Netherlands

sent by Jovan Grbić

Jovan Grbić was born in Belgrade, where he graduated in theory of music in 1962. After his graduation, he has been working several years in Western Europe as a freelance musician. Since 1971 he is lecturing theory of music and accompaniments at the Dancing Academy Brabant in the Netherlands.

From 1943 until the end of WWII, he joined the culture group of the 48th Division of Tito's Partizans, together with a lot of well known entertainers.

In may 1992 he becomes chairman of the Foundation 'Serbian Information and Culturecenter', to convince the media in the Netherlands of the truth concerning the Serbian case. He is also the delegate of SRNA, the Press Agenture of 'Srpska Republika', the Serbian republic in Bosnia.

On behalf of the Serbian Information and Culture Centre Foundation, I would like to ask you to use your political authority in the U.N. in order to cancel the economical sanctions against the Federal Republic of Yugoslavia (FRY).

The sanctions against the FRY were implemented because Serbia and Montenegro were considered as aggressors in Bosnia and Herzegowina. Many important politicians, such as President Clinton and Mr. Christopher, and many others, have admitted that there is a civil war in former Yugoslavia. In this civil war, Serbia nor Montenegro are formally involved.

The fact that Croatian troops are fighting on the Croatian-Bosnian side, did not lead to an embargo against Croatia.

It might be that other, international-political considerations are the basis for taking sanctions against FRY.

The following arguments plea in favour of cancelling the sanctions and the embargo against FRY.

— The fact that the embargo against FRY is strictly applied, and that, simultaneously the weapons' embargo against Bosnia-Herzegowina, Slovenia and Croatia are

not followed, is serious for the embargo again

— The civil war in the Slovenian and Croatian unconstitutional way moment that Western unrest in Bosnia-Herzegowina European Union - at agreed with the German

— The embargo against democratic changes. The will of the majority will serve the foreign interest

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— On the one hand and human rights, while to medicine, food and the FRY out of the Western contradictory nature of

— Restricting or with the right of free expression

— It is rather allowing humanitarian

— The embargo, with the UN declarative victims!

— The embargo, to cause as many victims consequence of malnutrition care anymore of their death cannot be provided to

— The embargo : there are Bosnian Muslim actions of the organisations are not able to provide

Finally, also some

The nature of the enslavement by foreign masters their nationality and people considered as heroic and increased foreign pressure increase the ethnic conflict

Also the selective initiatives, of which it can

not followed, is seriously damaging the trustworthiness of the publicly stated motives for the embargo against FRY, which resembles a medieval siege.

— The civil war is, partly, triggered by the West. The premature recognition of the Slovenian and Croatian States, who separated themselves from the FRY in an unconstitutional way, and especially the recognition of Bosnia-Herzegovina on a moment that Western politics had to know that its recognition would lead to ethnic unrest in Bosnia-Herzegovina have largely contributed to the actual situation. The European Union - at that time still the European Community - has benevolently agreed with the German attitude.

— The embargo against FRY interferes with internal democratic processes and democratic changes. This means an indirect interference with internal affairs. Against the will of the majority, one tries to bring these forces in power who predominantly will serve the foreign interests.

— The embargo against FRY is also a contradictory event.

— On the one hand, in Western politics there is a lot of talking about humanity and human rights, while on the other hand the application of the embargo with respect to medicine, food and fuel directly endangers human life. The 'excommunication' of the FRY out of the World Health Organization is perhaps the best illustration of the contradictory nature of the embargo.

— Restricting or making difficult the travel of FRY-citizens is in contradiction with the right of free expression of ideas and of persons.

— It is rather hypocrite to implement an embargo first, and subsequently allowing humanitarian aid, bit by bit.

— The embargo, which is primarily affecting children, stands in heavy contrast with the UN declaration about the child. Words protect children, deeds make them victims!

— The embargo, which is intended to reduce the number of war victims, seems to cause as many victims as the civil war itself: children, old aged persons die as a consequence of malnutrition; other persons commit suicide because they cannot take care anymore of their dearests, and are thereby socially humiliated; proper health care cannot be provided to the population.

— The embargo affects approximately 700.000 refugees in FRY among which there are Bosnian Muslims and Bosnian Croats. The embargo interferes with the actions of the organisations who try to help the many refugees. Serbia and Montenegro are not able to provide proper protection and shelter.

Finally, also some psychological considerations are worthwhile considering.

The nature of the people in this part of Europe is not of a kind that let themselves enslave by foreign masters, on the contrary. History shows many examples. In this time, their nationality and pride are seen as negative resources, while the same were considered as heroic and courageous during World War II. The embargo and the increased foreign pressure could have the opposite effect than the one intended! They increase the ethnic conflicts. They cause aversion for everything that is 'Western'

Also the selective actions of so-called "peace groups" and of other particular initiatives, of which it can be proven that they are not impartial, lead to higher tension

and to resistance rather than to constructive solutions. These activities are conceived of as foreign interferences with internal affairs.

An embargo is no solution, neither for the internal problems, nor for the civil war, and certainly not for the re-establishment of friendly relations with neighbouring countries, and with countries in the rest of the Western World.

For all these reasons, the Serbian Information and Culture Centre Foundation, pleads for cancelling the sanctions against the FRY. A first step, serving both a material and a symbolic function could be to release the embargo for humanitarian goods. This first step would also be understood by FRY as a kind of 'plea guilty' of urope, that under the pressure of Germany contributed to the escalation of the conflict in the Balkan.

Attempt to a Conclusion

A Letter of Prof. Sjef P. Teuns

I would like to take the title of this chapter by Milo Anstadt* during the first conference of the Balkan Forum, 12-14 November 1993, as a guide to adstruct my ideas about an 'Alternative Yugoslavia Tribunal', the consultation cie. mentioned.

Though, as a logical, philosophically thinking person, I can agree with Mr. Anstadt's thoughts, I would prefer to keep on my professional coat and as a physician - psychiatrist, psychoanalyst - jump to some temporary conclusions of this meeting. (A good physician, in making his diagnosis, never goes beyond an as-good-as-possible diagnosis; the treatment and further prognosis have to prove if his diagnostic hypothesis was correct.)

Once more following Milo Anstadt's 'At-tempt to a conclusion', I would, besides agreement with many of my theses, contradict him when he states that the beginning and end of the twentieth century are/were characterized by optimism. That may be true for a thin layer of bourgeoisie, but surely not for the majority of mankind. I would rather start from the pessimism of my teacher, Sigmund Freud, who said that the civilization, formed by mankind, is just a thin layer of (super)ego achievement, in the victory over the destructive tendencies of man and mankind (see a.o. *Das Unbehagen in der Kultur*. 1931). Based on a primarily pessimistic status quo, one can trust the constructive forces of men to use these in inventing therapeutic strategies, both towards the individual human being and towards society. As physicianwriter Albert Camus says in *La Peste*; combating the pest should be done both in a social sense, by constructing a better drainage, by which the plague of rats is repressed, and by discovering a vaccine, by which the individual pest sufferer can be healed. Proceeding from the pessimistic status quo of the state-capitalistic communism, like is the case now with many unsettled 'reds', but rather with the French on philosopher Jacques

* From his book 'Scheuren in de Heksenketel' (cracks in the mess), edition Contact, 1978.

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Derrida, who never called himself a Marxist, make up a balance and come to hopeful conclusions like he does in his book *Spectres de Marx* (Ed. Gallilée, 1993).

During the Psychoanalytic World Congress 26-30 September 1993 in Hamburg 'Children, War and Persecution' I promoted the idea of punishing my criminal colleagues, physicians and psychologists (the rats), who instead of helping the victims in the many war centres all over the world, put their medical and psychological knowhow at the service of the most inhuman terrorism, in the shadow of the war. After the example of Nazi Dr. Mengele, who started it in the KZ Auschwitz and continued until his death in the Latin American dictatorial states, where he trained his colleagues as medical torturers of political convicts. The war centres in this decade have proved to be also hot-beds of this kind of crimes-against-mankind for physicians and psychologists. Therefore we thought a Tribunal should be formed to unmask these professional traitors and, if possible, to prosecute them. On the other hand, mobile psycho-social teams should be formed that, behind medical aid like the Red Cross, Half Moon and Doctors without Borders, will assist these war victims so that it will not last for another 20 years, like after the second world war, before the Holocaust victims could and dared open their mouths to cry out their psychic pains (it was the Dutch psychiatrist-psychoanalyst Dr. Eddy de Wind who first did so in an article in the NRC).

In Hamburg, September 1993, the opinion took hold that, though such tribunals and mobile psycho-social help teams are needed all over the world, we, as Europeans, should better for the moment limit ourselves to our own continent*. Not only did we receive signs of sympathy, but several people, physicians, psychotherapists and lawyers from different countries are ready to take part in them. The idea is to organize this year an international preparing company and to have the tribunal take place in the second half of 1994.

I would like to move this message from the Hamburg Congress to this conference, being my first conclusion.

My second conclusion, or rather hypothesis is; that it would be a good thing for this European medical-juridical Tribunal against medical-psychological criminals to be connected to the 'Alternative Yugoslavia Tribunal' that is being formed.

My third hypothesis or conclusion is; especially so after reading 'the Anatomy of the Nuremberg Trial: a Personal Memoir' (Ed. Knopf, 1993), in which the author Telford Taylor, who 43 years ago was one of the judges to the Nuremberg Tribunal and who now comes to the conclusion that Neurenberg was a 'misjudgment', that the basis of a new Russell Tribunal should be to contend the UN the right to hold a Yugoslavia Tribunal.

If I understand the written and spoken word of this conference correctly, and especially the conversations in the hallways, that fortunately had ample occasion, then all Yugoslavians present want to get back to the situation when Yugoslavia was a state, inhabited by many peoples (like is the case with Switzerland and Belgium, but also

* Such psycho-social mobile teams were used in Argentina, during and after the military dictatorship in regions where the 'secret police' had had their 'trainingcamps' in killing and mutilating the civil population. On the initiative of Prof. Peter Ebigbo and Dr. Eugen Jungjohan presently there are mobile psycho-social teams working in Nigeria.

France, The Netherlands, etc.; the supra-ethnic and -religious varnish is in most countries only a very thin layer and therefore has to be protected with care). A second statement by most attendants with whom I spoke, is that the warmongers in Yugoslavia have to be sought among the Western politicians and media people. Without denying that also in Yugoslavia itself, beside medical-psychological criminals also many political and juridical and especially economical criminals are at work, or at least collaborating.

As a basis for a Russell Tribunal we should therefore take not primarily the accusation of war criminals, but the goal should be the protection of the common state of Yugoslavia. And in the second place the accusation and persecution of all those who knowingly and willingly, or just because of simplicity or docility, try to prevent that.

This leads to my fourth conclusion or hypothesis; In my opinion a Yugoslavia Tribunal should be held by the people of Yugoslavia themselves.

Of course they have the right to ask for support from the rest of the world, from the United Nations. And it is even good to do so and at least to invite observers from the UN and the Security Council, because the Yugoslavian Russell Tribunal can be an example and a catalyzer for the rest of the world. Not in the least for the post-colonial nations in the so-called Third World, where the destructive powers also come from the negative elements within those nations, but not less because of the collaboration with them from the former political and especially economical rulers. Post colonialism is even more skin deep than positive nationalism in First World countries.

But the direct logistic help for a Yugoslavian Russell Tribunal will not come from the UN, but from the sister and brother nations of the European continent itself. I now talk in sentimental family terms, and why not. And once more I will do so as a medical doctor, who most of the time is a family doctor, because in the family you have three or four generations together and the torch of civilization has to be passed more on a basis of the life time than of mathematical time of modern technology, to speak with the French philosopher Henri Bergson at the beginning of this century in his 'Les Temps Vécus'.

Nevertheless, especially modern doctors are now well aware of the terrible syndrome of 'Violence in the Family'. And now, to continue this family language to the European state family - the term state or nation is a European invention - the 20th century has not been a bad example to the rest of the world with its violence in the European family, with two world wars, with its many colonial and post colonial wars, with the centre of the cold war and now with its ethnic and religious wars, which not seldom are literally Wars-within-the-family. 1994 will become the International UN Year of the Family. Let us hope, or rather, let us try to bring freedom to one of the European members of our family, by helping Yugoslavia organize its Russell Tribunal for the restoration of its recent pre-war nation.

My sixth and last conclusion is that a Russell Tribunal can be of importance for a better understanding of the manifest and even more of the hidden symptoms of the Bosnian war and the Sarajevo tragedy. And not only with personal illnesses and tragedies can a better awareness of the manifest and underlying problems be the start

of recovery, but also can help solve them. Tribunal. A good co-ces and even tribu helpful. A Russell T the term 'closed doo closed minds of the i in 1976 my wife and of Guinee Bissau, to initiator of the confe not only invited the services. When this r asked me shyly - she what this conference her any further inform at the other side of t have quoted the phra: had been prohibited l socio- and psychoana: 'Lassen wir aus der Ki when, by the governn to paraphrase once m Yugoslavia, then this a universal culture ma

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of recovery, but also in the field of the world politics a better awareness of the conflict can help solve them. A better awareness can be, has to be, the result of a good Russell Tribunal. A good cooperation with a reliable media is therefore necessary. Conferences and even tribunals behind closed doors are therefore rather dangerous than helpful. A Russell Tribunal will therefore be at the same time a Socratic Forum. With the term 'closed doors' I do not mean only the doors of the courtrooms, but also the closed minds of the intellectual elite. Let me demonstrate this with an example. When in 1976 my wife and I were invited by the government of the then 2 year old republic of Guinea Bissau, to speak to the personnel of the only hospital in the country, the initiator of the conference, Dr. Manuel R. Boal, secretary general of social affairs, had not only invited the physicians, but all the personnel, even the kitchen and cleaning services. When this morning I was having a cup of coffee in the canteen, the waitress asked me shyly - she had been running around with cups of coffee for over an hour - what this conference was about. She had heard the word Balkan but nobody had given her any further information and between coffee breaks she had just been sitting around at the other side of the closed doors. In several discussions during this conference I have quoted the phrase of the Heidelberg SPK, 'Sozialistisch Patienten Kollektiv', that had been prohibited by the German government and for which the famous Hannover socio- and psychoanalyst professor Peter Bröckner had received a 'Berufs Verbot': 'Lassen wir aus der Krankheit eine Waffe machen'. Let us try and get back our speech, when, by the government or otherwise, we are forced to keep our mouth shut. And to paraphrase once more Milo Anstadt: If we manage to organise a good Tribunal in Yugoslavia, then this century may close with less pessimism than it started with. And a universal culture may come closer than ever by the end of this century.

I would like to close my contribution as a guest of this conference on 'Alternative Yugoslavia Tribunal' with some propositions.

1) To install a working cie. for the preparation of a Russell Tribunal in Yugoslavia in 1994. The seat of this working group can be Amsterdam.

2) To chose as a location for the Yugoslavia Tribunal the oldest post-war cultural educational centre of Europe: the European College in Bruges, founded in 1950 on the initiative of emeritus rector Prof. Hendrik Brugmans. The idea was born in the Nazi KZ Vught, during WW II, where Hendrik Brugmans was then imprisoned as a political victim. He and some of his co-prisoners then swore that they would devote the rest of their lives to the construction of a better Europe than before. And so they did and organised a.o. the European League, the European College in Bruges, the European university in Florence and the European Cultural Foundation (Geneva, Denis de Rougemont; office in Amsterdam).

From the very beginning, Yugoslavian scholars belonged to the post graduate promotion. In my promotion of 48 European scholars there were two Yugoslavians, one of whom just finished his further career as an Emeritus Professor at the Stanford University, Cal, USA.

I am quite sure that our promotion, named after the humanist Jean Vives (1951-'52) will be helpful from the very beginning in organizing this tribunal in Bruges or in Sarajevo. If Sarajevo does not have the necessary facilities for such a tribunal, Bruges would be a good location, not only because of the history of the European College, but also because of its closeness to Brussels, the capital of new Europe.

Already last year the then rector, Mr. Ambassador Werner Ungerer, offered all the facilities of the European College for such an event as a Russell Tribunal.

I am quite sure that the initial funds can be asked from the European Cultural Foundation. I am willing to try and build up the bridges with European funds.

The participants of the consultation for an 'ALTERNATIVE YUGOSLAVIA TRIBUNAL' accepted at 13.00h on the 14th of November 1993 in essence the following resolution about the UN sanctions against the Federal Republic of Yugoslavia:

We repeat our opposition to the UN sanctions and the resulting embargo against the Federal Republic of Yugoslavia, and REQUEST their IMMEDIATE, FULL and UNCONDITIONAL LIFTING.

This statement is based on the following evidence:

— The above mentioned sanctions are legally unfounded because they are based on LECTIVE GUILT. This is against all principals recognized by national and international legal practice.

Furthermore all UN legal documents state that the HUMAN RIGHTS are INDIVIDUAL, INDIVISIBLE^o and UNIVERSAL.

— By the UN Security Council Resolutions ALL HUMAN BEINGS living on the territory of the Federal Republic of Yugoslavia are PUNISHED, regardless of their age, sex, ethnic origin, health status, political opinion or religion only on the ground of their CITIZENSHIP or RESIDENCE, freely chosen or compulsory. So even 800,000 refugees are victims of these sanctions, 20% of them being Croats or Muslims.

— These sanctions were based on PRESUMPTIONS and NO VALID EVIDENCE had been produced.

— Basic human rights, such as: Life and decent existence, health defined by the WHO as physical, mental and social wellbeing, education, private property as far as the disposal of own goods and funds is concerned, are explicitly violated by the UN Security Council Resolutions.

— Additional criticism on the UN sanctions can also be formulated;

The Security Council has the charge and therefore the full responsibility of ensuring the application of both the restrictive part of the sanctions as of the exempted, such as humanitarian aid, as to guarantee that health and elementary needs of the concerned population should be fulfilled with required efficiency and impartiality.

All official and unofficial organisations busy with humanitarian help i.e. FRY, UNHCR, IRC, US Committee for Refugees, Church relief organisations and last but not least MĂdicins sans frontiĂres are unanimous; The UN Security Committee for Application of Sanctions is sole responsible, due to its incompetence and unwillingness, for the disastrous situation in FRY.

Numerous reports of independant observers, politicians, relief or medical missions are available today, confirming that the medical situation in the FRY is below all acceptable standards and far below the level before the sanctions.

— significant

— reappearance

— appearance

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as secondary pneum shock etc.

— reintroduction the lack of adequate

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— infective di insufficient hygiene.

Economic coll: extreme poverty. It is and had already there Council decision to f resources.

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- significant increase in mortality rate in all pathological conditions.
- reappearance of already eradicated diseases (TBC, Tetanos, Antrax, etc.)
- appearance of diseases due to malnutrition.
- increased mortality due to the operative shock - no adequate medication.
- secondary infections, post surgical or post partum, reaching African figures.
- complications due to unacceptable low room temperature - no heating, such as secondary pneumonia, exacerbation of chronic pulmonary diseases, circulatory shock etc.
- reintroducing of straight-waistjacket and electroshock in psychiatry due to the lack of adequate medicines.
- impossibility to control normally controllable diseases - diabetes, hypertension or other cardiovascular diseases.
- infective diseases become often epidemics - no adequate medication or insufficient hygiene.

Economic collapse and consequent unemployment brought jobless labour to extreme poverty. It is even worse with retired people. Even those who worked abroad and had already their retiring pension are no more paid because of the UN Security Council decision to freeze all money transfer. They are already 18 months without resources.

- suicide and homicide rates are increasing from day to day.

All observers are unanimous that the main, if not the sole cause is: the nature of the sanctions and certainly the wilfulness of the UN Security Council Committee for Application of the Sanctions.

The UN sanctions appear clearly not intended to prevent unauthorized actions p.e; prevention of supplying belligerents with weapons or war material, BUT TO PUNISH a HUGE GROUP OF HUMAN BEINGS NOT INVOLVED IN the CIVIL WAR IN BOSNIA and HERCEGOVINA.

Some other declarations of most important persons, decision makers as Warren Christoffer or Douglas Hurd who stated clearly that they intend to make the Serbs the pariah people of Europe, are supporting this statement, and are adding a possibility of legitimization of revenge.

These sanctions decided as a measure closely related to the civil war in Bosnia and Hercegovina, are now being used for political blackmailing.

Tendency of the US and the European Union to extend the validity and duration of the sanctions to the global peace settlement in ex-Yugoslavia and even internal political problems of the FRY is unprecedented, illegal and indecent.

The attitude and way of working of the UN Security Council Committee for application of sanctions, has already 18 months catastrophic consequences for the innocent civil population of the FRY.

Its wilfulness and criminal negligence and disrespect for human rights, made it guilty for crime against humanity.

The Consultationcommittee
'ALTERNATIVE YUGOSLAVIA-TRIBUNAL'
De Spinoza Academie voor vreedzame en leefbare wereldpolitiek
Balkan Forum

The participants of the consultation for an **ALTERNATIVE YUGOSLAVIA TRIBUNAL** accepted at 12.30h on the 14th of November 1993 in essence the following resolution about the International Tribunal for the crimes committed on the territory of Yugoslavia since January 1st 1991.

The International Tribunal for the crimes committed on the territory of Yugoslavia since January 1st 1991, is created by the UN Security Council as its **SUBSIDIARY ORGAN**, chapter VII of the UN charter, and therefore may not be considered as an Independent Court of Law. It looks much more as a political instrument.

Although the UN Council itself is involved in the civil war in Yugoslavia, it designated itself the Prosecutor and Judge, established the Statute of the Tribunal without precise rules of procedure, limited the competence of the Tribunal to the individuals only, and fixed arbitrarily a time limit of Januari 1st 1991.

Despite that War crimes and crimes against Peace are not subjected to the state of limit, in this case actions anterior to January 1st 1991 possibly related to the crimes committed before this date are automatically excluded.

There are a lot of reasons to believe that war crimes are only a consequence of actions leading to the dismemberment of Yugoslavia just before this date limit. In this case there is a strong presumption that the war crimes committed after January 1st 1991 are also closely related to war crimes committed 1914-1918 and 1941-1945. These crimes are an integral part of relations and conflicts between the present belligerents, and those not been judged by the Nurnberg Tribunal.

We **REQUEST** that the objective assessment and impartial establishing of responsibility of all governments, officially and nonofficially and individuals possibly involved in the destruction of the State of Yugoslavia should be entrusted to an **INDEPENDANT COURT OF LAW**, and that the same Tribunal judges also **WAR CRIMES** as a consequence of **CRIMES AGAINST PEACE**.

Main prerequisite for a fair debate about this complex problem is **UNBIASED INFORMATION**. Therefore we **REMIN**D all official instances, UN, European Union, European Parliament, national governments and all others to their obligation to allow a free access to all relevant documents included verbatim records, as described in the Freedom of Information Act.

The Consultationcommittee
'ALTERNATIVE YUGOSLAVIA-TRIBUNAL'

De Spinoza Academie voor vreedzame en leefbare wereldpolitiek
Balkan Forum

III. COMMISSION SECURITY COUNCIL

Security Council
Adopted at its 31

The Security Council
Reaffirming its
relevant resolutions,

Recalling paragraph
reaffirmed that all parties
humanitarian law
and that persons who
Conventions are indi

Recalling also
it demanded that all
military forces in Bosnia
breaches of international

Expressing concern
violations of international
former Yugoslavia as
mass killings and the

1. Reaffirms its
as appropriate, inter
information in their
humanitarian law, in
mitted in the territory
Nations bodies, and
thirty days of the adop
to provide other app
paragraph 2 below;

2. Requests the
impartial Commission
pursuant to resolution
further information;
investigation or effort
with a view to providi
of grave breaches of
humanitarian law com

3. Also requests
establishment of the Comm

4. Further requ
conclusions of the Com
in any recommendatio
(1992);

5. Decides to ren

United Nations Treas

III. COMMISSION OF EXPERTS ESTABLISHED PURSUANT TO SECURITY COUNCIL RESOLUTION 780 (1992)

Security Council Resolution 780 (1992)

Adopted at its 3119th meeting on October 1992.

The Security Council,

Reaffirming its resolution 713 (1991) of 25 September 1991 and all subsequent relevant resolutions,

Recalling paragraph 10 of its resolution 764 (1992) of 13 July 1992, in which it reaffirmed that all parties are bound to comply with the obligations under international humanitarian law and in particular the Geneva Conventions of 12 August 1949,* and that persons who commit or order the commission of grave breaches of the Conventions are individually responsible in respect of such breaches,

Recalling also its resolution 771 (1992) of 13 August 1992, in which, *inter alia*, it demanded that all parties and others concerned in the former Yugoslavia, and all military forces in Bosnia and Herzegovina, immediately cease and desist from all breaches of international humanitarian law,

Expressing once again its grave alarm at continuing reports of widespread violations of international humanitarian law occurring within the territory of the former Yugoslavia and especially in Bosnia and Herzegovina, including reports of mass killings and the continuance of the practice of "ethnic cleansing".

1. Reaffirms its call, in paragraph 5 of resolution 771 (1992), upon States and, as appropriate, international humanitarian organizations to collate substantiated information in their possession or submitted to them relating to the violations of humanitarian law, including grave breaches of the Geneva Conventions being committed in the territory of the former Yugoslavia, and requests States, relevant United Nations bodies, and relevant organizations to make this information available within thirty days of the adoption of the present resolution and as appropriate thereafter, and to provide other appropriate assistance to the Commission of Experts referred to in paragraph 2 below;

2. Requests the Secretary-General to establish, as a matter of urgency, an impartial Commission of Experts to examine and analyse the information submitted pursuant to resolution 771 (1992) and the present resolution, together with such further information as the Commission of Experts may obtain through its own investigation or efforts, of other persons or bodies pursuant to resolution 771 (1992), with a view to providing the Secretary-General with its conclusions on the evidence of grave breaches of the Geneva Conventions and other violations of international humanitarian law committed in the territory of the former Yugoslavia;

3. Also requests the Secretary-General to report to the Council on the establishment of the Commission of Experts;

4. Further requests the Secretary-General to report to the Council on the conclusions of the Commission of Experts and to take account of these conclusions in any recommendations for further appropriate steps called for by resolution 771 (1992);

5. Decides to remain actively seized of the matter.

* United Nations Treaty Series, vol. 75, Nos. 970-973.

REPORT OF THE SECRETARY-GENERAL ON THE ESTABLISHMENT OF THE COMMISSION OF EXPERTS PURSUANT TO PARAGRAPH 2 OF SECURITY COUNCIL RESOLUTION 780 (1992)

I

1. In paragraph 10 of resolution 746 (1992) of 13 July 1992 the Security Council reaffirmed that all parties in the territory of the former Yugoslavia are bound to comply with the obligations under international humanitarian law and in particular the Geneva Conventions of 12 August 1949,* and that persons who commit or order the commission of grave breaches of the Conventions are individually responsible in respect of such breaches.

2. On 13 August 1992, in its resolution 771 (1992) of 13 August 1992 the Security Council reaffirmed the international obligations flowing from international humanitarian law and the Geneva Conventions and the individual responsibility of those who commit or order the commission of grave breaches of the Conventions, and in paragraph 5 called upon States and international humanitarian organizations to collate substantiated information in their possession or submitted to them relating to the violations of humanitarian law, including grave breaches of the Geneva Conventions, being committed in the territory of the former Yugoslavia and to make this information available to the Council.

3. By paragraph 2 of resolution 780 (1992) of 6 October 1992, the Security Council requested me to establish, as a matter of urgency, an impartial Commission of Experts to examine and analyse the information submitted pursuant to resolution 771 (1992) and 780 (1992) together with such further information as the Commission of Experts may obtain through its own investigations or efforts with a view to providing me with its conclusions on the evidence of grave breaches of the Geneva Conventions and other violations of international humanitarian law committed in the territory of the former Yugoslavia.

4. The present report is submitted pursuant to the request contained in paragraph 3 of resolution 780 (1992).

II

5. In considering how best to proceed in regard to the request of the Security Council contained in paragraph 2 of resolution 780 (1992), I have noted that the request parallels and to some extent duplicates an initiative of another United Nations organ, the Commission on Human Rights.

6. Members of the Security Council will recall that at its first special session, on 14 August 1992, the Commission on Human Rights adopted resolution 1992/S-1/1, in

* United Nations, Treaty Series, vol. 75, Nos. 970-973.

which it requested to stand the human particular within Bo tion on the human r nmental and non-gc himself or herself o Human Rights.* TI Yugoslavia, and in p issued his first repor

7. In establish paragraph 2 of resolu and work of the Spec to minimizing the du ces and reducing cost

8. Pursuant to a Commission of Exp whom will be design. Commission I shall, c particular in the area prosecution, experie expand the members

9. The member:

10. The terms (1992), will be to exan humanitarian organi (1992), as well as sucl own investigations or evidence of grave bre: national humanitarian expect that the Specia rate closely with the C his disposal. I shall t collaboration of the se

11. The Commi consensus, decisions c present and voting.

12. The Commis at the United Nations provide the necessary extent possible and in resources already made Human Rights. In view

* A/47/418-S/24516, pa
** A/47/418-S/24516, pa

which it requested its Chairman to appoint a special rapporteur to investigate firsthand the human rights situation in the territory of the former Yugoslavia, in particular within Bosnia and Herzegovina, and to receive relevant, credible information on the human rights situation there from Governments, individuals, intergovernmental and non-governmental organizations, on a continuing basis, and to avail himself or herself of the assistance of existing mechanisms of the Commission on Human Rights.* The Special Rapporteur visited areas of interest in the former Yugoslavia, and in particular Bosnia and Herzegovina, from 21 to 26 August 1992 and issued his first report on 3 September 1992.**

7. In establishing the Commission of Experts called for by the Council in paragraph 2 of resolution 780 (1992), I have naturally taken into account the mandate and work of the Special Rapporteur of the Commission on Human Rights with a view to minimizing the duplication of effort, maximizing the efficient use of scarce resources and reducing costs.

8. Pursuant to paragraph 2 of resolution 780 (1992) I have decided to establish a Commission of Experts to be composed, in the first instance, of five members, one of whom will be designated by me as its Chairman. In appointing the members of the Commission I shall, of course, pay due regard to their professional qualifications, in particular in the areas of human rights, humanitarian law as well as criminal law and prosecution, experience, integrity and absolute impartiality. I reserve the right to expand the membership of the Commission should this become necessary.

9. The members of the Commission will serve in their personal capacity.

10. The terms of reference of the Commission, as set out in resolution 780 (1992), will be to examine and analyse the information submitted by States, international humanitarian organizations, other persons or bodies pursuant to resolution 771 (1992), as well as such further information as the Commission may obtain through its own investigations or efforts, with a view to providing me with its conclusions on the evidence of grave breaches of the Geneva Conventions and other violations of international humanitarian law committed in the territory of the former Yugoslavia. I expect that the Special Rapporteur of the Commission on Human Rights will cooperate closely with the Commission of Experts and provide it with all the information at his disposal. I shall take the necessary administrative steps to ensure continuing collaboration of the secretariats of the two bodies.

11. The Commission will adopt its own rules of procedure. In the absence of consensus, decisions of the Commission will be taken by a majority of the members present and voting.

12. The Commission, which for reasons of economy and efficiency will be located at the United Nations Office at Geneva, will be assisted by a small secretariat to provide the necessary substantive, secretarial and administrative assistance. To the extent possible and in order to avoid duplication, this secretariat shall rely upon the resources already made available to the Special Rapporteur of the Commission on Human Rights. In view of the urgency attached to this request by the appointment of

* A/47/418-S/24516, para. 1.

** A/47/418-S/24516, para. 1.

the members of the Commission and the assignment of the appropriate Secretariat staff.

13. The expenses of the Commission of Experts will be met, as far as possible, from existing resources. I reserve, however, the right to seek new appropriations should circumstances make this necessary.

14. The Convention on the Privileges and Immunities of the United Nations of 13 February 1946* will apply to the Commission, its members and its secretariat. The members of the Commission will have the status of experts on missions within the meaning of article VI of the Convention and the staff of the secretariat will have the status of officials within the meaning of articles V and VII of the Convention.

LETTER DATED 24 MAY 1994 FROM THE SECRETARY-GENERAL TO THE PRESIDENT OF THE SECURITY COUNCIL

By its resolution 780 (1992) of 6 October 1992, the Security Council requested me to establish a Commission of Experts to examine and analyse information gathered with a view to providing the Secretary-General with its conclusions on the evidence of grave breaches of the Geneva Conventions and other violations of international humanitarian law committed in the territory of the former Yugoslavia. On 26 October 1992 I appointed a five-member Commission, chaired by Professor Frits Kalshoven and, following the latter's resignation, by Professor Cherif Bassiouni. My report on the establishment of the Commission of Experts was submitted to the Council on 14 October 1992 (S/24657).

The Commission commenced its activities in November 1992 and concluded its work in April 1994. During this period it has held 12 sessions and conducted a series of studies and on-site investigations, using for that purpose offers of assistance from Governments and non-governmental organizations. The Commission also established a database designed to provide a comprehensive record of all reported grave breaches of the Geneva Conventions and other violations of international humanitarian law. The two interim reports of the Commission, describing the status of its work and its preliminary conclusions were forwarded to the Security Council in my letters of 9 February 1993 (S/25274) and 5 October 1993 (S/26545).

The final report of the Commission includes a survey of the Commission's work since its inception, its mandate, structure and methods of work, its views on selected legal issues of particular significance in the context of the former Yugoslavia, a general study on the military structure of the "warring factions" and the strategies and tactics employed by them, and substantive findings on alleged crimes of "ethnic cleansing", genocide and other massive violations of elementary dictates of humanity, rape and sexual assault and destruction of cultural property committed in various parts of Bosnia and Herzegovina.

* Resolution 22 A (I).

On the basis of the Commission's report, the Security Council has concluded that the former Yugoslavia is responsible for the execution of the former Yugoslavia. The practice, in particular, have been strongly appear to consistent failure to punish their perpet

The final report of the Commission, which was published on 6 May 1994, published, although it was suggested that it was remaining surplus to

I have examined the report and reached by the Commission its mandate entrusted to me am confident that it will facilitate the task of the Commission responsible for Serious Violations of the Territory of the former Yugoslavia. In my instructions, the Commission, in the course of its work, International Tribunal

In accordance with the Commission's mandate, I hereby transmit to the Security Council the report published pursuant to the Commission's mandate forwarded to member

On the basis of the information gathered, examined and analysed, the Commission has concluded that grave breaches of the Geneva Conventions and other violations of international humanitarian law have been committed in the territory of the former Yugoslavia on a large scale, and were particularly brutal and ferocious in their execution. The practice of so-called "ethnic cleansing" and rape and sexual assault, in particular, have been carried out by some of the parties so systematically that they strongly appear to be the product of a policy, which may also be inferred from the consistent failure to prevent the commission of such crimes and to prosecute and punish their perpetrators.

The final report includes several annexes containing reports of investigations and studies, which as a whole constitute an integral part of the report. In his letter to me of 6 May 1994, the Chairman of the Commission requested that the annexes be published, although for cost purposes and given their volume (approximately 3,000 pages) it was suggested that they be published in English only and funded from the remaining surplus in the Trust Fund of the Commission of Experts.

I have examined the final report carefully, and I fully concur with the conclusions reached by the Commission. I, therefore, consider that the Commission has discharged its mandate entrusted to it by the Security Council in its resolution 780 (1992), and I am confident that the material collected and analysed by the Commission will greatly facilitate the task of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 in carrying out its mandate. Upon my instructions, the database and all of the information gathered by the Commission in the course of its work have been forwarded to the Office of the Prosecutor of the International Tribunal.

In accordance with paragraph 4 of Security Council resolution 780 (1992), I hereby transmit to the Council the final report of the Commission of Experts established pursuant to Security Council resolution 780 (1992). The annexes will be forwarded to members of the Council as soon as they become available.

Boutros BOUTROS-GHALI

**DR. MILAN BULAJIC DISCUSSION WITH THE COMMISSION
PRESIDENT, PROFESSOR CHARIF BASSIOUNI ON THE FINAL
REPORT, CHICAGO, JULY 8, 1994**

The Security Council of the UN on October 6, 1992, adopted Resolution 780 (1992), by which it was requested that the UN General Secretary create a commission of experts to consider and analyze information submitted, based upon UN Resolution 77 (1992), dated August 13, 1992, and UN Resolution 780 (1992), dated October 6, 1992, regarding grave infractions of the Geneva Convention and International Human Rights Commission of the territory of the former Yugoslavia. The Commission of Experts ("ExCom") began its work in November 1992, held 12 meetings, completed 32 missions and concluded its work on April 30, 1994 and sent its final report to the Secretary General of the UN of May 6, 1994.

The UN Secretary General released the final report of the ExCom to all countries, all its members, and "interested parties." In the circulated letter the Secretary General stated "the final report contains some annexes which are reports of investigations and studies which, as a whole, are an integral part of the report."

The letter states that the financial means limited the 3,000 page annex to English only. This means that others who use the final report will not be able to avail themselves with the documentation upon which the conclusions of the ExCom were based.

Discussion of the ExCom final report about the war crimes on the territory of the former Yugoslavia was the reason for my visit to the ExCom's president, Professor Cherif Bassiouni at De Paul University in Chicago, July 8, 1994.

It is significant that the database of information about the war crimes on the territory of the former Yugoslavia was compiled at the Human Rights Institute of De Paul University, whose director is the ExCom's president, Bassiouni.

The discussion lasted two hours. Sava Vojcamin, chairman of the War Crimes Committee, President of the Serbian Bar Association of America (an associate at the American law firm of Clausen, Miller, Gorman, Caffrey and Wittous, P.C., 10 S. LaSalle St, Chicago, Illinois 60600), was present and participated in our discussions.

I reminded ExComm President Bassiouni of my discussion with members of the ExCom of the UN in Belgrade, April 1993, as Yugoslav State Commission for War Crimes and genocide representative, and informed him that I am now director of the Holocaust Museum in Belgrade. I thanked him for the written recognition of the Federated Republic of Yugoslavia in the final report. (par. 35)

I openly expressed my opinion that, after serious studying the Final Report of the ExCom of the UN, which he signed, I found it disappointingly unobjective. It resembles more an accusation and judgment rather than a report of an expert commission. The accusations, which are of vital interest to my country and nation, are harsh, one-sided and undocumented. This is the basis for my visit, i.e., to personally, professionally and as a colleague, exchange thoughts on the Final Report.

First, I point to the Yugoslav tragedy, the religious war, behind which bear the responsibility of the recognition of the basic standards of UN membership into UN membership genocide on the territory break-up of Yugoslavia crisis openly admit the Croatia and Slovenia Bosnia and Herzegovina gnition of these state liability of a country's Rights and the Charter Sec. General DeCuel Italian Foreign Minister, Christopher and responsibility for the sacrifice, and destruction

I expected that the cultural Background of the David Erne, which was which fairly and objectively

Bassiouni commends Serbs of Krajina and E but does not consider

I remarked that the final report cites, "via and other Serbian the Federal Republic of Croatia. The report of 1992, when Bosnia/Herzegovina Community (183) resulted after the recognition

My urgent commission following topics:

1. Ethnic Cleansing
2. Prison Camps
3. Rapes

1. "Ethnic Cleansing" side, the Serbs in Bosnia political aim to create a by Serbs of Bosnia/Herzegovina

First, I pointed out that the final report does not discuss the roots of the Yugoslav tragedy, how these roots brought about the civil war, which is, in essence, a religious war, behind which stand the Vatican and Moslem Fundamentalists, which bear the responsibility for the break-up of the Yugoslav state, and of the consequences of the recognition of that non-resistant state of Bosnia Herzegovina, in opposition to the basic standards of international law of recognition of countries and acceptance into UN membership... all of which represents the main cause for all war crimes and genocide on the territory of the former Yugoslavia. The consequences of the 1941 break-up of Yugoslavia were renewed. Today, all the leading actors of the Yugoslav crisis openly admit the error of recognizing the secessionist countries: first, Catholic Croatia and Slovenia under the influence of the Vatican and a reunited Germany; then Bosnia and Herzegovina, under the influence of the Moslem fundamentalists. Recognition of these states violated the basic principle of the Helsinki Accord: the inviolability of a country's boundaries, as well as other principles of International Human Rights and the Charter of the United Nations. This position has been supported by Sec. General DeCuellar, Lord Carrington, French Foreign Minister Roland Duma, Italian Foreign Minister De Michelis, American Secretary of State, Baker, Eagleburger, Christopher and others. All of them have spoken of the international community's responsibility for the tragic consequences and suffering of an entire nation, of human sacrifice, and destruction of property.

I expected that the Final Report would contain the resume, "Report of Historical Background of the Civil War in Former Yugoslavia" March 1994, "reported by David Erne, which was signed by ExCom president Cherif Bassiouni, a document which fairly and objectively relates the causes and the events of the Yugoslav tragedy.

Bassiouni commented that he is aware of the position and perception of the Serbs of Krajina and Bosnia about the genocide committed upon them during WWII, but does not consider that to be in the ExCom mandate.

I remarked that the Contents of Chapter II, "General Studies" par. 110-128, of the final report cites, "conflict between Croatia and the Federal Republic of Yugoslavia and other Serbian forces in Croatia (par. 114), "without any explanation because the Federal Republic of Yugoslavia had no territorial conflict on that territory with Croatia. The report constituted that the "battle and seige of Sarajevo began April 5, 1992, when Bosnia/Herzegovina was recognized as an independent state by the European Community (183)." This report needs to be tied to conflicts and crimes which resulted after the recognition.

My urgent comments concern the conclusions of the Final Report regarding the following topics:

1. Ethnic Cleansing
2. Prison Camps
3. Rapes

1. "Ethnic Cleansing" The crime of "ethnic cleansing" was blamed only upon one side, the Serbs in Bosnia/Herzegovina and Croatia, with the accusation that it was a political aim to create the doctrine of "Greater Serbia", which was being carried out by Serbs of Bosnia/Herzegovina, Croatia and their representatives in the Federal

Republic of Yugoslavia. According to the commission's conclusions, the "doctrine" is based upon creation of ethnic and religious Serbian majority dominating the remaining groups, where Serbs have historic rights. (131) It is emphasized without hesitation, that "this policy and means of its implementation is supported only by some Serbs", and therefore guilt must be proved on an individual basis. (132) In the same proclamation are listed territories of Serbian "crimes" of "ethnic cleansing in an area from northern Bosnia, covering areas of western Bosnia, especially in strategic areas which connect "narrow" Serbia with Serbian areas in Bosnia/Herzegovina. (135) I pointed out that it solely and indirectly cites the territory of Gorazde, even in the face of American documentation of the concentration and provocation of the Moslem armies in this so-called, "safe zone." (Task Force on Terrorism and Unconventional Warfare-Yossef Bodansky)

Bosnian Serb leaders are accused of influencing, encouraging, and facilitating these social elements who carry out these crimes. (141) The accusation continues that there is evidence to conclude that the program of "ethnic cleansing" was not coincidental, sporadic, but purposeful, systematic and with some planning and coordination from higher authorities. (142)

The UN ExCom even "proved" tips between local activities and activities of Serbs from the Federal Republic of Yugoslavia ("FRY"), Bosnia/Herzegovina, Krajina Croatia and also the involvement of the Yugoslav National Army. (144)

Openly and directly, the UN ExCom in its final report accused the FRY for "strong political, diplomatic, and military influence in many decisions of the Bosnian Serbian Republic, and Republic of Serbian Krajina." These serious accusations of the commission are not documented.

The lack of objectivity of the report of the ExCom is especially emphasized in its justifying "ethnic cleansing" by Croats and Moslems. The commission concluded that the Bosnian Croats, with the support of the Republic of Croatia, (which is very significant) carried out "ethnic cleansing" of Moslems in Herzegovina and "ethnic cleansing" (removal) of Serbs from Krajina, East and West Slavonia; that the Bosnian Croats destroyed Serbian villages, churches, murdered innocent civilians, tortured and forcibly removed the civilian population... But, according to the commission... "Croatian authorities have publicly deplored these practices and sought to stop them, thereby indicating that it is not a part of the government's policy." (147)

The President of the UN Expert Commission does not take into consideration that the Yugoslav and Serbian Governments dissociated in public from crime, all perpetrators of crime and denied all accusations: the President of Republic Council and the President of Civil Council of the Federal Parliament Council of Yugoslavia, Milos Radulovic and Yugoslav Kostic sent a letter on December 30, 1992 to the European Parliament. In that letter they denied all conclusions from the resolution of women rape in the former Yugoslavia, which says that war crimes of rape is only connected with Moslim women in Bosnia and Herzegovina. They brought up the evidences that such crimes were performed exclusively by Moslim militia with knowledge and in front the eyes of official Moslim authorities of Bosnia and Herzegovina. The confirmation for this assertions are the bordellos in Sarajevo and Tuzla. The

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delegation of the European Parliament was invited to visit FR of Yugoslavia and they were offered the complete documentation.

President of Serbian Republic, Dr Radovan Karadzic, issued special notification to Roiter branch office in Belgrade, where he rejected the American accusations as groundless for massacre of about three thousand Moslims in period of May-June 1992. in prison camp near Brcko, held by Serbs. He also claimed that the State Department "was deceived by lies of Moslim propaganda".

(Tanjug, September 30, 1992.)

The ExCom report in paragraphs 147 and 148 states:

Bosnian government forces have also committed the same type of grave breaches of the Geneva Convention, against Serbs and Croats, but not as a part of a policy of "ethnic cleansing." The number of these violations, as reported, is significantly less than the reported violations allegedly committed by the other warring factions.

I openly told President Bassiouni that this "judgment" is not objective nor verified in the Final Report. The ExCom should have been concerned with the results of "ethnic cleansing" by the Ustashe Independent State of Croatia, which territory included Bosnia and Herzegovina in 1941-45, and of the politics formulated and carried out by the then Vice President of the Ustashe government, Dr. Mile Budak, who has been rehabilitated in today's Republic of Croatia, and a street in Zagreb bears his name. His policy was: kill one-third of the Serbs; expel one-third; and convert one-third to Catholicism thereby making them Croats.

I reminded him of the "ethnic cleansing" in the USA of Japanese (for security reasons) during WWII, the cleansing of Kosovo of Serbs during and after WWII, etc. What kinds of documents are included in Annex IV of the Final Report on this subject?

It is seen only that the study of the Austrian Institute for Human Rights of Bolzman is used "as documentation for the commission's conclusions." Considering the role Austria played in the destruction of Yugoslavia, this is a difficult to explain or accept.

2. Prison Camps The Final Report states there are 715 detention camps: 237 controlled by Bosnian Serbs; 89 by Moslems of the Bosnian Government; 77 by the Bosnian Croats; and 4 operated jointly by Croats and Moslems. The commission, according to paragraph 21B, was unable to determine who controlled another 309 detention camps. This factual inability shows the quality of the commissions work, but this did not deter them from concluding that the Serbian camps in Bosnia/Herzegovina have the greatest number of detainees and the cruelest violations carried out with premeditation.

In the report, seven lines are printed about Moslim camps, 15 about Croatian and 115 about Serbian. This illustrates the lack of volume of the report.

Of the Bosnian Moslem camps, they state there were grave infractions of the Geneva Convention including murder and torture of Croats and Serbian detainees. But, the commission was not able "to detect any particular policy or pattern of wrong

doing, and has ascertained that the government of Bosnia/Herzegovina has expressed its opposition to these individual violations." (226-1)

The Commission also found great violations of the Geneva Convention in Bosnian Croat camps and Croat Army prison camps in Krajina, in East and West Slavonia and in other Croat areas, including murder, torture, and rape. Meanwhile, also in the days of Croat prison camps, the commission could not confirm the political policy or involvement of the Bosnian government or leader of the Croat Army in Bosnia/Herzegovina. The commission satisfied itself with the information, "the government of Croatia has, since late 1993, according to information received by the commission, condemned these violations, and sought to curb their occurrences." (par. 228, p. 53)

After justifying the crimes in Moslem and Croat prison camps, the commission in its final report states that Bosnian Serbs committed grave breaches of the Geneva Convention and International Human Rights in great numbers, including murder, torture, and rape of Bosnian Moslems and Croats. "The Bosnian Serbs used camps to facilitate territorial and political control of a geographic region and to expel and eliminate other ethnic and religious populations from the area."

The Final Report does not confine itself to conclusions without any evidence, but it also writes of the system of massive internment of the local population, torture and killing especially of religious, political, and business leaders as well as military age men from 16-60.

The commission, without hesitation, concludes that the crimes in Serb camps are committed with the knowledge of the camp commanders, the local police and political leaders. With regard that the Army did not intervene to stop the crimes, they too are guilty, concludes the commission in par. 231. Concerning the Moslim and Croat camps, not one word is said regarding responsibility.

3. Rapes Regarding the crime of rape, I reminded Bassiouni that anti-Serbian/anti-Yugoslav propaganda by media and paid professionals, accuses Serbian soldiers of raping about 60,000 Moslem women. When I cited this number to former Secretary of State Eagleburger, he laughed. Further, the European Community claimed on June 8, 1993, that there were 20,000 rapes the majority of which were Moslim women raped by Serb soldiers with the conscious aim of forcing Moslems out of Bosnia/Herzegovina. I mentioned that I heard Bassiouni stated this number.

Now the ExCom in its Final Report identifies only 800 victims of rape by surname and identity.

1673 were listed with no evidence and 500 were not identified. The Final Report gives the number of victims as 600, but without separating them by guilt.

The ExCom irresponsibly leaves the reader to make the separation of guilt but with the earlier stated conclusions that most guilty were Serbs. Of the rape of men, not a word as to who was the victim, who the perpetrator.

Without facts, the Commission concludes that rape was used as a method of ethnic cleansing rather than a policy of commission tolerating the widespread commission of rape. (par. 237)

They conclude the greatest number of violent perpetrators, the Bosnian or small groups but, the Commission leaves to all non-Serb groups of

Listed, without names, the perpetrators said, "our president

I asked Bassiouni the Commission for War Crimes, removed from Austria, Sweden to investigate inside it, but it did not start an investigation, although the Federal Republic of Germany told him that, on behalf of Helsinki Watch, in that she spoke to them at the Center of the Serbian

To this question, he gave an acceptable answer.

Sava Vojcanin, with Bassiouni earlier in the territory of former Yugoslavia, correct the statements in it. It was verified that Bassiouni correct his inaccurate

In addition to the Commission devoted to the commission chose stadium on June 1, 1993, many more significant

I stated that they center of Sarajevo: 1) That a part of the scenario was the Council against the Federal Marketplace Massacre: 1993) as a justification of Charter Article 53, with close to one another, had with premeditation with and confirmed the response

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They conclude that the rapes were committed by all sides in the conflict, but the greatest number of victims were Bosnian Moslems and greatest number of alleged perpetrators, the Bosnian Serbs. The report states the violators are individual Serbs or small groups but, "the greatest number is a part of an overall pattern." The Commission leaves to the courts to prove whether the politics of rape would apply to all non-Serb groups or solely Moslems.

Listed, without any explanation, were declarations of witnesses that the violators said, "our president ordered us to do so." (par. 24B)

I asked Bassiouni how could he state the facts received from the database of the Commission for War Crimes Bosnia/ Herzegovina, (126 victims, 252 violators) received from Austria, Sweden, and other countries, (footnote 65), that even Turkey offered to investigate inside its own country, (footnote 69), that it was not possible to carry out an investigation on the territory of the Federal Republic of Yugoslavia, even though the Federal Republic of Yugoslavia requested such an investigation. I reminded him that, on behalf of the UN commission reports of rapes... that even Jeri Laber of Helsinki Watch, in both offices of the commission, interviewed the victims of rape, that she spoke to them with Dr. Vojin Dabic, Director of the Document Information Center of the Serbian Information Agency.

To this question, as to many others, President Bassiouni could not give an acceptable answer.

Sava Vojcanin, who participated in the discussion, informed me that he spoke with Bassiouni earlier regarding his inaccurate statements regarding the rapes on the territory of former Yugoslavia by Serbians, and that he, Bassiouni, promised he would correct the statements in the New York Times and named the editor to whom he spoke. It was verified that Bassiouni never contacted nor spoke with the New York Times to correct his inaccurate statements.

In addition to the foregoing three items, I asked: It is understood that the Commission devoted special attention to the suffering of Sarajevo. It is not clear why the commission chose to analyze two incidents, the rocket attack at the football stadium on June 1, 1993 and two rockets aimed at a funeral in mid-June 1993, despite many more significant events.

I stated that they should have analyzed two massacres which took place in the center of Sarajevo: 1) The Bread Line Massacre on Vase Miskin St., May 27, 1992, as a part of the scenario which caused the sanctions to be imposed by the UN Security Council against the Federal Republic of Yugoslavia (Serbia-Montenegro), and (2) the Marketplace Massacre at Markale on February 5, 1994 (which is barely mentioned in 193) as a justification for NATO's ultimatum against Serbian forces, against UN Charter Article 53, without concurrence of the Security Council. These two incidents, close to one another, had political aims and shows the modus operandi of the criminals with premeditation with great numbers of victims. The ExCom should have pinpointed and confirmed the responsibility for these two acts.

Bassiouni began to explain the difficulty of determining where the rockets came from, especially when "No Man's Land" was involved. I asked if a medical investigation of the victims (68 dead) and 200 wounded at the Marketplace were completed. Was

there a list of identified killed/wounded, and time of death? I insisted upon an answer whether the ExCom performed a medical investigation, an investigation which could have confirmed the cause and the blame for the massacre.

I pointed out that the American press presented the testimony of the Dean of the Medical Faculty at Sarajevo, Dr. Boris Starovic, who treated the wounded who had been in the breadline on May 27, 1992, and concluded that the wounds were not caused by artillery grenades (mortar), but from explosives placed by Moslem troops. (*Chronicles*, June 1994). I also mentioned the conclusion of the American experts, (*The Taskforce on Terrorism and Unconventional Warfare — Yossef Bodanski*)

He answered shortly that the UN Commission did not seek such analysis and does not have those documents. I showed him the incomplete report of the truth in the Final Report about the bombing of the Hospital in Kosevo and buildings in Sarajevo... with regard to the facts that these buildings were used for military purposes and Bosnian Moslems operated from Civilian — inhabited territory. According to the Geneva convention and International Human Rights, these are very significant misdeeds.

It is understood the UN has the right to investigate ethnic cleansing in Prijedor, which received disproportionate attention in the report. I asked why the same attention was not given the crime of "ethnic cleansing" of Serbians in West Slavonija, about which the Yugoslav government sent a memorandum to the Secretary General of the UN... which is not mentioned in the report, and of ethnic cleansing of Serbs in Gospic and Siroka Kula, of which complete documentation exists with medical investigative analysis, and of Divoselo where horrible genocide was committed by Croat Ustasha both in 1941-42 and again in 1993.

I singled out the events in the Serb village of Prebilovci in Herzegovina, in which Croatian Ustashe in 1941 murdered 861 of the 1000 inhabitants on one day, August 6, 1941 and threw about 500 women and children in a pit in Surmanci. I personally collected documentation about this, and have the names and investigation published in my book. The crimes continued June 7, 1992, when Croat armed forces crossed the Neretva and against burned the Serb village of Prebilovci.

The ExCom must have known the Croatian government ordered the mining of the WWII mass grave in Prebilovci in which, only in 1991, the remains of Ustashe genocide from the Surmance and twelve other pits in Herzegovina were brought to be buried. The memorial to this event and the foundation for the memorial Serbian Orthodox Church were also destroyed. Ads appeared in Croat papers that the pits were now free to receive new victims.

Dubrovnik. Surely, the final report should confirm to what degree the old city was used as a military base for the Croat accessionist army.

The final report does mention that the Croats destroyed the ancient historic bridge on Mostar, but not a word is said about the destruction of the Serbian Orthodox Cathedral which was mined three times by specialized mines, to be able to follow with bulldozers. Today there is no trace of where the once grandiose cathedral stood.

President Bassiouni made notes of these comments.

When Bassiouni's third report of the on the exact confirm Serbs took out of the in the hospital yard, Moslim children. Acc eventually became in:

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When Bassiouni mentioned Zvornik, I took the opportunity to cite the erroneous third report of the US State Department. The State Department report stated not on the exact confirmed date, May 22, 1992, at the exact confirmed time, 13:00, the Serbs took out of the Zvornik hospital, 36 patients of non-Serb origin and killed them in the hospital yard, and then went to the children's ward and broke the necks of 27 Moslim children. According to the State Department report, a Serb MD who saw this eventually became insane.

I personally investigated this and proved this information signed by the State Department was absolutely false. The Secretary of the commission sent an official note to the American Ambassador in Belgrade requesting they sent their investigators to assess the real status of the situation. The American Embassy did not send its observers even after two years and after my intervention to the US Department of Justice February 18, 1993, this horrible anti-Serb disinformation was not investigated and the US government did not apologize.

I related an example from a representative of a special UN investigation, Mazowieczki, who personally investigated and confirmed that the Serbs are so determined to press the politics of "ethnic cleansing," that they kill their own Serbs who oppose the policy. He listed a name of a Serb in Bratunac who was so killed. Again, I sent a TV crew which interviewed the supposed killed Serb, who was healthy in the bosom of his family and has continued good relations with Croat neighbours.

I spoke of the most important example... the Ustashe Death Camp of Jasenovac, which measures 210 to 240 sq. km. I personally confirmed the investigation in the UN War Crimes Commission archives, with special permission from the Secretary General. This systematic death camp is not in the register of the UN Commission for War Crimes. In the International Red Cross archives in Geneva, I came across only 20 photos of this methodical Ustashe death camp, Jasenovac, which is labeled as a Potemkin Village work camp, showing men behind machines and doctors in white coats.

During Croat occupation of the Jasenovac Memorial area in September 1991, the monuments and buildings were destroyed, and the documents of the torture were removed. Before the breakup of Yugoslavia, the administrative boundaries of the Republic Croatia, due to outside intervention, placed Jasenovac inside the Croat area. Since the war began Jasenovac area has been divided: 1/4 of it is in Croatia, 1/2 in the Serbian Krajina under the control of UNPROFOR, and some is in Bosnia/Herzegovina. Franjo Tudjman suggest that Jasenovac should be a memorial to both the victims and the criminals.

To comprehend the entirety of the Yugoslav tragedy, one must include the question and essence of the Jasenovac death camp and its status in the International Human Rights commission must be decided. There is a precedent in the Nazi death camp, Auschwitz. It is fair to ask how the world and UN would react if Dachau and Auschwitz met the same fate as Jasenovac.

I gave Bassiouni copy of my lecture to the US Holocaust Museum, "Jasenovac, the Systematic Ustashe Death Camp," my book **Jasenovac with Franjo Tudjman**, and the Borowitz article from the Washington Times, July 5, 1994, which printed my map

of the death camp, Jasenovac. He promised to study it and consider it in the final edition of the Annex.

After all of my remarks, Bassiouni, indeed, had no understandable nor convincing answers. He complained that the work of the ExCom was concluded before time. He suggested the completion to be July 31, 1994, but it was decided to conclude April 30. He does not know why. He thinks politics and bureaucracy of the UN. Because of that he states that many tasks were not completed, including examination of mass graves at Ovcari near Vukovar and the Pakrac Valley.

At the end of our discussion, I openly and explicitly told President Bassiouni that this kind of final report, an accusation, required that I ask the International Court of the UN Security Council to investigate the serious infractions of international human rights on the territory of the former Yugoslavia. From the foregoing analysis of the Final Report, I showed that the judgments (conclusions) of the ExCom were not proved.

Because Bassiouni cited the testimony and evidence upon which he based his stated conclusion, I asked to examine the Annex which, according to the letter to the UN Secretary General of May 24, 1994, contains about 3,000 pages. **BASSIOUNI ANSWERED THAT THIS DOCUMENTATION WAS ISSUED BY THE UN SECRETARY GENERAL AND IS CONSIDERED CONFIDENTIAL!**

I called to his attention the International Commission of Experts concluded its mandate April 30, 1994, that the Commission, that is, President Cherif Bassiouni, asked the Secretary General to publish the Final Report, with its Annex in its totality and to "give them the widest circulation" with the aim of informing the member nations and interested parties. (231)

Thus, the Final Report, which accuses the Serbian side and openly justifies the Muslim and Croatian crimes, was given the widest circulation with the aim to inform member nations and interest parties on May 27, 1994, forty-one days earlier, and sixty-eight days from the cessation of work of the Ex Com, but the evidence, the proof, is held in secrecy.

Such an action (withholding the supporting documentation) is not only in opposition to legal ethics, justice and objectivity, it is an impermissible act.

Bassiouni, in defense, blurted out the shocking answer that the Annex is not even arranged, that one-third of the documentation remains to be put in order.

I openly told him I could not believe what I am hearing... it is even more shocking than when the UN Secretary General Boutros B. Ghali states that the "annex is an integral part of the report, that he, the Secretary General, after considering the entire Final Report, agreed with the commission's conclusions especially that the practice of the so-called "ethnic cleansing," rape and sexual attacks were carried out by some (read Bosnian Serbs) and were a strong political method... and also agrees this must stop and its perpetrators must be punished. (The Final Report clearly states which side they blame for this behavior.)

President Bassiouni complained that, even with good relations with the Yugo Minister of Justice, Stojanovic, that the ExCom of the UN did not receive the expected

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cooperation from the FRY. He concludes this is due to poor organization, inadequate infrastructure, and that cooperation often depends upon individuals and the character of the person, and there are great differences in regions. The Army expert, Major Stankovic, did not give him good photos, nor medical evidence he requested, because of lack of photographic equipment. At a meeting with Major Stojanovic in Geneva, he warned that the mandate of the commission would expire April 30 and this is the last moment for the FRY to submit documentation of crimes against the Serbs.

At these complaints of poor cooperation with the FRY institutes, I showed that, aside from a few conversations with the former president, Karshoven and members of the Commission, Fenrick, from the Commission on War Crimes and Genocide, during its existence from March '92-August '93, the ExCom of the UN did not ask for anything, though it was officially notified by the Minister for Internal Affairs of the FRY State Commission, that, on its own initiative, the FRY State Commission sent the UN Secretary General and ExCom a multitude of documents and reports. These were sent officially through the Ministry of Foreign Affairs and the Serbian Republic Mission in Geneva. This is personally well-known to me.

A new "finding" was uncovered. President Bassiouni answered that he did not receive reports from the State Commission for war Crimes and Genocide. I then brought up the large report to destruction of Serbian Orthodox Churches, cemeteries and monuments which was sent through the permanent mission of the FRY in Geneva. I added that I personally delivered that report to Secretary General's office February 2, 1993, to the hands of his assistant Alvaro de Soto.

At my shock, President Bassiouni remained firm, even calling upon his good memory that he received nothing. He even suggested that we should now submit Yugoslav documents to be included in the Annex of the Final Report.

I questioned the worthiness and truthfulness of the Final Report without the significant document. I requested a direct answer regarding what documents he received from the FRY, so I could fill in what was missing.

This discussion will be continued July 13, 1994 at 10:00.

I immediately informed Ambassador Djokic at the Permanent Mission of the FRY at the UN and asked that he most immediately obtain from Ambassador Pavicevic when and to whom documents were submitted for the UN ExCom.

**SAVA A. VOJCANIN, SERBIAN BAR ASSOCIATION
COMMITTEE, MEMORANDUM, CHICAGO, JULY 12, 1994**

RE: Final Report of the Commission of Experts

On July 8, 1994, I met with Professor M. Cherif Bassiouni, Chairman of the Commission of Experts, to examine and analyze information submitted pursuant to United Nations Security Council Resolution 771 (13 August, 1992) and 780 (6 October, 1992) at his offices in Chicago, Illinois. The purpose of the commission is to provide the United Nations Secretary General with conclusions on evidence of grave breaches of the Geneva Conventions and other violations of international humanitarian law committed in the territory of the former Yugoslavia. Dr. Milan Bulajic, a former diplomat and legal adviser to the Federal Republic of Yugoslavia and curator of the Genocide Museum in Belgrade, requested the meeting which was coordinated by Geroge Bogdanich, media coordinator for SerbNet Media Center in Chicago, Illinois. The purpose of the meeting was to afford Dr. Bulajic and opportunity to ask Professor Bassiouni questions about his Final Report of the Commission of Experts established pursuant to Security Council Resolution 780 (S/1994/674) ("Final Report") circulated by Secretary General Boutros-Ghali over his letter dated 24 May, 1994 to the President of the Security Council. In this letter, the Secretary General states "I have examined the Final Report carefully, and I fully concur with the conclusions reached by the commission."

The meeting lasted a full two hours in Professor Bassiouni's offices at DePaul University's International Human Rights Law Institute. Dr. Bulajic made numerous commentaries about the Final Report's gross inadequacies and misstatements. Initially, Dr. Bulajic inquired why the Final Report failed to discuss the illegal recognition by the international community of the disintegration of the former Yugoslavia and its historical background. Professor Bassiouni responded that such a legal analysis exceeded the mandate of the Commission of Experts.

Dr. Bulajic was extremely critical of the Final Report's discussion of ethnic cleansing in paragraphs 129 through 150. Paragraph 131 is particularly egregious in concluding "With respect to the practices by Serbs in Bosnia and Herzegovina and Croatia, 'ethnic cleansing' is commonly used as a term to describe a policy conducted in furtherance of political doctrines relating to 'greater Serbia.'" The policy is put into practice by Serbs in Bosnia and Herzegovina and Croatia and their supporters in the Federal Republic of Yugoslavia. Dr. Bulajic indicated that while the Final Report states at paragraph 147 and 148 that the Croats and Bosnian Muslims have carried out "similar practices", because the Croat and Bosnian government have "publicly deplored" the practices, no such policy of ethnic cleansing exists. No mention is made of the various Serbian governments disavowals of any similar practices.

Dr. Bulajic next criticized the Final Report's treatment of detention camps in paragraphs 216 through 231 while paragraph 218 identifies 715 camps (237 purporte-

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dly operated by Bosnian Serbs, 89 supposedly operated by the Bosnian government, and 77 by Bosnian Croats with 308 which are unaccounted for), the report focuses entirely on the Bosnian Serb violations of humanitarian international law in instituting these camps while summarily dismissing the culpability of Bosnian government forces and Croat forces by stating "The commission has, however, ascertained that the government of Bosnia and Herzegovina has expressed its opposition to these individual violations" and therefore has not been able to detect any particular pattern or policy of wrongdoing (Final Report, paragraph 227).

Dr. Bulajic re-visited the issue of the number of women allegedly raped during the course of the Civil War. Although the Final Report identifies close to 800 victims by name or number, an additional 1,673 victims referred to, but not named, reports the victims who indicate that they have witnesses or know of similar victims. Footnote 87 indicates that the earlier projection of 20,000 rapes made by other sources are not unreasonable considering the actual number of reported cases. The commission fails to raise any evidence to support its figure.

Professor Bassiouni is an accomplished diplomat of the highest caliber. In his private discussions, he is cordial and answers questions in a fashion that leads one to believe that he is giving the "desired" response. However, his responses are often riddled with inconsistencies. For example, I questioned Professor Bassiouni on whether there was evidence that the Bosnian Muslim forces have used hospitals, schools and cultural monuments as ammunition dumps, artillery sites, and base of military operations. He stated that there is evidence of that type of activity but acknowledged his failure to conclude substantive findings in the Final Report. Dr. Bulajic raised the second example of a consistent *modus operandi* of the Bosnian Muslims forces in staging massacres of their own people as evidenced by the Breadline Massacre and Markala Marketplace Massacre. Is there not a consistent pattern of behavior there which is in violation of international law? This was not raised in the Final Report. Toward the end of the meeting, Dr. Bulajic requested a photocopy of the 3,000 page annex (Final Report, paragraph 321). In Professor Bassiouni's 6 May, 1994 letter to the Secretary General, Bassiouni requested that the annexes be published, in English only, and funded from the commission's trust fund. Professor Bassiouni stated that the annexes are not yet complete and are unavailable to dissemination. He further indicated.

DR MILAN BULAJIC, SECOND MEETING WITH PROFESSOR BASSIOUNI, CHICAGO, JULY 13, 1994

Completed second discussion with the President of the United Nations Commission of Experts, Cherif Bassiouni, as per agreement held on 13 July 1994 at his Institute at De Paul University. Even though at the beginning he apologized as he had to leave early, and that he would be replaced by Mr. Peter M. Manikas ((312) 263-8133), the discussion lasted one hour and twenty minutes. Present was George Bogdanich, SerbNet Media Center.

At the beginning I expressed my compliments on his valuable (costly) furnished Oriental room with Arabic lettering in which he received us. Reading the Final Report again did not change my critical notices, which I expressed during our discussion held 8 July 1994.

I informed him that over the weekend I received, from the FRY ambassador at New York and Geneva, copies of letters forwarded to the UN Commission of Experts from Ambassador Pavicevic and a list of documents with UN markings from the UN in New York.

I especially pointed to the letter from Ambassador Dr. Vladimir Pavicevic to the president of the UN Commission of Experts Fritz Kalshoven, No. 467/2 dated 18 May 1993, by which under point 4 was submitted a report of the Yugoslav federal commission for war crimes and the destruction of Orthodox churches, graves and monuments, for which he at the last meeting, on the basis of his good memory, said was never submitted to the UN Commission. Reminding him that this was the third time this same document was submitted to the UN Commission of Experts — the first time officially, and the second, as I stated at the last meeting, I personally delivered it to the office of the secretary-general's assistant, Mr. Alvaro de Soto, on 12 February 1993. In the letter which I sent to the secretary-general along with the report, I submitted a copy of letter-proposal addressed to Croatian president, Dr. Franjo Tudjman, suggesting the Yugoslav and Croatian commission of experts meet in order to confirm the factual situation of the destruction of Orthodox and Catholic churches, at the church in Bar in which all three religions (Orthodox, Catholic and Islamic) conduct services, which was never responded to!

I asked for a list of documents about crimes and the violations of international human rights submitted by the Federal Republics of Yugoslavia. First he said that since I am not an official representative of the Yugoslav government, that he does not have the authority to put the requested information at my disposal. On the objection of how can we determine which documents we have, as was the situation with the report about the destruction of Orthodox churches and graves, he relented and gave an order that the document lists cited in reports by the permanent missions of the FRY to the UN in New York and Geneva, be verified.

I thanked him for his readiness to, in the annex, include additional reports from Yugoslavia, with a mention that eventual new documentation cannot have an influence on the conclusions of the Final Report, which already has the widest circulation in all the official languages of the UN.

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Decisively I reported public, and that it is language, while the Final means that all the use confirm through documents

I strongly insisted that as the president of UN Commission of Experts, he should not have allowed that a portion of the report — media accusations and submits to all member states and "interested media", without proof — the annex, taking into consideration the UN secretary-general's stance that the Final Report and the annexes "in total form the integral part of the report". Categorical, I repeated that, in the mildest terms, represents an action contrary to the basic principles of legal etiquette and jurisprudence.

He again spoke of the time pressures on Commission of Experts to complete their work before they objectively completed their task (mandate) which was given to them. He repeated his conversation with justice minister Stojanovic, whom he gave the Commission's database of findings, and requested many more facts. He offered exceptional cooperation on the rape crime question, that heraginis take place on Yugoslavia's terms, even if conducted by Yugoslav investigators based on the Commissions directions. He reiterated that the work stoppage (termination) by the UN Commission of Experts was the reason they were not able to finish already agreed to investigations of mass graves in Ovcar and Marino Selo.

I brought these assertions into question through personal experience during the 1992-1993 period while functioning as secretary of the Federal Commission for War Crimes. I stated the Federal Commission was officially notified thorough the ministry for external affairs to the UN secretary-general, but the UN Commission never turned Federal Commission for help. Furthermore, during official meetings with the Commissions president Mr. Kalshoven and Mr. Fenrick, I offered cooperation. With the UN Commission of Experts, beside all efforts, coopeation was not established not even in the measure it was established with Helsinki Watch, director Jeri Leber, who came to visit the Federal Commission in Belgrade, who I visited in New York, and who published the Federal Commissions reports. She was given access to witnesses and victims of rape, including a thirteen-year old Serbian girl, without the presence of Federal Commission representatives.

Insistently he tried to explain through formal bureaucratic reasons how allegedly communications by the UN Commission of Experts are restricted to only permanent representatives of states to the United Nations. Considering the Federal Commission is officially accredited by the Yugoslav government on the basis of a parliamentary decision, this explanation truly does not stand.

When he mentioned Bratunac and expressed a desire to personally go that terrain and confirm the factual situation with regard to reports of the existence of mass graves, I took the opportunity to once again show him an example of false accusations in Mazowiecki's reports (supposed killings of Serbs by Serbs because they opposed the instituted politics of "ethnic cleansing.")

Decisively I repeated my objection that the annex reports are still not made public, and that it is unacceptable that the annex be printed only in the English language, while the Final Report is published in all the UN languages. That practically means that all the users of the conclusions-accusations by the Commission cannot confirm through documents the Commissions conclusions!

President Bassiouni responded that he will do everything so the documents — annexes be published by the end of July. However, he is not in a position to guarantee when the secretary-general will proceed. He pointed to the high costs, that one page of the report in all UN languages costs around \$700, and the annex around \$3,000 per page.

Bassiouni went a step further, mentioning the possibility that the secretary-general might not publish the annexes!

I reacted by saying that this opens an exceptionally serious situation of continuing the politics of satanizing one nation. Taking into account that he was speaking of the fact of media abuse, by which he openly put responsibility on the Yugoslav and Serb sides that they ignored the need to collect documents and evidence, unlike the Croat and Muslim sides. He especially mentioned the Serb stance of pride and that the whole world is against them, and that is why the Commission did not receive enough evidence.

I expressed my opinion that the UN Commission of Experts had the opportunity to, through the objective preparation of the Final report stop, even with a delay, the serious consequences of disinformation utilized by the influential media. Instead, the Final report represents a legalization of the most serious accusations against only one side in the conflict, not going into reasons, how the execution of serious crimes and national tragedies came about.

I am of the opinion that, most urgently, the Yugoslav government must submit official demarches to the UN secretary-general, on the basis of a lack of objectivity of the Final Report, which was discussed during the first meeting with president Bassiouni.

Emphasis should be placed that, on the basis of the secretary-general's letters UN S/1994/674 of 27 May 1994 reports and annexes in whole "integral parts of the report" by the UN Commission of Experts. On the basis of such serious omissions questions can be asked about the legal validity of the Final Report in whole, demanding its withdrawal and decidedly insisting that the Final Report together with the annex be integrally published in all official UN languages, the same as it was with the "Final Report."

GEORGE BO THE PROFI

At 10:00 A.M.

Bassiouni, a meeting
Manikas, Dr. Milan
Belgrade and myself

The meeting (page appendix, consisting of a final summary. Dr. B. and prevented any session amounted to an "incomplete" widest possible distribution appendix, if were relevant.

Dr. Bassiouni's are tied" and that such. When asked how such appendix, Dr. Bassiouni ago. Yet, when he was that the appendix was about the contradiction a lot of "editing" still.

Referring to the Bassiouni that the Commission had seen a report of cultural monuments. Dr. Bulajic then handed this and other documents Yugoslavia to the Commission. Bassiouni provided a list. Bassiouni assured him several hours by his decision.

(Mr. Manikas Bassiouni had all of the documents of the (9/5/94) "Third Law, including breach of former SFRY", which that this list of documents and Mr. Manikas said conferring with Dr. B. made at our meeting have to come from official.

The underlying question the extensively documented

**GEORGE BOGDANICH, NOTES FROM THE MEETING WITH
THE PROFESSOR BASSIOUNI, CHICAGO, JULY 13, 1994**

At 10:00 A.M. on July 13, at the DePaul Law School offices of Professor Cheriff Bassiouni, a meeting was held which included Dr. Bassiouni, his assistant, Peter Manikas, Dr. Milan Bulajic, Director of the Museum of the Victims of Genocide in Belgrade and myself. I attended as a representative of a Serbian-American coalition.

The meeting opened up with questions from Dr. Bulajic about why the 3,000 page appendix, considered to be integral to the report, had not been released with the final summary. Dr. Bulajic stressed that failure to release the appendix was improper, and prevented any serious assessment of the conclusions contained in the report which amounted to an "indictment". He noted further that the report itself called for the widest possible distribution, but that Dr. Bassiouni had stated previously that the appendix, if were released at all, would only be translated into English.

Dr. Bassiouni stated that he wished to release the appendix, but that his "hands are tied" and that such a decision could be made only by the UN Secretary General. When asked how such far-reaching conclusion could be drawn from an incomplete appendix, Dr. Bassiouni said that the appendix was actually completed several months ago. Yet, when he was asked if it was ready for distribution currently, Bassiouni stated that the appendix would not be finished til the end of the month of July. I asked him about the contradiction between these two statements and Dr. Bassiouni replied that a lot of "editing" still needed to take place.

Referring to their previous meeting the past week, Dr. Bulajic reminded Dr. Bassiouni that the Chairman of the Commission of Experts had stated that he had never seen a report on the destruction of Serbian Orthodox Church property and cultural monuments. This report was one that Dr. Bulajic had supervised personally. Dr. Bulajic then handed over to Dr. Bassiouni documentation of the transmittal of this and other documents provided by the Government of the Federal Republic of Yugoslavia to the Commission of Experts. Dr. Bulajic, then requested that Dr. Bassiouni provide a list of all documents received from official Yugoslav sources. Dr. Bassiouni assured him that such a list could be provided "as a matter of courtesy" within several hours by his deputy Peter Manikas.

(Mr. Manikas later confirmed in phone conversation with me that Dr. Bassiouni had all of the documents on the list provided by Dr. Bulajic with the exception of the (9/5/94) "Third report of the Government of FRY on Violation of Humanitarian Law, including breach of the Geneva Convention, committed in the territory of the former SFRY", which Mr. Manikas stated might be available in Geneva. I requested that this list of documents be provided in writing, as Dr. Bulajic originally requested and Mr. Manikas said that he would speak to Dr. Bassiouni about doing so. After conferring with Dr. Bassiouni, however, Mr. Manikas stated, contrary to promises made at our meeting of July 13, that any requests for documents would necessarily have to come from official representative of the Federal Republic of Yugoslavia).

The underlying question of the meeting was why the final report failed to reflect the extensively documented crimes against Serbian minorities in Bosnia-Herzegovina

and in Croatia provided to the Commission of Experts. Instead of explaining the failure to investigate documents he had in his possession, Dr. Bassiouni dwelt on bureaucratic problems he faced. He stated that instead of having till the end of July to complete the investigation, he was told to complete the investigation by April 30. Dr. Bassiouni stated that money was not a decisive factor in the early termination of the investigation, because "we had \$230,000 left over". (At another point in the interview he decried the lack of money and personnel.)

He stated that he did not know the reasons why UN officials abruptly changed its deadline and stated that he had protested against being hurried toward a conclusion of the report. The final report, according to Bassiouni was written in two weeks, which he stated was very difficult considering that contribution had to be coordinated between different members of the Commission. Despite a May 27 date on the final report, it was not distributed until the end of June according to Dr. Bassiouni. However, Dr. Bassiouni stated that a copy of the report was submitted to the Secretary General as early as May 5.

In reply to questions about the failure of the report to acknowledge extensively documented reports about crimes against Serbs, Bassiouni stressed the difficulties of reaching Mr. Stoyanovic the Federal Minister of Justice. Dr. Bulajic pointed out that Mr. Stoyanovic was an extremely busy man and that he (Dr. Bulajic) had served as the Chairman of the State Commission for War Crimes for most of 1992, which was specifically authorized to collect and document evidence on war crimes. Dr. Bulajic reminded Dr. Bassiouni that the latter had personally contacted Dr. Bulajic in Belgrade and set up an appointment but canceled this appointment at the last minute.

Dr. Bassiouni gave an interesting analysis of the Serbian failure to respond effectively to propaganda by the Croats and the Muslim in news accounts. Dr. Bulajic and I agreed that Croatian and Muslim organizations had triumphed in the media war, but Dr. Bulajic stated that he had hoped that the Commission of Experts would redress the balance by providing an objective report and his considerable disappointment that the Commission's report was not objective. The report of the Commission of Experts, states explicitly it made use of news reports and the influence of news reports is clear as well from the substance of the report.

Dr. Bassiouni confirmed that \$800,000 was provided to the DePaul Center for International Law to by the Soros Foundation (through its "Open Society Fund") for the research of the Commission. Told that the Soros Foundation was simultaneously funding two Washington-based pro-Muslim, pro-military intervention organizations, Bassiouni stated that he was not aware of that fact.

Dr. Bulajic asked why there were no firm rules of evidence were established at the outset of the investigation that might have provided minimal standards of credibility for a report which actually "an indictment". Bassiouni said that he favored uniform "rules of evidence" but was not successful in getting them.

LETTER OF NO

London, 2nd August "

Dear Judge Gold

This letter may be appropriate in address to a man who has admired the intrepid work of the South Africa. And it is the truth that I am presuming the allegations of Serb the former Yugoslavia

This may not be no doubt emotionally a time, I have been playing would be the inevitable declaring UDIs.

I cannot be sure friend at the UN (who to see that it is delivered resolved to use the Y purposes. The voluminous been endorsed by Bout highly selective items of

In a broadcast yesterday validity of the Commission hours of video. I do enter of a very complex story.

My own qualifications as a journalist, I have special attention on the intern

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We need to know Bosnia-Herzegovina: the overwhelming mood in the resistance to forcible an which has motivated the remember the overwhe

LETTER OF NORA BELOFF TO JUDGE RICHARD GOLDSTONE

London, 2nd August '94.

Dear Judge Goldstone,

This letter may surprise you. It is written with the diffidence and humility appropriate in addressing a man so eminent for his legal talent and courage. We all admired the intrepid way in which you exposed the criminal elements during apartheid South Africa. And it is only because I am convinced that you are a seeker after the truth that I am presuming to write to you, to suggest that the tribunal which will hear the allegations of Serb war crimes (though, nominally, crimes of all communities in the former Yugoslavia) is a travesty of justice.

This may not be as visible to you as it is to me. You have been heavily involved, no doubt emotionally as well as rationally, in events in another continent. At the same time, I have been playing a lonely Cassandra role, arguing from the start that civil war would be the inevitable consequence of the component parts of the former Yugoslavia declaring UDIs.

I cannot be sure that this letter will reach you, even though my most trusted friend at the UN (who is a senior official in peacekeeping operations) has promised to see that it is delivered. But normally you will be surrounded by those who are resolved to use the Yugoslav war crimes tribunal to promote their own political purposes. The voluminous material prepared by the Commission — and which has been endorsed by Boutros Boutros-Ghali — is a hold-all for many unsubstantiated, highly selective items of anti-Serb and pro-Muslim propaganda.

In a broadcast yesterday from South Africa, you indicated that you accepted the validity of the Commission's testimony, including 60,000 pages of reports and 300 hours of video. I do entreat you to examine the material for what it is: only one side of a very complex story.

My own qualifications to pass judgment rest on the fact that, as a senior political journalist, I have specialised on Yugoslavia since 1979, when I started writing my book, *its flawed legacy*, published in 1985. Thus, for 15 years I have concentrated my attention on the international responsibilities for Yugoslavia's decline and fall.

I have just finished reading the 84 page submission, put together by the UN Commission and dated 17th May 1994. I am outraged by its polemical tone and by the stubborn refusal to confront the basic facts of why this war is being fought.

We need to know how the war is perceived by the Serbs in Croatia and in Bosnia-Herzegovina: these communities are, of course not unanimous, but the overwhelming mood in the areas which I have studied in depth, is that the war is a justifiable resistance to forcible annexation. I have compared the feeling of self-righteousness which has motivated the Bosnian Serbs with our own mood, in Britain, in 1939. I still remember the overwhelming support for our government's refusal to submit to

Hitler's "New Order" and its decision to send an ultimatum and initiate a world war, rather than accept Hitler's terms.

This does not mean that, in all circumstances, the Serbs will fight to the finish. There is, I believe a fraction of Western opinion alming to divide the Serbs between themselves. Some would hope to provoke a civil war between those who favour surrender and those who go on favouring resistance.

In order to clear you mind of the propaganda and place the present conflict within its European framework, may I suggest that you look at the enclosed analysis by a distinguished French "geopolitical" scholar, professor Yves Lacoste of the Sorbonne? He has had the original idea to examine both the similarities and the contrasts which distinguish the German and Serbian historical experience since the birth of the 19th Century romantic nationalism. With his approval, I have shortened and sharpened the text and it is only for private circulation.

The best authorities to help your appreciate the nature of the present conflict — and the central responsibilities of the Croat and Muslim readerships for opposing conciliation — are the testimonies of UNPROFOR officers. I commend three books which you need to read in order to see through the hollowness of the Chicago-based "data", assembled by the American Catholic University of De Paul. This university has recently set up an Institute of Human Rights, funded by the anti-Serb Hungarian George Soros. It is exclusively engaged in demonising the Serbs, treating them as sub-human barbarians.

The first book, which tells you how the Bosnian war started, is by General Lewis Mackenzie: *Peacekeeper*, published by Douglas & Macintyre. The second is by General Morillon: *Croire et oser: Chronique de Sarajevo*, published by Bernard Grasset. He too makes it plain that it was always the Izetbegovic / Silajdzic Muslim rulers who rejected peace negotiations, justifying their refusal to talk on the grounds that their adversaries were both rebels and war criminals. Morillon has publicly reiterated his view that it has always been Izetbegovic's purpose to internationalise the war. The last of the three books is by the British Colonel Bob Stewart: *Broken Lives*, published by Harper Collins. It describes in detail both how the Muslims and Croats collided and the ruthlessness with which they slaughtered each other's communities. Colonel Stewart also points to what he describes as the "domesticated nature" of the fighting, a factor which he claims was always underestimated by the outside world: most of the fighters — Serbs, Croats and Muslims alike — believe that if the other sides win, their own and their family's lives and livelihoods will be in danger.

Once you have read these testimonials, I am convinced that you will see that the material put before you by the Commission — and on which we are told you will base your prosecution — is flimsy, misleading and grossly unbalanced.

The Commission's document is 84 pages and I would need at least that length to expose all of its individual weaknesses. Instead, I list just a few examples, to show why I was so nervous when I read in *Le Monde* that you plan to hurry on with the trials, based apparently on "the voluminous material" available to you. According to *Le Monde*, you said that "I would regard it as a personal failure if the first charges were

not presented to the anything, the key is raj

In my view, the t stion the witnesses on allowing your famous a kangaroo court.

The reason for t anti-Serb indictment. I by Croats or — since t forcibly incorporated i and Alija Izetbegovic.

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"...in the name of sense of revenge."
(para 130)

Then, after listir

"The leaders of th these social elements to factors, stimulated by n by reciprocal violence a
(para 141(c))

As you will know of the genuine terror i would feel in danger w Serbs live in nurture w of survivors — and eve

As Lacoste poin the Balkans worked to Turks were driven back as the principal threat tried — and nearly suc no historical record of were conscripted into

When Yugoslav the royal prerogative. Vladko Macek. Just t Serbian prince regent which included most of form German occupat German troops would the Belgrade garrison happened, flew into

not presented to the tribunal before the end of this year... If we want to achieve anything, the key is rapidity."

In my view, the time you need to read the books I have named and to cross-question the witnesses on the ground, would be well rewarded. It would prevent you from allowing your famous name to be a cover for what, in the worst case, might turn into a kangaroo court.

The reason for the present war has never been recognised in the Commission's anti-Serb indictment. It is that the Serb communities, which have never been governed by Croats or — since the Ottoman Empire — by Muslims, preferred to fight than be forcibly incorporated into these new states set up after the UDIs of Franjo Tudjman and Alija Izetbegovic.

First, the Commission declared its view that the Bosnian Serbs and the Serbs of Serbia (the distinction is not always made by the Commission) are driven:

"...in the name of misguided nationalism, historic grievances and a powerful, driving sense of revenge."
(para 130)

Then, after listing all imaginable war crimes, the writers allege:

"The leaders of the Bosnian Serbs influenced, encouraged, facilitated and condoned these social elements to carry out the crimes described above. The combination of these factors, stimulated by misguided nationalism, fanned by historical grievances and fueled by reciprocal violence and revenge, has led to tragic consequences."
(para 141(c))

As you will know when you read Lacoste, this is a complete misunderstanding of the genuine terror inspired among the Serbs, Croats and Muslims, many of whom would feel in danger within the frontiers of the recognised states. The areas which the Serbs live in nurture wartime memories — still lively, in part, from the direct testimony of survivors — and everywhere from descendants of victims.

As Lacoste points out, for centuries the Catholic and Orthodox communities in the Balkans worked together in resisting the Ottoman empire. It was only when the Turks were driven back that the Austrians began to see the Slavs, rather than the Turks, as the principal threat. It was then, in the 19th Century, that the Habsburg Empire tried — and nearly succeeded — in obliterating the Serbs. Lacoste asserts that there is no historical record of hostility between the Croats and the Serbs, except where they were conscripted into the armies of non-Slav imperial powers.

When Yugoslavia was formed, the Croats wanted more autonomy and resented the royal prerogative. But in the 1930's, their elected, popular leader was the pacifist Vladko Macek. Just before the second world war, Macek managed to induce the Serbian prince regent to let Croatia have home rule of a generous slice of territory, which included most of Bosnia. Then, in 1941, Prince Paul tried to preserve Yugoslavia from German occupation by doing a deal with Hitler: in return for a promise that the German troops would not go into Yugoslavia, he agreed to join the axis. At this point, the Belgrade garrison mutinied, Prince Paul was deposed and Hitler, learning what happened, flew into one of his famous rages. On this occasion — witnessed by

Goebbels — Hitler listed the Serbs alongside the Jews and the Gypsies as a people to be exterminated.

It was Ribbentrop, and his faction of the Nazi party who interned Macek and replaced him by Mussolini's protege, the genocidal Ante Pavelic. In doing so, he disregarded the advice — not only of other Nazi factions — but of the German military High Command.

The Germans have collectively forgotten that it was Germans who were responsible for the mass slaughter of Serbs which started in 1941. Before the Germans arrived in Yugoslavia, the Ustasha party led by Ante Pavelic, was an outlawed fringe group whose leaders were either in exile or in prison. Ribbentrop and his party functionaries not only installed Pavelic but they kept him in power until Germany itself was defeated.

I am currently in correspondence with leading German journalists, suggesting that they should examine the Nazi party archives and inform the new generation of Germans of their country's role in the history of the Yugoslav conflicts.

The Commission's repeated allegations that the Serbs are guilty of genocide are manifestly untrue. Serbia proper has always been an amalgam of ethnic and religious groupings and if its government demanded "Serbia for the Serbs" in the way President Tudjman has demanded "Croatia for the Croats", Serbia would have been depopulated: as a political entity it would have ceased to exist.

The Commission tells us nothing about President Tudjman's racist ideology, though it has been repeatedly been the target of protests by both Jewish and Serb victims. The source of such complaint is easily available by looking at any of Franjo Tudjman's own books. I suggest that you try to read any one of them: they all convey the same message of narrow Wagnerian romanticism, in which the state of Croatia is the ultimate good.

I met Tudjman soon after he came out of communist gaol and I know that he is obsessed — and will go to any lengths — to eliminate Serbs from the territories he claims to be part of Croatia. Contrary to the Commission's findings, Tudjman certainly qualifies more than Milosevic as an instigator of war crimes.

I have no illusions about Slobodan Milosevic. He is a ruthless political boss, who has gone to enormous lengths — and espoused any convenient ideology — for the sole purpose of keeping himself in power. He could and should be used to forward conciliation on terms which would be fair to the Serbs: fair, meaning those which his fellow Serbs would not regard as selling out on the quarter of their compatriots living outside Serbia.

The Commission alleges that whereas the Serbs never condemn war crimes

"the Croatian authorities have publicly deplored these practices and sought to stop them, thereby indicating that it is not part of the Government's policy"
(para 147)

In reality, the Americans forced Tudjman to suspend his conflict with the Muslims and form a federation directed against the Serbs. Even after signing the federal agreement, Tudjman has again been on the record saying that Croats and Muslims cannot live together. His present advisors are mainly from the Ustashe

background and their for the Croats.

Much more serious the slaughter of Serbs against the Serbs have is a great deal of hard destruction of homes as Franjo Tudjman too number of experts who present conflict and co

Among the deep hostages. It is almost Izetbegovic's policy of control — notably the citizens — many harass Serbs outside the old coves to be used to assist territory of Bosnia-Herzegovina. The non-Muslims are against the Bosnian Serbs.

The Commission's weapon of intimidation the crimes they committed and Croat allegations. Serb soldiers were killed Muslims certainly took policeman were found. Far from justifying the perpetrators were brought

The Commission Here we have a reliable husband in Beli Manastir which she lived before with a Serb friend (now was to start a small but community or religious (who formed the "Croatian" and threats. All murdered. Life for the Amanda Brook, abandoned be protected by Serb police

On the Commission's intimidation, it should be Muslim side. A British

background and their aim has been to preserve as much of Herzegovina as possible for the Croats.

Much more serious is the fact that the Croat government has never regretted the slaughter of Serbs and the destruction of Serb property. The crimes committed against the Serbs have been almost entirely struck out of the De Paul "data". Yet, there is a great deal of hard evidence of the attacks on the Serb minorities: loss of jobs, destruction of homes and churches and wholesale assassinations. These started as soon as Franjo Tudjman took power — even before he declared his UDI. I can commend a number of experts who can provide direct testimony on this essential aspect of the present conflict and consequently on all the areas where war crimes were committed.

Among the deeds listed as war crimes, the Commission includes the taking of hostages. It is almost unbelievable that the compilers of the report failed to note Izetbegovic's policy of using Serbs, and in some cases Croats, in the areas under his control — notably the old city of Sarajevo — as his hostages. Thousands of Sarajevo citizens — many harassed and dispossessed — are forbidden to leave and join other Serbs outside the old city. It is to UNPROFOR's discredit that they allowed themselves to be used to assist Izetbegovic in closing the city and in his struggle for the whole territory of Bosnia-Herzegovina, exploiting non-Muslim inhabitants as his hostages. The non-Muslims are known to have been forced to dig trenches to help in the war against the Bosnian Serbs.

The Commission would have us believe that terror was used by the Serbs as a weapon of intimidation. For this reason, it is claimed that the Serbs publicly publicised the crimes they committed. This is untrue: the Serbs have constantly denied Muslim and Croat allegations. In Prijedor, the Commission tells us: "less than a handful of Serb soldiers were killed" (how many Serb soldiers fit in a hand?). The massacre of Muslims certainly took place: what happened was that the mutilated bodies of Serb policeman were found and, in response, probably less than a dozen people ran amuck. Far from justifying the terror, Radovan Karadzic ordered an enquiry and the alleged perpetrators were brought to trial.

The Commission also deplores Serb attacks on the civilian target of Osijek. Here we have a reliable British witness, Amanda Brook, now living with her Serb husband in Beli Manastir. She will tell you of the happy, multiracial Osijek society in which she lived before the arrival of the Croat black-shirts. She initially went to Osijek with a Serb friend (now her husband) who she had met in Amsterdam. Their purpose was to start a small business and she made friends without even knowing to which community or religious group they belonged. The arrival of the black shirts in Osijek (who formed the "Croatian National Guard") opened an era of harassment, interrogation and threats. Allegedly "enemy" Serbs were blacklisted and many were later murdered. Life for the Serbs became unbearable and many of them accompanied Amanda Brook, abandoning their town and homes to move into areas where they could be protected by Serb police or military units.

On the Commission's allegation that terror was being used as a weapon of intimidation, it should surely have noted that terror was an important factor on the Muslim side. A British Brigadier, who served in Sarajevo last year, told me that the

Muhajdeen volunteers from Afghanistan and the Middle East — despite being a very small part of Izetbegovic's forces — strike such terror into the Bosnian Serbs and Croats that the mere rumour that they are coming was a cost-free way of achieving "ethnic cleansing". To the Bosnian Christians, the Muhajdeen seem like Allah's avenging demons, who cut throats and mutilate bodies of Christians in Allah's name.

If you examine the Commission's allegations that terror is a deliberate policy, initiated and controlled from Belgrade, I think that you will see for yourself that it is totally devoid of evidence. The Commission states:

"At the early stages of the conflict, most of the combatants, including those in the regular army, did not wear distinctive uniforms, emblems or insignias of rank. As a result, officers freely moved from army to militia and from one rank to another. To further complicate matters, at the early stages of the conflict between: (a) Croatia and the Federal Republic of Yugoslavia and other Serb forces within Croatia, and (b) between Bosnia and Herzegovina and the Federal Republic of Yugoslavia and other forces within Bosnia and Herzegovina (in May 1992, JNA forces from the Federal Republic of Yugoslavia officially withdrew from Bosnia), the "order of battle" of almost all army and militia units was not clearly established. The chain of command was significantly blurred, even to insiders. Consequently, the organisations' "command and control" structures were seriously eroded, which resulted in much confusion. The confusion was more pronounced in Bosnia among Serb combatants, but seems to have been purposely kept that way for essentially political reasons."

(para 114)

In other words, the Commission did not know who controlled whom. Yet they ended up claiming — without any evidence — that the Serbs had a political motivation for deliberately blurring the chain of command.

The Commission goes on to analyse the special forces:

"There are 45 reported special forces, which usually operate under the command of a named individual and apparently with substantial autonomy, except when they are integrated into the regular army's plan of action. The special forces are supplied and often trained by the respective governments that they serve. Many special forces answer only to senior political officials in the respective governments. Such a relationship is frequently based on political allegiance and is not always publicly known. However, in time, information about the political sponsorship and support of these groups will become available. As these units usually operate independently and outside the apparent chain of command, their order of battle is not known. Notwithstanding the strong links between these units and the respective armies, the regular army failed to restrain them from the commission of grave breaches of the Geneva Conventions and other violations of international humanitarian law. Among the most notorious of the special forces are Arkan's "Tigers" 25) and Seselj's "White Eagles" (also referred to as "Chetniks") 26) Lastly, many of these units operate throughout the territory of former Yugoslavia. Thus, the Serbian units operate in Bosnia and Herzegovina and Croatia, and the Croatian units in Bosnia and Herzegovina. These special forces have committed some of the worst violations of international humanitarian law (see paras 129.150, 236.237 and 216.231 below) "

(para 121)

Here they admit — and their order of irregulars for criminal misleading: Seselj who he is doing everything of the report, it is countries — implying smuggler and crook:

Few allegation ment of rape cases. evidence whatever to political personality group, sent by the E evidence of the rape cross-questioned my and unstructured tha not stop the EU fro document — on the b Weil said that the gr agenda and just oper rapes. Their report l being fed as daily hor

When I wrote t she had not examine she replied that this w Muslim victims. Ther one-sided approach is report, published in 1 and questioned a Mu

The Commissi of Bosnia has already tration camps: Simon and state that condit wartime death camps,

The Commissio in progress, it is unac examine whether any on civilians. Indeed, a civilians, protecting th Serbs take territories whole area of fighting threatened and justifi

The Commissio attacks by Serb agains and convincing perspe Borisa Starovic, who w and had practised as a his care he had never

Here they admit that the relationship between irregulars and their governments — and their order of battle — is "not known". Yet they proceed to denounce only Serb irregulars for criminal acts. The Commission's concentration on Arkan and Seselj is misleading: Seselj was, at one time, closely in league with President Milosevic. Now he is doing everything he can in Belgrade to dent Milosevic's power. In another section of the report, it is noted that Arkan is on the criminal lists of several European countries — implying that he is wanted for war crimes. In fact he is reportedly a smuggler and crook and it is for that reason that Interpol wish to detain him.

Few allegations expose the Commission's report more blatantly than the treatment of rape cases, alleged to have been a deliberate Serbian policy. There is no evidence whatever to confirm this. It is important to know that the well known French political personality Simone Weil has publicly disassociated herself from the female group, sent by the EU Edinburgh (December 1992) "summit" to Zagreb, to examine evidence of the rape of Muslim women. Mme. Weil — whom I know and whom I cross-questioned myself — told me that the proceedings were so disgracefully amateur and unstructured that she felt obliged to withhold further participation. But this did not stop the EU from including her name with the other women who signed the document — on the basis of material gathered for the Croat and Muslim lobbies. Mme. Weil said that the group arrived in Zagreb with no programme, no interpreter, no agenda and just opened the door to anyone who cared to come and tell them about rapes. Their report failed to authenticate the grossly exaggerated figures for rapes being fed as daily horror stories into the Western media.

When I wrote to the head of the group, Dame Anne Warburton — asking why she had not examined some hard evidence that Serb women had also been raped — she replied that this was not within her assignment; she had been sent out only to study Muslim victims. There is no doubt that all the warring groups include rapists, but the one-sided approach is, in my view, indefensible. You might care to look at an enclosed report, published in *The Scotsman*, July 13th. The report is by my nephew, who found and questioned a Muslim girl who had been raped by Muslims.

The Commission's allegation of concentration camps in Serb controlled areas of Bosnia has already been declared false by the two leading experts on real concentration camps: Simon Weisenthal and Elie Wiesel. Both have visited camps in Bosnia and state that conditions are harsh but are in no way comparable to the German wartime death camps, to which the Commission compares them.

The Commission develops the ridiculous argument that, though there is a war in progress, it is unacceptable to make civilians suffer. They have never stopped to examine whether any war, anywhere, has ever been fought without inflicting damage on civilians. Indeed, as Colonel Bob Stewart has said, most of the fighters are in fact civilians, protecting their homes and farms. The Commission states that the Bosnian Serbs take territories "against which there is no real threat". It fails to note that the whole area of fighting is very small and everywhere within it the Bosnian Serbs feel threatened and justified in resisting annexation by Izetbegovic's state.

The Commission's section on Sarajevo gives only the Izetbegovic account of attacks by Serb against Muslims. The enclosed article — giving a startlingly different and convincing perspective — illustrates this point. The piece is by a witness, Dr. Borisa Starovic, who was the Dean of the Medical School at the University of Sarajevo and had practised as a surgeon in Sarajevo's main hospital. In treating patients under his care he had never made any distinction on the basis of their background and was

horrified when hostilities broke out. His long service to all three communities did not save him from being shot and seriously wounded by a Muslim sniper. He fled to Belgrade, from where his moving account was written and where he can be interviewed.

The Commission's section on Dubrovnik is equally far from reality. As I know from testimony — of, among others, Bruno Beloff, who was in Dubrovnik in January 1993 — the only building in the old city to be totally destroyed was the library of the Serb Orthodox Church. The building had been destroyed by the arson attack of an insider, presumably a militant Croat. The old city did not become the target of outside attack until the Croat defenders used its ancient walls and buildings to position their own heavy guns. In reality, it was Franjo Tudjman's Croats who turned this gloriously cosmopolitan town into a Croat nationalist stronghold. Dubrovnik should have been internationalised at the start of the independence process and declared an open city. None of the devastation (which, outside of the old city was indeed terrible) need ever have taken place.

Further on in its report, the Commission abandons all pretence at objectivity:

"The Commission has received extensive information on the destruction of cultural property, but it was not in a position to investigate all these allegations. In particular, it could not verify allegations that all Catholic churches and mosques in Serb-occupied territories of Bosnia had been systematically destroyed or damaged."
(para 286)

The report selects examples, but these are only of alleged destruction of Catholic or Muslim cultural property. Yet over 150 Orthodox churches and monasteries have also been demolished. I wrote last year to Cardinal Hume, leader of the British Catholic community. I suggested that his church should send a priest to the sites of reported destruction of Orthodox properties, in order to examine Serbian allegations. The Cardinal replied that this was unnecessary: he knew that the destruction had taken place and no further verification was needed. Yet the Commission has pretended that these wilful acts of demolition never took place, since the evidence collides with its polemical resolve to demonise the Serbs.

It is then able to conclude that:

"The Commission is unable to determine the amount of harm and the exact number of violations committed by each of the warring factions. Nevertheless, it is clear that there is no factual basis for arguing that there is a "moral equivalence" between the warring factions."
(para 149)

It would be absurd to try and deny that there have been very serious crimes committed — both by soldiers and civilians — from all three warring communities. And there can be no question of denying that the Serbs have their share of brutes and sadists. But I would submit to you that, if one takes a comprehensive view and examines not only the "data" produced by the UN Commission, but all the material which I have commended, then there is indeed a factual basis for establishing a "moral equivalence" between the warring factions.

My old friend and former editor, David Astor, has a South African son-in-law, who is a barrister and one of your greatest admirers. He told David that he would alert you to the arrival of this letter, which must be among thousands you receive each week. I hope that you will judge it worth of your serious consideration.

Yours sincerely,

Nora Beloff

FEDERAL REPUBLIC
Federal Minister of Foreign Affairs

Excellency,

I am writing to you in connection with the United Nations Secretary-General's Report on the situation in Bosnia and Herzegovina. The Report is, unfortunately, a responsible task entrusted to you "fully concur with it".

Without a doubt, the Republic of Yugoslavia is a territory of the former Yugoslavia for crimes against international law, and intention to prevent even ethnic cleansing of, and Muslim and Croatian side. The Croatian and Muslim practices", while frequent the FR of Yugoslavia and Serbian Krajina are past.

The evidence is an annex, but no such an that the "final report includes studies, which as a whole been suggested that, for respect for United Nations only in English after the and the failure to influence unfortunate attempt to v

H.E. Dr Boutros Boutros
Secretary-General
United Nations Headquarters
New York, N.Y. 10017

FEDERAL REPUBLIC OF YUGOSLAVIA
Federal Minister of Foreign Affairs

Belgrade, 18 August 1994

Excellency,

I am writing in connection with your letter addressed to the President of the United Nations Security Council and the enclosed Final Report (S/1994/674) of the United Nations Commission of Experts, headed by Professor Cherif Bassiouni. The said Report is, unfortunately, much more reminiscent of an indictment, a one-sided indictment against Serbs, than of objective findings of the Commission of Experts which had such a responsible task entrusted by the United Nations. It is with regret that I also noted that you "fully concur with the conclusions reached by the Commission".

Without any proof or evidence it is implied in the Report that the Federal Republic of Yugoslavia and the former JNA are responsible for armed conflicts in the territory of the former SFR of Yugoslavia, while Serbs are attached the principal blame for crimes against international humanitarian law. This has been done with an obvious intention to present events as if they were a pre-meditated and deliberate policy of the ethnic cleansing of, and crimes against, Muslims and Croats, whereas the crimes of the Muslim and Croatian sides are described as sporadic and unrelated to their official policy. The Croatian and Muslim authorities are being excused as they "publicly deplored these practices", while frequent public condemnations of these crimes by the Government of the FR of Yugoslavia and the authorities of the Republic of Srpska and the Republic of Serbian Krajina are passed by unaccounted.

The evidence to corroborate such a report should have been provided in an annex, but no such annex has been published with this Report. You said in your letter that the "final report includes several annexes containing reports of investigations and studies, which as a whole constitute an integral part of the report" and added that it had been suggested that, for cost purposes, they be published only in English. With all due respect for United Nations interest in effecting savings, the publication of these annexes only in English after the release of the Report in all United Nations official languages and the failure to include them in the Report in the first place does appear as an unfortunate attempt to withhold some very important evidence.

E. Dr Boutros Boutros-Ghali
Secretary-General
United Nations Headquarters
New York, N.Y. 10017

Excellency,

In your letter, you inform the Security Council and United Nations member-States that upon your instructions "the data-base and all of the information gathered by the Commission in the course of its work have been forwarded to the Office of the Prosecutor of the Tribunal." In that context, you will certainly be very surprised to know that, in his talks in the Federal Ministry of Foreign Affairs of the FR of Yugoslavia on 1 August 1994, Mr. William Stuebner, Senior Adviser of the Prosecutor, said that neither the Prosecutor nor the International Tribunal had received any report of the Yugoslav Government. Furthermore, during the visit of the former Secretary of the Yugoslav State Commission for War Crimes, Dr. Milan Bulajić, to Chicago from 8 to 13 July 1994, the Chairman of the Commission of Experts, Professor Bassiouni, told him that the Commission had not received the Report of the Yugoslav State Commission on the destruction of Orthodox churches, cemeteries and tombstones, as well as some other Yugoslav reports. Professor Bassiouni's claims are very worrisome indeed, so much so that the Permanent Mission of the FR of Yugoslavia to the United Nations Office at Geneva is in possession of the copies of the letters accompanying the service of these documents on the Commission of Experts.

Excellency,

As it appears that there is a discrepancy between what the Yugoslav side has firm evidence to have submitted and what is alleged to have been received and as Professor Bassiouni has provided no list of the documents which have actually been received, I would appreciate very much if such a list would be kindly forwarded to the Yugoslav side since the said discrepancy has raised serious doubts that many of its Reports have not been used in the preparation of the United Nations Commission of Experts Report.

The Yugoslav side is also in possession of an information of the intention of the Institute for International Human Rights of the De Paul University in Chicago, headed by the Commission of Experts Chairman Professor Bassiouni, to keep the data-base on the crimes committed in the territory of the former Yugoslavia at the University. We consider that these documents, received by the United Nations Commission of Experts on the basis of the resolution and mandate of the United Nations Security Council, must be handed over to the relevant organs of the United Nations.

Closely related to this matter is also the information that the collection of evidence in the former Yugoslavia has not been financed from United Nations funds, but by private organizations such as the Soros Foundation, Open Society, MacArthur Foundation and some other establishments. You will agree with us, Excellency, that the FR of Yugoslavia has every right to request that it be established who has financed the collection of evidence, in what amount and who is allowed access to, and use of, these documents.

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Excellency,

Bearing in mind all what has been said above, I consider that the conduct of the United Nations Commission of Experts Chairman Professor Bassiouni is contrary to the mandate he has been given by the United Nations. Particular neglect of duty has been his failure to see to it that the annexes to his Commission's Report are published with the Report. Considering their paramount importance for the overall import of the Report, the Government of the FR of Yugoslavia kindly requests that the annexes to the Final Report be published in all United Nations official languages as soon as possible and distributed in all United Nations member-States, together with this letter.

Instead of a conclusion and with Your Excellency's permission, I wish to advise that it has been noted that in his public statements in the capacity of the Chairman of the United Nations Commission of Experts Professor Bassiouni has displayed an unacceptable amount of bias and partiality in treating the parties in conflict which is very detrimental to the reputation and role of the United Nations and its organs in the solution of the Yugoslav crisis and puts in very serious doubt the validity of the Final Report of the United Nations Commission of Experts itself.

Please accept, Excellency, the assurances of my highest appreciation.


Vladislav Jovanovic



UNITED NATIONS NATIONS UNIES

NEW YORK OFFICE—ADDRESS: UNITED NATIONS, N.Y. 10017
SAME ADDRESS—ADDRESS TELEGRAMS: NATIONS NEW YORK

8 September 1994

Excellency,

I wish to acknowledge receipt of your letter dated 18 August 1994 concerning the Final Report of the Commission of Experts established pursuant to Security Council resolution 780 (1992).

In your letter you criticize the findings and conclusions of the Commission of Experts, its source of funding, and the belated publication of the Annexes to the Report. You also allege that documents were not made available to the Commission and that the transfer of the documents to the International Tribunal was incomplete. Given the independent character of the Commission, it is not my intention to debate its findings nor its conclusions regarding the responsibility for crimes committed in the territory of the former Yugoslavia, but rather to address the other issues raised in your letter.

In my letter of 24 May 1994 to the President of the Security Council (S/1994/674), I stated that the Annexes to the Final Report of the Commission of Experts form an integral part thereof and would be forwarded to the Members of the Security Council once they become available. The Annexes are now being finalized, and, upon their receipt in my office, they will be forwarded to Members of the Council. As I also indicated in my letter, given the volume of these Annexes (approximately 3,000 pages), I have decided that they be published in the English language only, a practice not uncommon for documents published by the Organization.

His Excellency
Mr. Vladislav Jovanović
Deputy Prime Minister and
Federal Minister for Foreign Affairs
of the Federal Republic of Yugoslavia
Belgrade

UNITED

In your letter, the information has not been provided by the Prosecutor, I emphasize the documents and the information transmitted to the office, and the case.

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Finally, sources of funding particularly the entities. You financed the Commission of regular budget the Trust Fund Experts (a list of amounts received)

UNITED NATIONS NATIONS UNIES

MAILED ADDRESS: POSTAL: UNITED NATIONS, N.Y. 10017
 MAIL ADDRESS: COLLEGEVILLE, PENNSYLVANIA, 19381

In your letter you indicate that, according to information, the database of the Commission has not been transferred to the Office of the Prosecutor, nor is it intended to be so. I wish to emphasize that I have been assured that all original documents and copies of the data-base software and the information contained therein have been transmitted by the Commission to the Prosecutor's Office, and I am fully satisfied that that is indeed the case.

In that connection, I have been informed by the Prosecutor of the International Tribunal that in the course of the meeting held between officers of the Yugoslav State Committee for War Crimes and Mr. Stuebner of the International Tribunal, officers of the Committee for War Crimes alleged that the Tribunal had not been provided with all the reports given to the Commission of Experts. To that, Mr. Stuebner replied that the material collected by the Commission of Experts had been received by the Tribunal. He requested, however, that the Committee for War Crimes provide the Office of the Prosecutor with a complete list of everything they had provided the Commission and other United Nations Organizations, so that they could check their database.

As for the list of documents made available to the Commission of Experts, as indicated in paragraph 20 of its Final Report, a detailed description of all sources of information which formed the basis of its findings (approximately 65,000 pages of documentation) will be included in Annex I.A. to the Final Report.

Finally, in your letter you question the sources of funding of the Commission of Experts, and particularly the contributions made by private entities. You request that a list of those who financed the collection of evidence; and who were allowed access to, and use of, these documents, be established. The financial resources of the Commission of Experts were provided partly by the regular budget of the United Nations, and partly by the Trust Fund established for the Commission of Experts (a list of contributing States and the amounts contributed are found in the Final Report of

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the Commission). The Commission's data-base, however, was financed through funds provided by DePaul University's International Human Rights Law Institute. In that latter respect, I wish to note that under its Terms of Reference, the Trust Fund for the Commission of Experts was open for contributions from States, inter-governmental and non-governmental organizations, as well as natural and juridical persons. None of the contributors, however, had any access to the documents, once submitted to the Commission. Such access was limited to members and staff of the Commission and to operators of the data-base.

I hope, Excellency, that the foregoing has allayed your concerns regarding the objectivity and impartiality of the Commission of Experts and its disposal of evidentiary material and financial resources.

Please accept, Excellency, the assurances of my highest consideration.

Boutros Boutros-Ghali

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OFFICE DES NATIONS UNIES A GENEVE



UNITED NATIONS OFFICE AT GENEVA

REPORT ON THE HISTORICAL BACKGROUND
OF THE CIVIL WAR IN THE FORMER YUGOSLAVIA

United Nations Commission Of Experts
Security Council Resolution 780 (1992)

Professor M. Cherif Bassiouni, Chairman

March 1994

David A. Erne, Reporter

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At first we were confused. The East thought that we were West, while the West considered us to be East. Some of us misunderstood our place in this clash of currents, so they cried that we belonged to neither side, and others that we belonged exclusively to one side or the other. But I tell you, Irinje, we are doomed by fate to be the East to the West and the West to the East, to acknowledge only heavenly Jerusalem beyond us, and here on earth, to trust no one.

-Serbian St. Sava to Irinje, 13th Century

FINAL REPORT OF THE COMMISSION OF EXPERTS ESTABLISHED PURSUANT TO SECURITY COUNCIL RESOLUTION 780 (1992)

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RESOLUTION 935 (1994)

Adopted by the Security Council at its 3400th meeting, on 1 July 1994

The Security Council,

Reaffirming all its previous resolutions on the situation in Rwanda,

Reaffirming, in particular, resolutions 918 (1994) and 925 (1994), which expanded the United Nations Assistance Mission for Rwanda (UNAMIR), and stressing in this connection the need for early deployment of the expanded UNAMIR to enable it to carry out its mandate,

Recalling the statement by the President of the Security Council of 30 April 1994 (S/PRST/1994/21) in which the Security Council, *inter alia*, condemned all breaches of international humanitarian law in Rwanda, particularly those perpetrated against the civilian population, and recalled that persons who instigate or participate in such acts are individually responsible,

Recalling also the requests it addressed to the Secretary-General in the statement by the President of the Security Council of 30 April 1994 and in resolution 918 (1994), concerning the investigation of serious violations of international humanitarian law committed in Rwanda during the conflicts,

Having considered the report of the Secretary-General of 31 May 1994 (S/1994/640), in which he noted that massacres and killings have continued in a systematic manner throughout Rwanda and also noted that only a proper investigation can establish the facts in order to enable the determination of responsibility,

Welcoming the visit to Rwanda and to the region by the United Nations High Commissioner for Human Rights and noting the appointment, pursuant to resolution S-3/1 of 25 May 1994 adopted by the United Nations Commission on Human Rights, of a Special Rapporteur for Rwanda,

Expressing once again its grave concern at the continuing reports indicating that systematic, widespread and flagrant violations of international humanitarian law, including acts of genocide, have been committed in Rwanda,

Recalling that all persons who commit or authorize the commission of serious violations of international humanitarian law are individually responsible for those violations and should be brought to justice,

1. Requests the Secretary-General to establish, as a matter of urgency, an impartial Commission of Experts to examine and analyse information submitted pursuant to the present resolution, together with such further information as the Commission of Experts may obtain through its own investigations or the efforts of other persons or bodies, including the information made available by the Special Rapporteur for Rwanda, with a view to providing the Secretary-General with its conclusions on the evidence of grave violations of international humanitarian law committed in the territory of Rwanda, including the evidence of possible acts of genocide;

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6. Decides to rer

2. Calls upon States and, as appropriate, international humanitarian organizations to collate substantiated information in their possession or submitted to them relating to grave violations of international humanitarian law, including breaches of the Convention on the Prevention and Punishment of the Crime of Genocide, committed in Rwanda during the conflict, and requests States, relevant United Nations bodies, and relevant organizations to make this information available within thirty days of the adoption of the present resolution and as appropriate thereafter, and to provide appropriate assistance to the Commission of Experts referred to in paragraph 1;

3. Requests the Secretary-General to report to the Council on the establishment of the Commission of Experts, and further requests the Secretary-General, within four months from the establishment of the Commission of Experts, to report to the Council, on the conclusions of the Commission and to take account of these conclusions in any recommendations for further appropriate steps;

4. Also requests the Secretary-General and as appropriate the High Commissioner for Human Rights through the Secretary-General to make the information submitted to the Special Rapporteur for Rwanda available to the Commission of Experts and to facilitate adequate coordination and cooperation between the work of the Commission of Experts and the Special Rapporteur in the performance of their respective tasks;

5. Urges all concerned fully to cooperate with the Commission of Experts in the accomplishment of its mandate, including responding positively to requests from the Commission for assistance and access in pursuing investigations;

6. Decides to remain actively seized of the matter.

Professor Cherif Bassiouni
DePaul University, College of Law
25 E. Jackson, Chicago IL 60604

February 25, 1994

Dear Professor Bassiouni:

Every time I have seen and heard your War Crimes show, you have studiously avoided any balanced estimate of the suffering of Serbs in the present genocide. Let's not talk about the one perpetrated on them by Catholics and Muslims from 1941 to 1945, right?

You invert the numbers. That "Serbs are the chief villains numerically and the Muslims the chief victims" is the assertion of PR companies, who are paid millions to lobby for Bosnian Muslims, Croatia, and Kosovo Albanians.¹ Your tabulation is not a true statement of the facts. The people, however, most victimized by their own leaders are indeed the Muslims. Are Saeirbey (a.k.a. Šaćirbegović), Silajdžić, Ganić, and Izetbegović also under your scrutiny as war criminals for their market bomb tactic?

You demonstrated great skill at getting applause for the veiled Serbophobia "I am going to kill you because your people killed my grandfather," which shows the eternal efficacy of the *argumentum ad verecundiam*. This is because you pitch your act to audiences "informed" by a corrupt media establishment, an audience who have become as conditioned as Pavlov's dog to the signal: "Here's an atrocity: Salivate! Blame the _____s!". Polite people cannot get away with that any more against Jews and Afro-Americans, but you give them the Serbs in every talk, and you're having a lot of fun.

The debased view of history in your caricature is not the reason for Serb actions against their enemies. The reason is rather that in this war (1991-) Croatian and Muslim enemies of the Serbs have again taken up their practice of genocide against Serbs. - Isn't this history, too?

The press did not report these atrocities, and you skip and dance around the fact that the 1991-92 victims at Pakrac, Pakračka Poljana, Gospić *et al.* were Serbs at the hands of the Croats, that 10,000 homes and businesses of Serbs in Croatia were dynamited, often with the inhabitants inside. Lawyers might therefore dismiss these crimes because they started in the summer of 1990, hence "before" the war. The same demolition has been meted out to Croats deemed not Croatian enough. Even Slovene-owned houses in Croatia have been torched, starting in 1990.

In your recitation of bad guys, you conjured up Serb devils Šešelj and Arkan. But the former does not operate where you said he does. Arkan does, also in Bosnia, and in Serbia (Kosovo?). - Lastly, you didn't mention that, contrary to the western media prognostications, Arkan lost big in the Serbian elections. Why didn't you mention such sweethearts as Špegelj, Merčep, and Glavaš, Dr. Vesna Bosanac (Croats) and the Muslims Dr. Naim Kadić (both medics are urban, not rural barbarians), Sarajevo's gangsters Caco and Čelo and the Bosnian authorities who first tolerated these two, then rubbed them out? Your audience, among others, hasn't heard of the Croatian and Muslim war criminals, that's why. If the named persons are not on your list, you haven't done your job.

Sincerely yours,

J. P. Maher Ph.D.
Professor Emeritus of Linguistics

¹ Check with the U. S. Justice Department for the semi-annual filings by Ruder Finn Inc., Waterman Associates, and Hill & Knowlton. Kosovo is a province in Serbia, 200 miles away from Sarajevo. The Sarajevo hospital you apparently have in mind is Kotero.

© Excerpts from a magazine, by Dr. B

"Dr. Naim Kadić, o from the hospital r lower floors were f military target.

"In August 1 Nations Protective troops from the ho such a document, I of the hospital. His from the hospital.' treated the victims as an attack on civi at just the moment film the explosions. wounds on any of t to the lower extrem result of preplanted the benefit of the T evidenced no star s were two concentri moslem victims fro their homes in the i Coincidence?"

² *Chronicles. A* Rockford Institute, 9: 964-5054. Thomas F

© Excerpts from an article "I Spell Hell SARAJEVO," to appear in *Chronicles*³ magazine, by Dr. Boriša Starović, Dean of the Medical School, the University of Sarajevo:

"Dr. Naim Kadić, over my vehement protest, permitted Bosnian army snipers to operate from the hospital roof and several windows of the upper floors of our hospital while the lower floors were full of the victims of war... Thus he transformed a safe haven into a military target.

"In August 1992 I was approached by a British officer of the UNPROFOR (United Nations Protective Force). He wanted to give ME an official protest for the firing on his troops from the hospital by moslem troops. Since I did not have the authority to accept such a document, I referred him to Dr. Kadić, who had become the administrative director of the hospital. His comment: 'Dr. Kadić will not admit that there are people shooting from the hospital.' I knew they were using the windows of my office for sniping. I treated the victims of the notorious "Breadline Massacre" that was reported on western TV as an attack on civilians who were standing in line for bread. An attack by Serbian forces at just the moment that the only two professional TV cameras in the city were on hand to film the explosions. I found it very odd that that there were no lacerations or puncture wounds on any of the victims. Neither were there any head or chest wounds, only trauma to the lower extremities. They were obviously not caused by artillery shells; they were the result of preplanted demolition charges placed by Bosnian Moslem forces, triggered for the benefit of the TV cameras. For further proof, the surface of the "attack area" evidenced no star shaped shell holes that are typical of such explosions. Instead, there were two concentric circular holes that are now covered with flowers, in memory of the moslem victims from their moslem "friends". Several moslem families were evacuated from their homes in the immediate area of the "attack" just prior to the media event. Coincidence?"

³ *Chronicles. A Magazine of American Culture.* ISSN 0857-5731. Published by the Rockford Institute, 934 North Main Street, Rockford IL 61103-7061. Editorial phone 1 (815) 964-5054. Thomas Fleming, Editor.

A Muslim woman at the market was heard on Sarajevo radio, marveling that this "shell" was like no other: it did not whistle. Incoming rounds always whistle.

The victims had deep wounds and deep burns from the waist down, but no shell fragments, as would have been the case of a mortar round or artillery shell, according to Dr. Sevkett Kaduman, who operated on the first victims. Dr. Kaduman is a Turk.

As with Bread Line Massacre I, 24 May 1992, the atrocity was staged by the Bosnian Muslim government on the vigil of UN/NATO deliberations in order to provoke an attack the Serbs. Same ordnance, same *modus operandi*, same perpetrators.

BBC World Service. 23 February 1994: Riots broke out in Jammu, India, after a bomb exploded in a crowded market, killing many. Indian authorities ascribe the act to Muslim terrorists... *Modus Operandi*, anyone?

A/C.3/47/3 -
(7/10/1992)

A/47/813-S/24991
(18/12/1992)

A/48/74-S/25216 -
(3/2/1993)

A/48/77-S/25231 -
(3/2/1993)

S/25345 -
(26/2/1993)

S/25346
(26/2/1993)

S/25241
S/25241/Add 1
(17 & 30/3/1993)

A/48/299-S/26261 -
(6/8/1993)

A/48/355-S/26390 -
(1/9/1993)

A/48/176-S/25834 -
(25/5/1993)

A/48/623-S/26772 -
(23/11/1993)

A/48/830-S/26916 -
(23/12/1993)

S/26894 -
(19/12/1993)

S/1994/548 -
(9/5/1994)

DOCUMENTS SUBMITTED TO THE UN COMMISSION OF EXPERTS

A/C.3/47/3 - (7/10/1992)	Reply of the Government of FRY regarding the report submitted by the Special rapporteur on mercenaries
A/47/813-S/24991 (18/12/1992)	Deposition of Serbian women given to the State Commission for War Crimes. Analysis of the medical-psychological examination of one group of people released through the exchange of prisoners.
A/48/74-S/25216 - (3/2/1993)	Crimes of rape of children, girls and women of Serbian nationality in the Village of Novi Grad.
A/48/77-S/25231 - (3/2/1993)	Depositions of Serbian women given to the State Commission for War Crimes
S/25345 - (26/2/1993)	Document on crimes of genocide against the Serbs in the municipality of Metkovic (Republic of Croatia) 1991-1992 given to the State Commission for War Crimes.
S/25346 (26/2/1993)	Report of the Serbian Council Information Center regarding the abuse of human and ethnic rights, destruction of property and expulsions of ethnic Serbs from Croatia 1991-1992, given to the State Commission for War Crimes.
S/25241 S/25241/add 1 (17 & 30/3/1993)	Report of the Government of the FRY on the violations of humanitarian law, including breaches of the Geneva Conventions, committed in the territory of the former SFRY.
A/48/299-S/26261 - (6/8/1993)	Memorandum on war crimes and crimes of genocide against the Serbian people in the area of the former commune of Odzak, deposited with the State Commission for War Crimes and the Crime of Genocide.
A/48/355-S/26390 - (1/9/1993)	"Death camps and mass graves in western Slavonia: Marino Selo and Pakracka Poljana," containing facts on human rights violations, ethnic cleansing and crimes of Croat armed forces against the Serbian civilian population in Croatia
A/48/176-S/25834 - (25/5/1993)	Memorandum on the violation of human rights in the Serb community of Gorski Kotar in the Republic of Croatia, deposited with the State Commission for War Crimes.
A/48/623-S/26772 - (23/11/1993)	Letter from H.E. Mr. Vladislav Jovanovic, Minister for Foreign Affairs of the Federal Republic of Yugoslavia about mass murders of Serbs, destruction of many Serb settlements and the ethnic cleansing of towns and villages with a mixed population.
A/48/830-S/26916 - (23/12/1993)	Memorandum of the Government of the FRY on ethnic cleansing and other human rights violations in Croatia.
S/26894 - (19/12/1993)	Information of the State Commission for War Crimes of the FRY concerning the prisoners of war and missing persons.
S/1994/548 - (9/5/1994)	Third report of the Government of the FRY on the violations of the humanitarian law, including breaches of the Geneva Conventions, committed in the territory of the former SFRY.



General Assembly Security Council

Dist.
GENERAL

A/47/813
S/24991
18 December 1992

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Forty-seventh session
Agenda item 97 (c)
HUMAN RIGHTS QUESTIONS:
HUMAN RIGHTS SITUATIONS AND
REPORTS OF SPECIAL RAPPORTEURS
AND REPRESENTATIVES

SECURITY COUNCIL
Forty-seventh year

Letter dated 18 December 1992 from the Chargé d'affaires a.i.
of the Permanent Mission of Yugoslavia to the United Nations
addressed to the Secretary-General

I have the honour to transmit herewith the following documents:

(a) Depositions of Serbian women given to the State Commission for War Crimes (see annex I);

(b) Analysis of the medical-psychological examinations of one group of people released through the exchange of prisoners (see annex II).

I should be grateful if you would have the present letter and those documents circulated as an official document of the General Assembly, under agenda item 97 (c), and of the Security Council.

(Signed) Dragomir DJOKIĆ
Ambassador
Chargé d'affaires a.i.

A/47/813
S/24991
English
Page 1

The Tarnin area

Physical torture to which Serbs from this area have been subjected by Muslims is particularly brutal. Serb women are charged with possession of radio stations and keeping of war journals. They are arrested on these charges and physically and mentally abused and humiliated. A woman from the village of Ferhatlije, near Pazarić, committed suicide after such torture. Particularly notorious are Rijaz Lihovac called Tera, Mirsad Sabic called Mirso and Muhamed Turcinović called Zeko, former police officer of the Socialist Republic of Bosnia and Herzegovina.

Dear Mr. Ambassador

As you may be

Before leaving
appreciation for the

In view of you
inform you that the O
Secretary-General on
Final Report to the S

The members of
to the Secretary-General
will describe
Commission.

The task of the
commencement of the
though the Commission
the remaining stages of

At the meeting
the Secretary-General,
Prosecutor of the Int-

On 24 Jan, I
the Commission.

H.E. Mr. Vladimir Pav
Ambassador
Permanent Representative
to the United Nations
other international org
5, chemin Thury
1206 Geneva



Commission of Experts established pursuant to
Security Council Resolution 780 (1992)
TEL No: (41 22) 917 21 88/89
FAX No: (41 22) 917 09 87

Handwritten notes:
M. Cherif Bassiouni
Chairman
28.4.94
383

Geneva, 22 April 1994

Dear Mr. Ambassador,

As you may know, this Commission will end its work on 30 April 1994.

Before leaving Geneva to return to Chicago, I wanted to extend the Commission's appreciation for the assistance and support provided to us by your Government.

In view of your Government's interest in the work of the Commission, I wanted to inform you that the Commission's Final Report will be submitted to the Secretary-General on 30 April 1994. The Secretary-General will then communicate the Final Report to the Security Council in all U.N. official languages.

The annexes to the Final Report will be issued by 31 May 1994 and also submitted to the Secretary-General with a recommendation by the Commission for publication. The annexes will describe the various investigatory and research projects undertaken by the Commission.

The task of editing and preparing the annexes will follow shortly after the commencement of the translation of the Final Report in the official languages. And, even though the Commission will have ended its work on 30 April, I will personally oversee the remaining stages of completing the Final Report and of editing the annexes.

At the meantime, we are in the process of transferring, with the authorization of the Secretary-General, the database and documents of the Commission to the Office of the Prosecutor of the International Criminal Tribunal for the former Yugoslavia.

Once again, I would like to say a word of support for the work of the Commission.

Yours sincerely,

Handwritten signature of M. Cherif Bassiouni

M. Cherif Bassiouni
Chairman

H.E. Mr. Vladimir Pavlovic
Ambassador

Permanent Representative of the Federal Republic of Yugoslavia
to the United Nations Office and
other international organizations at Geneva
5, chemin Thury
1206 Geneva

STAMP: STAMP OF THE SECRETARIAT OF THE UNITED NATIONS
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383

28.4.94

K-3

**Permanent Mission of the Federal Republic
of Yugoslavia to the United Nations Office**

2. ul. Thury, 1208 GENEVA

Phone: 348.44.33 and 348.62.22

Fax: 348.44.38 Telex: 627-786

No. 467/2

18 May 1993

Dear Mr. Kalshoven,

I have the honour to enclose herein documents related to the work of the United Nations Commission of Experts established pursuant to Security Council Resolution 780 (1992) that you chair.

Following your visit to Belgrade we were informed that you were not acquainted with our documents on the violation of human rights on the territory of the former Yugoslavia.

I would therefore like to take this opportunity to present to you personally the following documents:

File 1

1. Report of the Serbian Council: Information Center on Harassment and Ethnic Cleansing in Western Slavonia by the Authorities of the Republic of Croatia, Belgrade - October 21, 1992;
2. A New Genocide Against Serbs in Konjic Area - Bradina Crine, Belgrade - 23 November 1992, prepared by Association of Serbs from Bosnia and Herzegovina and Association of Serbs from Konjic;
3. Appeal for Help from the Serbian Ex-inmates - prisoners from Tomislavgrad, Bijela - Herceg Novi, 18 April 1993 (in English and Serbian);

Mr. Frits Kalshoven
Chairman of the
Commission of Experts established
pursuant to Security Council
Resolution 780 (1992)
G e n e v a

4. The Destruction
of the State Com
Genocide of
24 January 1993

5. Communication
forces proper
Presidency;

5. Crime of Rep
statements ar

In addition
with the followi

File 11

1. Memorandum on
Bosnia (Comm
committed ap
April 1993 pr
War Crimes ar
2. Memorandum on
population in
Appeal to the
Urgent Assist
Representativ
3. Memorandum on
Community of
prepared by
Genocide.

Please acco
highest consider

4. The Destruction of Serbian Orthodox Churches, prepared by the State Commission for War Crimes and the Crime of Genocide of the Federal Republic of Yugoslavia, Belgrade, 24 January 1993;
5. Communications on crimes committed by Moslem-Croatian forces prepared by Republic of Serbia, Bosnia-Herzegovina, Presidency;
6. Crime of Rape: medical findings and opinions, victims' statements and depositions.

In addition to that, I would also like to present you with the following new document

File II

1. Memorandum on War Crimes and Crime of Genocide in Eastern Bosnia (communes of Bratunac, Zenica and Srebrenica) committed against the Serbian population from April 1992 to April 1993 prepared by the Yugoslav State Commission for War Crimes and Genocide (Belgrade, April 1993);
2. Memorandum on the dramatic position of the Serbian population in the area of Gorski Kotar (11 March 1992) and Appeal to the UNO and Other International Organizations for Urgent Assistance (3 April 1992) prepared by the Representative Office of the Serbs from Gorski Kotar; and
3. Memorandum on the Violation of Human Rights in the Serb Community of Gorski Kotar in the Republic of Croatia prepared by the Yugoslav State Commission on War Crimes and Genocide.

Please accept, dear Mr. Kalshoven, the assurances of my highest consideration.

Dr. Vladimir Pavicovic
Deputy Head of Delegation of the
F.R. of Yugoslavia to the I.C.F.Y. and
Ambassador, Chargé d'Affaires a.i.

PERMANENT MISSION OF THE
FEDERAL REPUBLIC OF YUGOSLAVIA
6, Avenue Thury
1206 Geneva
Tel.: 346.46.31 & 346.89.58
Fax: 346.44.38

No. 827/1

2 July 1993

FEDERAL REPUBLIC OF YUGOSLAVIA
FEDERAL GOVERNMENT

SUBS
PUMS

Dear Mr. Kalshoven.

I have the honour to enclose herein documents related to the work of the United Nations Commission of Experts established pursuant to Security Council Resolution 780 (1992) that you cheer.

I would like to take this opportunity to present to you personally documents (File 2 and File 4) in response to those submitted on 15 May 1993 (our ref. no. 487/2).

Enclosed are the tables of contents of the said files.

Please accept, dear Mr. Kalshoven, the assurances of my highest consideration.

Dr. Vladimir Pavicevic
Dr. Vladimir Pavicevic
Deputy Head of Delegation of the
F.R. of Yugoslavia to the I.C.F.Y. and
Ambassador, Chargé d'Affaires a.i.

Mr. Fritz Kalshoven
Chairman of the
Commission of Experts established
pursuant to Security Council
Resolution 780 (1992)
Geneva

Abbreviations.....

INTRODUCTION

I - Wilful Killing

II - Wilful Killing

III - Inhuman Treatment

IV - Inhuman Treatment

V - Wilful Killing of
Wounded and Sick

VI - Hostage-Taking

VII - Wanton Devastation
of Property.....

VIII - Devastation of
Cultural and Historic

IX - Ethnic Cleansing

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- United Nations General Assembly
[A/48/77, S/25231] of

- United Nations General Assembly
[A/48/77, S/25218] of

FILE 3

FEDERAL REPUBLIC OF YUGOSLAVIA
FEDERAL GOVERNMENT

YU/SC 780-82/DOC-2/E

SECOND REPORT

SUBMITTED TO THE COMMISSION OF EXPERTS ESTABLISHED
PURSUANT TO SECURITY COUNCIL RESOLUTION 780 (1992)
BELGRADE 1993

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STATE COMMISSION /
AND THE CRIME OF /
NO. 889

MEMORAN
TI I
USTASHI

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by the Authorities of the Republic of Croatia

ANNEX I I I

- New Crimes of Genocide Against the Serbs in the
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Paramilitary For
National Guard

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Commune of C

II - The Suffering
the Commune
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Grasje.....

III - Destruction
People, of C
of Worship i

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FILE 4

STATE COMMISSION FOR WAR CRIMES
AND THE CRIME OF GENOCIDE
NO. 889

MEMORANDUM ON WAR CRIMES AND CRIMES OF GENOCIDE COMMITTED AGAINST
THE SERBIAN PEOPLE IN THE AREA OF THE FORMER COMMUNE OF ODZAK BY
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PERMANENT
FEDERAL REPUBLIC
5, Chem
1206
tel.: 346.44.31
fax: 346

No. 744-1

Dear Mr. Kalich

I have the
the work of the
established pur
that you chair.

I would like
personally docu
on 2 July 1993

Enclosed

Please see
highest consid

Mr. Fritz Kalich
Chairman of the
Commission of E
Joint to Sec
Resolution 780
Geneva

PERMANENT MISSION OF THE
FEDERAL REPUBLIC OF YUGOSLAVIA
5, chemin Thury
1208 Genève
tel.: 348.44.33 & 348.68.88
fax: 348.44.38

No. 744-1/789-1

26 AUGUST 1992

Dear Mr. Kalshoven,

I have the honour to enclose herain documents related to the work of the United Nations Commission of Experts established pursuant to Security Council Resolution 780 (1992) that you chair.

I would like to take this opportunity to present to you personally documents which have been submitted on 2 July 1992.

Enclosed is the Table of Contents of the said file.

Please accept, dear Mr. Kalshoven, the assurances of my highest consideration.


Dr. Vladimir Pavicovic
Deputy Head of Delegation of the
F.R. of Yugoslavia to the I.C.F.Y. and
Ambassador, Charge d'Affaires a.i.

Mr. Fritz Kalshoven
Chairman of the
Commission of Experts established
pursuant to Security Council
Resolution 780 (1992)
Geneva

[FILE-OS.DOC]

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PERMANENT MISSION OF
FEDERAL REPUBLIC OF YU
TO THE UNITED NATIONS
3, Avenue Thiers 1208 GENEVE
Tel. 348 44 23-34/21 68 Fax 348 4

Mr. J. J. J.

Dear Mr. B.

Please find enclosed
of Yugoslavia at

Cherif Bassiouni
Chairman
Commission of
Experts to Establish
Facts Pursuant to the
UN Security Council
Resolution 780 (

PERMANENT MISSION OF THE
FEDERAL REPUBLIC OF YUGOSLAVIA
TO THE UNITED NATIONS
8, Avenue Thiers 1206 Geneva
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RECEIVED

25 APR. 1964

Mr. Bassiouni

Geneva, 22 April 1964

Dear Mr. Bassiouni,

Please find enclosed the third Report of the Federal Republic of Yugoslavia submitted to the UN Commission of Experts.

Respectfully yours,

Dr. Vladimir Pavicovic
Dr. Vladimir Pavicovic

Permanent Representative
of the Federal Republic
of Yugoslavia to the
United Nations Office
in Geneva

Cherif Bassiouni
Chairman
Commission of
Experts Established
Pursuant to the
UN Security Council
Resolution 780 (1992)

INSURE DES X

Geneva, 26 April 1994

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I take
respect.

Dr. Vlastimir Savicevic
Permanent Representative
of FRK to the United Nations
Office in Geneva

U.S. Dr. Vlas
Ambassador
Permanent Rep
of the Fed
to the UN
Chemin de la
120, Geneva

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Commission of Experts established pursuant to
Security Council Resolution 740 (1992)
TEL No: 91.221 917 21 98/58
FAX No: 91.221 917 21 27

Geneva, 28 April 1994

Your Excellency,

I would like to acknowledge receipt of your letter of 24 April 1994 addressed to Mr. V. Kottliar, the Chairman of the Commission, by which you submitted the revised version of the third report of the Federal Republic of Yugoslavia. This report will be forwarded to the International Criminal Tribunal for the former Yugoslavia in The Hague.

As the Commission of Experts ceases its activities at the end of April 1994, any further reports (if your Government chooses to submit any) should be submitted directly to the Tribunal.

I take this opportunity to renew assurances of my sincere respect.

V. Kottliar

Vladimir S. Kottliar
Secretary

H.E. Dr. Vladimir Pavlovic
Ambassador
Permanent Representative
of the Federal Republic of Yugoslavia
to the United Nations Office at Geneva
Chemin de la Paix
1201 Geneva

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28 APR 1994

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Москва, 1 мая 1954.

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SP. VIZ. MINISTARSTVO ZA INOSTRANE POSLOVE
Direkcija za OUN i PNZ

Београд

Verz val faks 1542 od 22.4.1994, dostavljamo
primerak III izveštaja Vlade SRJ Komisiji za ratne zločine,
koji sadrži: Str. 22. i 23. str.

Jedan primarak izvještaja poslali, na sugestiju Sekretarijata Vojvođine. Abrazovali smo u Kragu da ga uruči direktno međunarodnom sudu i pravdu.

Šekodje, u prilogu ostavljamo i fotokopije
na plaću koju plaćate u Kancelariji. Sastavljamo i
katalizir tim povodom.

Priloga: 3.

P/O AMBASADORA

Mironov Mironov
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Source Name	Submitter	Primary Source	Secondary Source	Citation	Notes
YUGO LTR SEC C 11/12/92 Bates 000821-000823	Yugo Charge D'Affaires to UN, Djokic	Yugo Pres, Dobrica Cosic		LTR from Yugo Charge D'Affaires to UN Sec'y Gen'l, 11/12/92, with Annex: Letter dated 11 November 1992 from the President of Yugoslavia addressed to the Sec'y Gen'l; A/47/665, S/244803	Annex: Ltr re: Serbia peace plan 1992 from the President of Yugoslavia addressed to the Sec'y Gen'l; Review of the Implementation of the Declaration on the Strengthening of International Security.
YUGO LTR SEC C 11/14/92 Bates 000799-000801	Yugo Charge D'Affaires to UN, Djokic	Federal Republic of Yugoslavia		LTR from The Charge D'Affaires of the Permanent Mission of Yugoslavia to the United Nations to the Sec'y Gen'l, 11/14/92, with Annex: 10/31/92, A/47/633, S/24762	Annex: "Implementation agreement concerning the withdrawal of armed forces from Yugoslavia under Security Council resolution 781(1992)"
YUGO LTR SEC C 11/14/92 Bates 000802-000804	Yugo Charge D'Affaires to UN, Djokic	Yugo Pres, Cosic		LTR from Yugo Charge D'Affaires to UN Sec'y Gen'l with Annex, 11/14/92; A/47/634, S/24763	Annex: "Letter Dated November 4 1992 from the President of Yugoslavia addressed to the Secretary General" re: Review of the Implementation of the Declaration on the Strengthening of International Security.
YUGO LTR SEC C 11/14/92 Bates 000809-000810	Yugo Charge D'Affaires to UN, Djokic	Yugoslavian Government		LTR from the Yugo Charge D'Affaires to UN Sec'y Gen'l, 11/14/92; A/47/641, S/24778 [correcting text of Cosic Ltr, A/47/577, S/24711]	
YUGO LTR SEC C 2/1/993 Bates 012699-012703	Yugo Charge D'Affaires to UN, Djokic	Yugoslavian Government		LTR from the Yugo Charge D'Affaires to UN, Djokic to Pres of UN Security Council with Annex I: Illegal Arms Shipment to Slovenia, Croatia and the Muslim Forces in Bosnia and Herzegovina as Violations of Arms Embargo Imposed by the Security Council; Annex II: Mr. Recruitment and Training of Foreign Mercenaries by Croatian and Muslim Forces in the Civil War in Bosnia and Herzegovina and the Involvement of the Authorities in Croatia; 2/1/993; S/25318	
YUGO LTR SEC C 8/7/93 Bates 000038-59-048326-77	YUGO Charge D Affaires, Dragomir Djokic	Pres of Fed Rep Yugo, Dobrica Cosic		LTR from Charge D'Affaires Perm Mission of Yugo to UN Sec'y Gen'l, 8/7/92; S/24391. Annex: LTR from Fed Rep Yugo Pres to UN Sec'y Gen'l, 8/7/92; A/48/556	
YUGO LTR SEC-GEN 1/22/93 Bates 003724-003727	Yugo Charge D'Affaires, Djokic	Red Cross of Yugoslavia, Rade Dabjic		1/22/93 LTR from the Yugo Charge D'Affaires to UN, Djokic to UN Sec-Gen with Annex: "Letter Dated 1/18/93 from the Secretary of the Presidency of the Red Cross of Yugoslavia addressed to the President of the European Parliament"	

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Source Name	Submitter	Primary Source	Secondary Source	Citation	Notes
YUGO LTR SEC-GEN 1/29/93 Bates 003838-403842	Yugo Perm Rep to UN, Djokic	Government of FR Y			1/29/93 LTR from the Yugo Charge D'Affaires to UN, Djokic to UN Sec-Gen with Annex: "Annex I: Statement of 1/29/92 of the Government of the Federal Republic of Yugoslavia concerning the Resolution on the Raping of Muslim Women in Former Yugoslavia Adopted by the European Parliament"; Annex II: LTR Dated 12/30/92 from the Federal Assembly of the Federal Republic of Yugoslavia to the President of

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Source Name	Submitter	Primary Source	Secondary Source	Citation	Notes
YUGO LTR SEC-GEN 1/29/93 Bates 003838-003842	Yugo Perm Rep to UN, Djokic	Government of FRY		1/29/93 LTR from the Yugo Charge D'Affaires to UN, Djokic to UN Sec-Gen with Annexes: "Annex I: Statement of 1/18/93 of the Government of the Federal Republic of Yugoslavia concerning the Resolution on the Rights of Women in Former Yugoslavia Adopted by the European Parliament;" "Annex II: LTR Dated 12/20/92 from the Federal Assembly of the Federal Republic of Yugoslavia to the President of the European Parliament;" "Annex III: Protocol of the Deputies of Serbia, Issued by the Serbian Medical Association on 1/14/93;" 2/2/93, A/48/75, S/25217.	
YUGO LTR SEC-GEN 11/24/92 Bates 003025-003033	Yugo Charge D'Affaires, Dragomir Djokic	Yugoslav Government		11/23/92 LTR from the Yugo Charge D'Affaires to UN Sec'y Gen with Annexes: "Statement by the Government of the F.R.Y. of Yugoslavia in Connection with Part of the Report of Mr. Tadeusz Mazowiecki, Special Rapporteur of the UN Commission on Human Rights;" A/47/712, S/24844.	
YUGO LTR SEC-GEN 11/3/93 Bates 048356-048361	Yugoslav Charge D'Affaires to UN	Yugoslav Ministry of Foreign Affairs		10/29/93 "Statement of the Federal Ministry of Foreign Affairs of Yugoslavia concerning the appeals addressed in the UN Security Council and the General Assembly, other International Forums and Conferences by some Non-governmental Organizations" sent under 11/2/93 cover letter from the Yugo Charge D'Affaires to UN; A/48/570, S/26686.	
YUGO LTR SEC-GEN 12/10/92 Bates 003863-003870	Yugo Charge D'Affaires, Djokic	Yugo Minister for Human Rights, Gribac		See Record 41316; Contents duplicate (draft) of 003662-3668.	
YUGO LTR SEC-GEN 12/9/92 Bates 003886-003888	Yugo Charge D'Affaires, Djokic	Yugo Government		12/9/92 LTR from the Yugo Charge D'Affaires, Djokic to UN Secretary General, with Annexes: "Statement by the Government of the Federal Republic of Yugoslavia condemning the Turkish proposal for sending troops to Bosnia;" 12/7/92; A/47/767, S/24935.	
YUGO LTR SEC-GEN 2/18/93 Bates 002391-012393	Yugo Charge D'Affaires, Djokic	Yugo Federal Ministry for Foreign Affairs		LTR from the Yugo Charge D'Affaires, Djokic to UN Sec-Gen with Annexes: "Statement of the Federal Ministry for Foreign Affairs of the Federal Republic of Yugoslavia concerning the resolution to be adopted by the United Nations Commission on Human Rights;" 2/18/93; S/25310, A/48/88, Item 11-5c).	

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Source Name	Submitter	Primary Source	Secondary Source	Clarification	Notes
YUGO LTR SEC-GEN 2/26/93 Bates 012378-012382	Yugo Charge D'Affaires, Djokic	SDA, Sarajevo SDA, Trebinje			2/26/93 New Verbal from the Yugo Charge D'Affaires, Djokic to UN Sec Gen enclosed item alleged SDA documents; Annex I: 1/20/93 Memo from Party of Democratic Action (SDA), Sarajevo to SDA, Trebinje re: Instructions on Moving Out (Mudline) From Trebinje; Annex II: unlabel "Appeal" from Municipal Board of SDA, Trebinje re: temporary removal of residents from Trebinje; 3/23/93.
YUGO LTR SEC-GEN 2/9/92 Bates 003983-992-048461-469	Yugo Perm Rep, Darko Stokic	Yugoslavian Government			2/9/92 LTR from the Yugo Perm Rep to UN Sec Gen enclosed "Memorandum of the Government of Yugoslavia on the Crime of Genocide in Croatia and the Violation of the International Convention Relating to the Prevention and Punishment of Crimes Against Humanity and II, 1948"; Socialist Federal Republic of Yugoslavia.
YUGO LTR SEC-GEN 4/17/92 Bates 012993-3023-048470-505	Yugo Charge D'Affaires, Dragomir Djokic	VP, Presidency of Yugo, Branislav Kostic			4/17/92 LTR from Yugo Charge D'Affaires to UN Sec Gen enclosed LTR from Yugo Vice President and "Memorandum on the Development of the Republic of Croatia in the War in Bosnia-Herzegovina," 4/15/92; Dr. Branko Kostic, Yugo Vice President of the Presidency of the Federal Republic of Yugoslavia.
YUGO LTR SEC-GEN 4/31/93 Bates 013233-013237	Yugo Charge D'Affaires, Dragomir Djokic	Yugo Miss Foreign Affairs, V. Jovanovic			LTR from the Yugo Charge D'Affaires to UN, Dragomir Djokic to UN Secretary-General enclosed 8/30/93 LTR from Yugo Minister of Foreign Affairs, Vladislav Jovanovic to Chairman of CSCE negotiating protective against the illegal foreign media war against the FR; 8/30/93, 4/483136.
YUGO MILITARY 4/21/93 Bates 017634-017631	Yugoslavia Federal Ministry of Justice	Yugoslavia Military Court			4/21/93 LETTER from Zorica Stojanovic, Federal Ministry of Justice, Republic of Yugoslavia to UN Experts Commission on War Crimes Investigating Crimes Against Humanity and International Law. LEGAL DECISIONS in the criminal case against KSENIA RUPICA, Military Court in Belgrade, 7/15/92, Reg. No. 144/92; Supreme Military Court, 10/26/92, II K No. 240/92; LEGAL DECISIONS adjudicating for war crimes against civilians and armed rebellion in the case against MARKO FILKOVIC, ZDENKO STEFANIC, MIRA FILKOVIC, ZDENKO FILKOVIC, Military Court in Belgrade, 7/14/92, II K No. 108/92; Supreme Military Court, 11/24/92, II K No. 340/92. LEGAL DECISION in the criminal case against MARTIN SABLJIC, ZORAN SIROS, NIKOLA CIBARIC, Military Court in Belgrade, 6/26/92, II K No. 112/92; "Excerpts from the Criminal Code of FR Yugoslavia," Armed Rebellion: Articles 124 & 129 and Chapter Sixteen: Crimes Against Humanity and International Law.

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Source Name	Submitter	Primary Source	Secondary Source	Clarification	Notes
YUGO PRESS RELEASE 11/92 Bates 001410-426-040303-318	Yugo Permanent Mission to UN	Federal Republic of Yugoslavia	Various Sources		Yugoslav Daily Survey Press Release "Report of the Federal Republic of Yugoslavia Submitted in the Commission of Experts Established Pursuant to Security Council Resolution 780 (1992)," 11/10/92, Permanent Mission of the Federal Republic of Yugoslavia to the United Nations, No 7/11, [Content same as Document 001374-001409; 017433-40]
YUGO RED CROSS 4/23/92 Bates 018795-018801	Yugoslavian Red Cross	Yugoslavian Red Cross			Two 4/23/92 REPORTS by the Yugoslavian Red Cross Release of Yugoslavian Submission to UN re: Cross violations of humanitarian law from the part of the Slovenian conflict to date.

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Source Name	Submitter	Primary Source	Secondary Source	Citation	Notes
YUGO PRESS RELEASE 11/92 Bulet 001410-428-041302-318	Yugo Permanent Mission to UN	Federal Republic of Yugoslavia	Various Sources	Yugoslav Daily Survey Press Release "Report of the Federal Republic of Yugoslavia Submitted to the Commission of Experts Established Pursuant to Security Council Resolution 780 (1992)." 11/10/92. Permanent Mission of the Federal Republic of Yugoslavia to the United Nations; No 711. [Comments same as Document 001374-001409; 017433-08]	Press Release of Yugoslav Permanent Mission to UN re: Charges of violations of humanitarian law from the start of the Slovenian conflict to date.
YUGO RED CROSS 4/23/92 Bulet 018793-018801	Yugoslavian Red Cross	Yugoslavian Red Cross		Two 4/23/92 REPORTS by the Yugoslavian Red Cross entitled respectively, "The Pulcin Dvor Case" with "Annex 1: The List of Persons Who Disappeared at Pulcin Dvor" and "The Kijalinski Selo Case" with "Annex 1: Mr. Milja Kijalinski's Testimony About The Crime."	
YUGO RPT CCPM 10/10/92 Bulet 021822-021834	FRY	FRY		10/20/92 REPORT entitled "Documents Submitted in Compliance with a Special Decision of the Committee: FRY (Serbia and Montenegro)" re: 10/7/92 request of the UN Human Rights Commission for report on the situation in the country (4/2/93). [CCPAC/92. [cross-reference in 043374-043380]	
YUGO SOCIALIST 12/92 Bulet 004917-004918	Socialist Party of Yugoslavia	Socialist Party of Yugoslavia		12/92 Declaration of the Socialist Party of Yugoslavia addressed to the Commission of Experts of the International Court of Justice [German Translation].	
YUGO STMT RAPE 1/29/93 Bulet 012606-650-35573-6017	Yugo Perm Rep to UN, Vukobratovic Pavicovic	Ex Comm War Crimes & Crime of Genocide	Various Sources	12/30/92 LTR from the Yugo Perm Rep to UN, Vukobratovic Pavicovic to UN Assistant Secretary-General for Human Rights with the subject: "Statement of the Government of the Federal Republic of Yugoslavia concerning the Resolution on the rape of Muslim Women in former Yugoslavia addressed by the European Parliament." 1/8/93; 12/30/92 LTR from the Yugoslavia Federal Assembly to Kijalinski. Press of the European Parliament re: request to the European Parliament resolution on the rape of women in the former Yugoslavia. [Yugoslav Medical Association "Memorandum on the Crimes of Rape of Children, Girls and Women of Serbian Nationality in the Bosnian-Herzegovina Village of Novi-Grad, the Commune of Odzak," with attached victim statements, 12/24/92. State Commission for War Crimes and the Crime of Genocide (SAMAC). Documents submitted to Commission on Human Rights, 40th Session, Agenda Item 10, 12.22.24, 27, 28/93; D/CN.4/1993/96	

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Source Name	Submitter	Primary Source	Secondary Source	Citation	Notes
YUGO SUBMISSION 11/13/93 Bates 022227-022228	MAZOWIECKI	Tanjug	SRA Army/1st & 2nd Krajina Corp	11/13/93 Tanjug Release re: report of the 2nd Krajina Corps in Ribac identifying the owners of 10 handbells and private property were Serbian women/children are reported; report of the 1st Krajina Corps in Banja Luka of handbells in Zenica, Bugojno, Travnik, Vitez, Maglaj, Zavidovici and Livno; News release of the Srpka Army HQ regarding the involvement of the UN, Zagreb in an armistice/negotiation scheme.	
YUGO SUBMISSION 11/13/93 Bates 022229-022242	MAZOWIECKI	Yugo St. Corbin for War & Genocide Crimes Republic of Serbia Commissioner for Refugees; Association of Serbs from BII Konjic Homeland Club		1992-1993 Victim TESTIMONIES re: forced expulsions from Kakanj, Dretelj Camp; prison at Bosanski Brod Football Stadium. Testimonies submitted by the Republic of Serbia, State Commission for War Crimes and Genocide; Commissioner for Refugees; Association of Serbs from B.H. Konjic (Inmehel Club).	
YUGO SUBMISSION 11/27/92 Bates 001103-156-048-408-461	Yugo Charge D'Affaires, Dragomir Djokic	Federal Republic of Yugoslavia		11/27/92 LTR from the Yugo Charge D'Affaires to Kaliberv, Commission of Experts, encloses five documents in response to par. 1, Resolution 780 (1992): "Memorandum of the Government of Yugoslavia on the crime of genocide in Croatia and the vandalizing of Memorial of Jasenovac," 1/31/92; "Memorandum of Human Rights Abuses of Peaceful Serbian Community in Gorak Kozar, Croatia," 10/92; "Memorandum on the involvement of Croatia in the war in Bosnia-Herzegovina," 6/15/92; "Sufferings of the Serbian people in the region of Western Slavonia," 4/92; "Information on the aggression of the Republic of Croatia against the Serbian Republic (Republika Srpska) and genocide against the Serbs in the former Bosnia-Herzegovina," 4/92. [Content of 002103-19 duplicated in 018659-78]	
YUGO SUBMISSION 11/2/92 Bates 001373-001409	Yugo Charge D'Affaires to UN, D. Djokic	Federal Republic of Yugoslavia	Various Sources	LTR from Yugo Charge D'Affaires to UN Sec'y Gen'l, 11/6/92; 5/24/93, encloses "REPORT - Submitted to the Commission of Experts Established Pursuant to Security Council Resolution 780 (1992)," 11/2/92, Government of the Federal Republic of Yugoslavia, Belgrade; YU/SC 780-92/DOC-1/E. [Content same as Document 001410-001427; 017433-48].	Report describes gross violations of humanitarian law perpetrated from the outbreak of the conflict in Slavonia to date.

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Source Name	Submitter	Primary Source	Secondary Source	Citation	Notes
YUGO SUBMISSION 11/2/92 Bates 017433-468-048-265-301	Yugo Charge D'Affaires to UN/Djokic	Federal Republic of Yugoslavia			31/5/93 LTR from the Yugo Charge D'Affaires, Djokic to UN Secretary-General attaches Report Submitted to the Commission of Experts Established Pursuant to Security Council Resolution 780 (1992), 11/2/92, Federal Government of the Republic of Yugoslavia; S/25421, YU/SC 780-92/DOC-1/E. [Contents duplicated in 001374-1426]

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Source Name	Submitter	Primary Source	Secondary Source	Claim	Notes
YUGO SUBMISSION 11/3/92 Bates 017433-468 048265-301	Yugo Charge D'Affaire to UN/Djokic	Federal Republic of Yugoslavia			3/15/93 LTR from the Yugo Charge D'Affaire, Djokic to UN Secretary-General attaches "Report Submitted to the Commission of Experts Established Pursuant to Security Council Resolution 780 (1992), 11/1/92, Federal Government of the Republic of Yugoslavia, S/2541, YUGOC 780-92/DOOC-1/E. [Contents duplicated in 001374-1426]
YUGO SUBMISSION 12/18/92 Bates see-claibon	Yugo Charge D'Affaire, Djokic	St. Cern War Cn Inst. Ment. Ill/Ment. Psych	Various		12/18/92 LTR from the Yugo Charge D'Affaire to UN, Djokic encloses documents: "Annex I: Depositions of Serbian Women Given to the State Commission for War Crimes;" "Annex II: Analysis of the Medical Psychological Examinations of One Group of People Released through the Exchange of Prisoners;" "Inclosure for Mental Health and Military Psychology;" 12/18/92; A/47/813, S/24/991. Bates target: 004780-807; 022197-022226; 1048338-335.
YUGO SUBMISSION 12/23/92 Bates 039278-039279A	Shana Swiss/Physicians for Human Rights	Yugoslavia Ambassador in Bonn, Germany			Document fixed to German authorities (?) from Yugoslav Ambassador in Bonn re: LIST of rape Rindelles (document German translation only). [039278A-039279A, duplicates of 039278-039279 with the exception that witness names deleted for the purpose of data entry at the request of Shana Swiss.]
YUGO SUBMISSION 3/24/93 Bates 018290-018293	Yugo Charge D'Affaires to UN, Pavlovic	Federal Republic of Yugoslavia			3/24/93 LTR from the Yugo Charge D'Affaires to UN, Pavlovic to Kalshoven, Commission of Experts encloses copy of 3/22/93 Pavlovic letter to Petrovsky, UN Centre for Human Rights re: Croatia's use of organized political trials as a means of ethnic cleansing against Serbs. Includes list of names of 13 Serbian citizens indicated by the Military Court of Split and due to be placed on trial in Dubrovnik on 3/23/93.
YUGO SUBMISSION 3/30/93 Bates 018266-018271	Yugo Charge D'Affaires, Dragomir Djokic	Federal Republic of Yugoslavia	Various		3/30/93 LTR from the Yugoslav Charge D'Affaire to UN, Djokic to UN Secretary-General annexes submission of information on ethnic cleansing re: Brnje (Croatia), 11/91, IX-013; Vukovar, 10/91, IX-014; Bosanski Lutan on the Drava River, 11/91, IX-014; Rudol. B-II, 5/92, IX-015; Jasenovac, 8/92, IX-016; Vukovar (Croatia), 3/92, IX-016; Matar and the Neretva River Valley, 1992, IX-017, 3/30/93, S/2541/Add.1.

Source Name	Submitter	Primary Source	Secondary Source	Citation	Notes
YUGO SUBMISSION 4993 Bates 021317-021289	Yugo Charge D'Affaires to UN, Djake	Yugo St Comm War Crimes & Genocide		5/24/93 LTR (A/48/177, 5/23/93, 6/2/93) from the Yugoslav Charge D'Affaires to UN, Dragomir Djake annexes "MEMORANDUM on War Crimes and Crimes and Genocide in Eastern Bosnia (Communes of Iztok, Stenani and Strefica) Committed Against the Serbian Population from April 1992 to April 1993", 4/93, Yugoslav State Commission for War Crimes and Genocide.	Memorandum includes crimes against the Serbs in 1992 and 1993: destruction of villages; massacred persons; destroyed personal property and goods; perpetrators of crimes; and statements of eyewitnesses.
YUGO SUBMISSION 518693 Bates 017954-018135	Yugo Charge D'Affaires to UN, Pavlovic	St Comm War Cr & Gen Gorski Kotar Serb		5/18/93 LETTER (No. 457/2) from Vladimir Pavlovic, Yugo Charge D'Affaires to UN to Kalibrevic, UN Commission of Experts encloses: "Memorandum on War Crimes and Crimes of Genocide in Eastern Bosnia (communes of Brajune, Stenani and Strefica) committed against the Serbian population from 4/92 to 4/93 Prepared by the Yugoslav State Commission for War Crimes and Genocide (Belgrade, 4/93)" [includes witness statements]; 2/11/92 Memorandum on the Dramatic Position of the Serbian Population in the Area of Gorski Kotar and 4/2/92 Appeal to the UNO and Other International Organizations for Urgent Assistance Prepared by the Representative Office of the Serbs in Croatia; "Memorandum on the Violation of Human Rights in the Serb Community of Gorski Kotar," undated, Yugoslav State Commission on War Crimes and Genocide, [includes witness statements & damage assessments] [Duplicate of SERB BAR ASSOC 1/14/94 sub-range 063363-063398].	
YUGO SUBMISSION 574493 Bates 023479-023516	Yugo Ambassador to UN/Djake	Yugo State Commission for War Crimes		5/24/93 LTR from Yugoslav Ambassador to UN, Djake to UN Secretary-General encloses "MEMORANDUM on violations of human rights in the Serb community of Gorski Kotar, Croatia with attached Statement, Assessment of Primary Damages and List of Destroyed Things by Jozo Djokic Milosevic, Decision, Appeal and Letter for ex officio declaration of the permanent residence of Ljubica, Zvezdana & Nikola Curcic; 5/25/93, A/48/176, 5/23/93.	
YUGO SUBMISSION 56693 Bates 018136-018161	Yugo Charge D'Affaires, Pavlovic	Yugo Minister of Foreign Affairs		5/6/93 LETTER from Yugo Charge D'Affaires to UN, Pavlovic to Kalibrevic, Commission of Experts encloses: "Appeal For Help" from Serb ex-inmates of the Croatian "Rascane" detention camp, 4/19/93, Serbs from Tomislavgrad via Jovanovic, Minister of Foreign Affairs of the FRY.	Appeal re: 242 Detainees, including women and children, of the Croatia camp "Rascane" near Tomislavgrad. Document includes the illegible signatures of 43 ex-inmates.

Summary of Documentation Database

Source Name	Submitter	Primary Source	Secondary Source	Citation	Notes
YUGO SUBMISSION 6/21/93 Baet 003407-023443	Yugo Charge d'Affaires to UN, PRVETVE	Yugoslav Army		6/21/93 LTR (No. 607/1) from Pavlovic, Yugo Ambassador to UN, to Kabborn, Commission of Experts enclosed undated REPORT entitled "Criminal Acts and Perpetration of Criminal Acts Against Humanity and International Law Committed Before and During Armed Conflicts in Yugoslavia and Its Surroundings" re: political decision taken by HDZ on ethnic cleansing; acts of "ethnic cleansing" in the northern part of Bosnia Herzegovina including Bosnia, Kirova Bara, Lajac, Bosnian Etnic, Dalmatian Ulice; list of alleged perpetrators/war criminals.	

Summary of Documentation Database

Source Name	Submitter	Primary Source	Secondary Source	Citation	Notes
YUGO SUBMISSION 7/2/93 Bates 0324/00A-032019	FRY Charge D'Affaires to UN, Pavlovic	FRY St. Comm War Cr. & Cr. Genocide	various Serbian Autors Serb Co. Info Cr.	7/2/93 LTR from FRY Charge D'Affaires to UN, Pavlovic in Klobukova and FILE 3: "Second REPORT Submitted to the Commission of Experts Established Pursuant to Security Council SEC/RES/780 1992, Belgrade 1993" re: killing/inhumane treatment of civilians, POWs, wounded and sick; detention camps; ethnic cleansing; destruction of personal property and cultural/historical/religious monuments. Annex I: various UN documents. Annex II: "Report of the Serbian Council Information Center on Harassment and Ethnic Chasing in Western Slavonia by Authorities of Republic of Croatia." Annex III: "New Crimes of Genocide Against the Serbs in the Municipality of Metkovic 1991-1992-1993, St. Geroge Assoc. of Serbs from Metkovic, Croatia, Belgrade." Annex IV: "A New Genocide Against Serbs in Kopacki Area," Assoc. of Serbs from B.H. Assoc. of Serbs from Koprivica, Croatia, refrence. Second Report to "YUGO SUBMISSION 11/3/92; 001373-426, 017403-681 FILE 4: "Memorandum on War Crimes and Crimes of Genocide Committed Against the Serbian People in the Area of the Former Commune of Ouzak by Ustashi-Fundamentalist Paramilitary Formations and Members of the National Guard of the Republic of Croatia (Sarnac, 5/21/93)" re: control/command; Ouzak, Bosanski Brod, Starinski Brod and Ouzak concentration camps; destruction of personal/cultural/historical/religious property; St. Comm War Cr. & Cr. Genocide, NO 689 Annex I: commission/mand for preparation of the 1992 War; Annex 2: statements by Serb leaders of the Ouzak, Bosanski Brod, Starinski Brod and Ouzak camps; Annex 3: list of Serb victims from Ouzak concentration killed/missing/died upon exchange; Annex 4: list of Serb civilians interned at of 5/8/92 in Ustashi camps; and of POWs exchanged until 5/10/93; Annex 5: testimonies on destruction/plundering of Serbian villages; Annex 6: information on perpetrators of war crimes in 1992 and 1993. [Sub-range 02644-028710] is partially duplicated at SERB WAR ASSOC 1/14/94 sub- range 063321-063361]	

Summary of Documentation Database

Source Name	Submitter	Primary Source	Secondary Source	Citation	Notes
YUGO SUBMISSION 8/23/93 Bates 0325/00A-032509	FRY Charge D'Affaires UN, Pavlovic	FRY	Various FRY State Commission for War Crimes and Crimes of Genocide; Serbian Academy of Science and Arts Dr. Milan Buljic; Federal Secretariat of Internal Aff.	M/25/93 LTR from Pavlovic, FRY Charge D'Affaires UN in Klobukova submits FILE 5: "Violations of International Law in Armed Conflicts in the Territory of the Republic of Serbia"; 6/21/93 "Memorandum on the Illegal Seizure of Armed Rebels in the Republic of Serbia and War Crimes Committed in 1991"; 7/93 report entitled "Data on Genocide Violations of the Geneva Convention"	

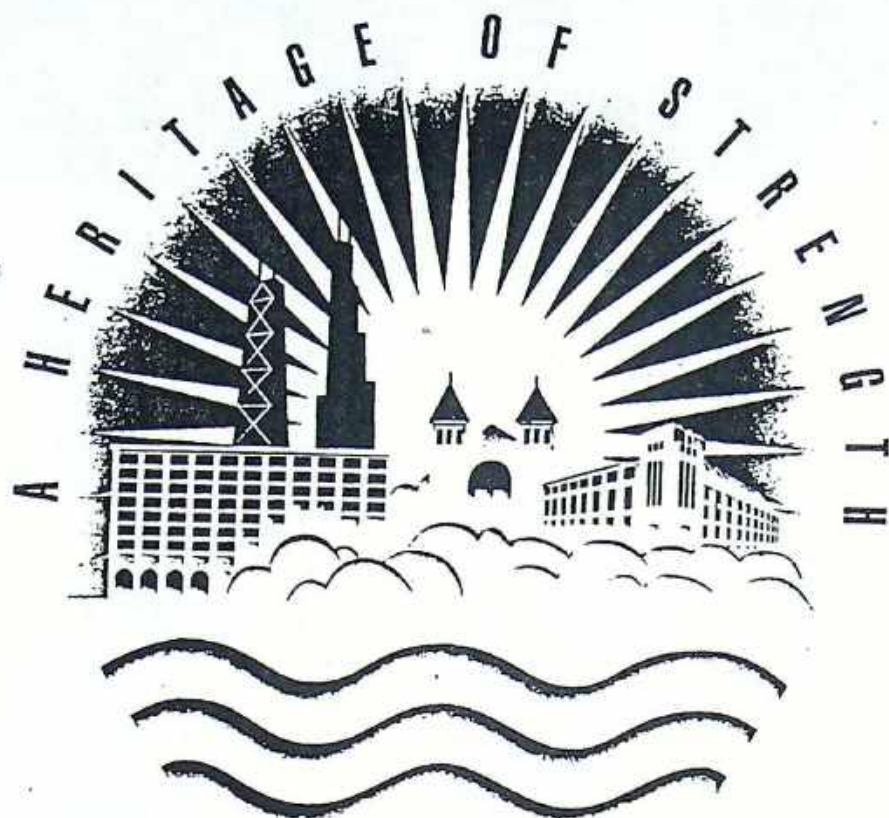
Source Name	Submitter	Primary Source	Secondary Source	Citation	Notes
YUGO SUBMISSION 8/25/93 Bates 035108-035299		FRY Charge D'Affaires UN, Pristina, FRY	Various FRY State Commission for War Crimes and Crimes of Genocide; Serbian Academy of Sciences and Arts; Dr. Miroslav Djokic; Federal Secretariat of Internal Affairs	R2593 LTR from Pristina, FRY Charge D'Affaires UN in Belgrade, Serbia, dated 8/25/93. "Violations of International Law in Armed Conflicts in the Territory of the Republic of Serbia;" 6/21/93. "Memorandum on the Situation of Human Rights in the Republic of Serbia and War Crimes Committed in 1991;" 1/93 report entitled "Data on Gross Violations of the Geneva Conventions on War and Humanitarian Law Committed in the Territory of the Former Socialist Federal Republic of Yugoslavia;" Report entitled "The System of Unlawful War Crimes of Genocide 1991-1993;" Dr. Miroslav Djokic, Serbian Academy of Sciences and Arts International Symposium, 4/22-23/93; "Information on the Sufferings of Customs Employees in Serbia;" "Memorandum on Armed Attacks and Prevention of the Authorized Officers of the Federal Secretariat of Internal Affairs from Arresting the Federal Government Decision of 6/21/93 in the Territory of The Republic of Serbia."	
YUGO SUBMISSION 8/6/93 Bates 036439-036642	Yugo Charge D'Affaires to UN, D Djokic	Yugo State Commission for Various War Crimes		R1693 LTR from, Dragan Djokic, Yugo Charge D'Affaires to UN in UN Secretary-General reduction of the number of War Crimes of Genocide Committed Against the Serbian People in the Area of the Former Commune of Odzak Annex 1 - Documents of the Croatian Democratic Union and the Crisis Headquarters for the Commune of Odzak on preparations for the 1992 war; Annex 2 - Statements by Serb Insurgents of Serbian Nationalist and Odzak, Boranil Brod, Serbia; Annex 3 - List of Killed/missing Serbs from the Odzak area; Annex 4 - List of Serb prisoners of war and camp internees exchanged in 1992; Annex 5 - Testimonies on the looting of property and the destruction of Serb villages; Annex 6 - List of perpetrators; 8/6/93; A/48/599, S/26261.	
YUGO SUBMISSION 9/1/93 Bates 040407-040425	Yugoslavia	Serbian Council Information Center		REPORT entitled "Death Camps and Mass Graves in Western Slavonia: Marjane Selo and Prizma Prijepolje;" 12/19/91-8/1/93, Docid: 961, 2/1 sent under cover letter dated 8/31/93 from the UN Yugoslav Permanent Mission to UN Secretary-General (91/93, A/48/355, S/26261). [duplicate of 037272-399, 040396-415; partial duplicate of 040426-444]	

Summary of Documentation Database

Source Name	Submitter	Primary Source	Secondary Source	Citation	Notes
YUGO SUBMISSION 9/27/92 Bates 04086-5017-048506-537	Yugo Perm Mission to UN	Presidency of Serbian Republic of B-11		1/13/93 LTR from the Yugoslavian Permanent Mission to the UN in Madrid, Madrid, UN Centre for Human Rights subcommittee of Human Rights Commission, 9/27/92, Presidency, Serbian Republic of Bosnia-Herzegovina. [For complete submission under cover letter 1/13/93 see also 04086-51271] Also: 04086-94 duplicate of 011702-3; 011739-44 035805-17 duplicate of 011808-30.	
YUGOMEDIA CAMPAIGN 2/93 Bates 003713-003721	Yugo Charge D'Affaires, Djokic	Government of FR Y		23/93 LTR from the Yugo Charge D'Affaires to UN, Djokic to UN Secretary General with Annex Human Rights Violations and Incitement of Inter-Ethnic Hatred in the Media Campaign Against the Federal Republic of Yugoslavia; A/48/76, 3/23/93.	
YUGOMERCENARIES 6/5/93 Bates 026434-026440	Yugo Perm Mission to UN	Republic of Yugoslavia		6/5/93 LTR from the Permanent Mission of the Federal Republic of Yugoslavia to Ibrahim Fall, Assistant Secretary-General for Human Rights, UN with "Annex I: Foreground in Military and Paramilitary Forces in Croatia and Bosnia and Herzegovina;" No. 661/1 (cross-reference to cover letter with attached photographs); 023838-42).	
YUGOMETROVIC 2/23/93 Bates 012868-012877	Yugo Charge D'Affaires to UN, Djokic	Yugo State Commission for War Crimes		2/23/93 Note Verbal from the Yugo Charge D'Affaires to UN Sec-Gen with annexed report submitted by the State Commission for War Crimes entitled "New Crimes of Genocide Against the Serbs in the Municipality of Metkovic, 1991-1992;" 2/26/93, 5/25/93	
ZAGREB DAILY BULLET 8/93 Bates 033783-033787	Zagreb Daily Bulletin	Zagreb Daily Bulletin		ARTICLE re: massacre of 43 Croat civilians in the hamlet of Orlovici near Kiseljak between Zepce and Zavidavci; 8/18/93, Foreign Press Bureau Zagreb Daily Bulletin.	
ZELJKO VERDICT 3/16/93 Bates 040813-040854	Croatia, Dubrovnik District Court	Croatia, Dubrovnik District Court		VERDICT (case no. KT-1992, 1/16/93) on behalf of the Republic of Croatia against Slobodan Zeljko, lieutenant commander INA re: participation in the artillery attack on Dubrovnik; 3/16/93, Perce Marinko, Dubrovnik District Court, K. 2/1993 (English & Slavic translations).	



SPRING 1994
DEPAUL
University Magazine



Managing the Information of Ethnic Cleansing

by Terry Sullivan



There is a small bunch of flowers hung on a wall in a small, cluttered room, one of a warren of similarly cluttered rooms on an upper floor of a Loop Campus building. It is an attempt to bring some beauty, and perhaps life, to the

breath-takingly somber business that the people in those rooms conduct in the course of their day-to-day work.

Near the flowers is a notice taped to a divider: "ATTENTION—Camp reports to Penny, Mass. Grave reports to Georgann." The rooms are the home of the War Crimes Project for the former Yugoslavia, part of the DePaul College of Law's International Human Rights Law Institute.

In October of 1992, the United Nations Security Council passed Resolution 780 establishing a five-member commission of experts to investigate

THE WAR CRIMES

PROJECT AT

DEPAUL PREPARES

DATA FOR

UNITED NATIONS

PROSECUTORS

war crimes and other violations of international humanitarian law in the former Yugoslavia. DePaul law professor M. Cherif Bassiouni was chosen to serve on the commission and to serve as the "rapporteur" to gather and analyze the facts. Bassiouni, who is also president of the International Human Rights Law Institute, arranged for the institute to design a database and conduct the analysis. In October, 1993, Bassiouni was named chairman of the commission of experts. As a result of the commission's work, the U.N. voted in May, 1993, to establish a prosecutor for a War Crimes Tribunal in the Hague, Netherlands.

The War Crimes Project at DePaul is the source of the data for the tribunal's prosecutor. Now in its second year, the project receives no funding from the U.N. Monies come from private sources, including the George Soros Foundation and the John D. and Catherine T. MacArthur Foundation.



Mark Benner, a 1992 DePaul graduate, is the assistant pro-
ing a staff of 40 to 50—it var-
reliance on volunteers—incl-
law students. Approximately
though, Benner says, "Pay is 2
don't have a great deal of mon-
six are attorneys and six are
people, some of them recent
graduates studying for the bar.
"We also rely on volunteer
ous law firms, who have been
lowing attorneys to use us as
jects." Katten, Muchin and Z-
ner Richard Waller has coordi-



Mark Bennet, a 1992 DePaul College of Law graduate, is the assistant project director, managing a staff of 40 to 50—it varies because of heavy reliance on volunteers—including many DePaul law students. Approximately a dozen are paid, although, Bennet says, "Pay is a very loose term; we don't have a great deal of money." Of those dozen, six are attorneys and six are full-time data entry people, some of them recent DePaul law school graduates studying for the bar exam.

"We also rely on volunteer attorneys from various law firms, who have been very good about allowing attorneys to use us as their *pro bono* projects," Katten, Muchin and Zavis' managing partner Richard Waller has coordinated an effort that

The project has received 64,000 documents from nearly 30 different governments.

The project has received 64,000 documents from nearly 30 different governments (those involved in the conflict as well as those with high populations of refugees), UNPROFOR (United Nations Protective Forces), the U.N. Commission on Human Rights, the International Committee of the Red Cross, Amnesty International, Helsinki Watch, private individuals

at one time put eight or 10 of their attorneys to work on the project. "Jenner and Block has also been very good, as have many other firms," Benner says.

The project has received 64,000 documents from nearly 30 different governments (those involved in the conflict as well as those with high populations of refugees), UNPROFOR (United Nations Protective Forces), the U.N. Commission on Human Rights, the International Committee of the Red Cross, Amnesty International, Helsinki Watch, private individuals

Professor Bessisomi with Carlson Wetzel, a member of the War Crimes Project staff. In the background are Mark Bennet, the assistant project director, and Peony Veneris who is in charge of prison camp reports.

MANAGING THE
INFORMATION OF
ETHNIC CLEANSING

and media sources. Accounts come from virtually anywhere—diplomatic sources, military people, intelligence agencies and interviews conducted in refugee camps.

The documents range from detailed eyewitness and victim accounts to vague references to attacks on specific towns. They include about 150 videotapes—100 hours of film—and some audiotapes.

The information is entered in two separate databases. The first tracks the documents, logging them by source and date, summarizing and, if they're "database relevant" (if they discuss viola-

tions of international law in the territory from Jan. 1, 1991, to the present) assigning them to staff members.

The documents are then distributed to one of five major projects: a day-to-day chronology of the battle and siege of Sarajevo; an analysis of all the reported prison camps; an analysis of mass graves; an analysis of rape and sexual assault; an analysis of paramilitary activity. Documents are supplemented with media accounts drawn from NEXIS searches. The analysis includes entering raw information and summarizing personal accounts, including the

instances of contradictory accounts of a single incident.

What's important and new about the project is the use of database analysis—the ability to sort and track by location, date, individuals, military units and other identifying characteristics. "We can," Benner says, "sort for incidents involving people with tattoos."

It is information science converting scattered human tragedy into a systematic effort to protect human rights. It's the only operation of its kind, Benner says. "There's one in Geneva, Switzerland, but it's not as detailed and I don't think it captures as much information."

The future of the project is uncertain. "The commission officially ended on April 30," Benner says, "so we're scrambling right now to provide our final reports. We don't know what our future will be beyond that. We want to continue operating and providing information to the prosecutor—and to establish an historic record. We need to get all the information that's out there, so that even if all the prosecutions can't happen now—because there's not enough funding or not enough political will—in 20 or 30 years the database will still be alive."

It deserves to stay alive, and with luck, it will. The search for

these camps are not simply popping up at random because the local people are caught up in ethnic hatred, but that it's by design.

"This involves reading hundreds of thousands of pages of accounts that come in from different sources, knowing all the battles, studying the movement of populations, following groups of people from their hometowns through a series of camps. I also analyze the types of torture used at different facilities. If you have the same specific techniques used at widely separated places, different survivors reporting the same patterns of interrogation, coincidence becomes unlikely."

"There's a very dark side to this thing. By this time, I've become somewhat immune to the horrors of it, but sometimes I'll be reading an account and be startled by the creative, nearly Medieval-style tortures. The aggression continues, and it simply has to be stopped. We have a lot of information, names of people, what they did—there are survivor accounts that are very detailed."

"The thing I will come away with is the overwhelming nature of the atrocities. Plus, one other thing—the respect for the incredible people working here on the project. They're very, very dedicated, they care about the issue and they work hard at this in the middle of busy lives. They are doing important, useful work."



Penny Venetis is an attorney on leave of absence from the New York office of Los Angeles law firm O'Melveny and Myers.

"I am a commercial litigator, but I also do a lot of pro bono work for the firm—and I'm interested in international human rights. I was very upset by the events in the former Yugoslavia, primarily by the invasion.... I wanted to get involved in some way. The ideal would have been to work in New York, but I saw Professor Bassiouni at a conference and contacted him—and here I am."

"I'm examining accounts of torture and atrocities committed at concentration camps and death camps. I'm preparing a report, looking for similarities between camps in various parts of the country. The purpose is to show links, evidence of a systematic plan for ethnic cleansing. I'm looking for documentation that



additional funding is ongoing the skills the staff has developed not to be called into service search team for human rights. Meanwhile, those flower rooms are filled to overflow.

"We need to get all the information that's out there, so that even if all the prosecutions can't happen now...., in 20 or 30 years the database will still be alive."

20th century death with 2 programs. The good news is now has a new technological that terrorism is a growth in



Staff members at work mapping incidents in Sarajevo.

A sample from the project's database.

MANAGING THE INFORMATION OF ETHNIC CLEANSING

additional funding is ongoing. The database and the skills the staff has developed are ~~now~~ valuable not to be called into service again, as an ad hoc research team for human rights.

Meanwhile, those flowers have a lonely look; the rooms are filled to overflowing with ~~maps~~ full of stick-pins, a dozen PCs, file boxes and endless stacks of documents—papers, videotapes, audiotapes—the receipts of terror. It is a busy place, with a palpable sense of purpose. The people here are putting their legal skills to ~~work~~—sorting, analysing, evaluating, categorizing and summarizing 20th century death with 21st century computer programs. The good news is that international law now has a new technological tool. The bad news is that terrorism is a growth industry.

CASE: 153766.000 INC.# 153768 DDE: 04/11/94

DTE: 06/30/92 TME: 1:15 a.m.

LOCATION: Omarska Camp

SUMMARY DESCRIPTION: An ex-prisoner at Omarska Camp states that one night in late June 1992, she was ordered to report to the camp commander's office. The following camp officials were in the office: [names deleted]. They ordered her to make coffee and then began to insult her, based on her nationality. At one point, the lights in the office went out and someone forced her into another room. When the power came back on, she found herself in a bathroom with [name deleted], a guard. He hit her head with his rifle grip and then the rifle butt. [name deleted] then raped her. After the rape, [name deleted] took her back to the commander's office where they offered her a cup of coffee. The victim states that the officials "roll-called" her four nights in a row, and continued to beat and rape her. The victim identifies [name deleted] as one who most frequently abused her.

EVIDENCE: Audiotape LOCATION: Croatian Information Centre Archives DESCRIPTION: An audiotape recording of an interview with a witness, supplemented by a written statement, is currently kept in the archives of the centre.

SOURCE: Croatian Information Centre

CITATION: Bulletins based on eyewitness accounts collected by the Croatian Centre for Collecting Documentation and Processing Data on the Liberation War; WEEKLY BULLETIN No. 13, 11/2/93

INTERVIEW WITH STAFF MEMBER

UNITED NATIONS WAR CRIMES COMMISSION
DEPAUL UNIVERSITY
CHICAGO, IL

(The source wished to remain unnamed for security reasons)

AUGUST 27, 1993

De Paul:
All the information is submitted to the War Crimes Commission in Geneva, and they forward it to us. We analyze it and put it in our database.

Marquette:
Are you gathering information regarding all atrocities, including atrocities committed by Croats and Muslims as well as by the Serbs?

De Paul:
Right. The mandate of the Commission as it was established in Security Council Resolution 780 was for all governments and international organizations to submit any evidence they have of atrocities in the former Yugoslavia dating back to January 1 of 1991.

Marquette:
Are these documents all government provided?

De Paul:
Not all of them. Most of it is from governments, but we also get them from organizations like Amnesty International, Helsinki Watch...and also, a lot of organizations that have been formed just through the conflict - focusing on a particular issue - such as especially the rape issue.

There are a lot of women's organizations that have been giving us information.

Marquette:
Do you automatically enter the material into the database or do you try to verify whether or not it's legitimate - or is that impossible?

De Paul:
At this stage, to be the pros trying to do it have, and try particular case investigation.

We'll analyze determine whether statement, a witness? We'll have to verify job easier, because we'll say this other reports

Marquette:
I imagine it is and what's real

De Paul:
It is.

Marquette:
Do you ever get

De Paul:
It's difficult signs where you All sides would of it.

That's what we t database. We st crimes committed credible we thin

Marquette:
Do you put a map not?

De Paul:
What we've done the database, we certain location

Then we bring in crime in that loc major report, and case by case basis just because one find out there at the road.

De Paul:

At this stage, we're not actually verifying - that is going to be the prosecution's job at the tribunal. What we're trying to do here is get the information, analyze what we have, and try to determine what types of crimes, or what particular case within a type of crime deserves further investigation.

We'll analyze the evidence we have - for example, we'll determine whether it's an eyewitness testimony, a sworn statement, a videotape testimony... Is the person willing to testify before the tribunal? What is the credibility of the witness? We'll analyze all this information, but we're not here to verify it - we're just here to make the prosecutor's job easier, because he's going to have limited resources - we'll say this stuff requires further investigation or these other reports aren't worth your time - that type of thing.

Marquette:

I imagine it is very hard to discern between what's phony and what's real.

De Paul:

It is.

Marquette:

Do you ever get anything coming in that smells phony?

De Paul:

It's difficult to determine. To me, there are some clear signs where you are automatically suspect of some things. All sides would be equally guilty of the propaganda aspect of it.

That's what we try to analyze. We still put it in the database. We still keep track of it and still enter it as crimes committed, but all that goes into the analysis of how credible we think this evidence is.

Marquette:

Do you put a mark by things designating them as credible or not?

De Paul:

What we've done is after we've entered the information in the database, we generate reports based on certain crimes, certain locations, certain people.

Then we bring in all the reports on those people or on that crime in that location, and we condense it all into one major report, and we analyze - we don't actually go on a case by case basis. You don't want to eliminate something just because one witness isn't credible, because you might find out there are other verifying accounts later on down the road.

Marquette: How often do you get material?

De Paul: There's no rhyme or reason to it. It's pretty much a steady stream.

We have received over 40,000 pages of documents.

Marquette: Is there any way for someone outside your group to get any of that documentation?

De Paul: No. Since we are working for the United Nations - and even if we weren't - that's all information we have to keep protected and confidential, because we do have names and locations, and things like that should not be let out.

Marquette: One of the things Professor Bassiouni (law professor at DePaul and head of the De Paul War Crimes Commission) mentioned in the MS. Magazine article was that the difficulty is that you don't have dates, specific locations, and names - but you're saying that you do?

De Paul: Not always, no. We so in some cases. Once again, are those reports reliable? We don't know.

We do have some names, but we also have many more - well over the majority of accounts, with no names. So, it's a very difficult task.

Author's note:

MY THANKS TO THIS SOURCE FOR THEIR COOPERATION IN THIS EFFORT. THE SOURCE EXPLAINED TO ME THAT SINCE BEGINNING THE EVIDENCE GATHERING, THE UNIVERSITY HAS BEEN CONCERNED ABOUT SECURITY MEASURES AND THAT THE COMMISSION WAS INFORMED BY THE FBI TO TAKE AS MANY PRECAUTIONS AS POSSIBLE, GIVEN THAT CHICAGO HAS LARGE POPULATIONS OF ALL THREE OF THE ETHNIC GROUPS - SERBS, CROATS, AND MUSLIMS.

THE SOURCE INFORMED ME THAT BECAUSE OF THIS, EXTRA SECURITY HAS INDEED BEEN IMPLEMENTED AT THE UNIVERSITY SINCE THE GATHERING OF WAR CRIMES EVIDENCE BEGAN.

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TO SEND INFORMATION - EITHER ABOUT CURRENT WAR CRIMES
OR HISTORICAL INFORMATION
REGARDING THE CURRENT WAR IN THE FORMER YUGOSLAVIA

PLEASE SEND TO:

BILL SCHILLER: DIRECTOR OF RESEARCH
THE INTERNATIONAL HUMAN RIGHTS LAW INSTITUTE

COLLEGE OF LAW

DE PAUL UNIVERSITY

25 EAST JACKSON BLVD.

CHICAGO, IL 60604-2287

It is imperative that Serbs in the United States take this
very seriously, for the Croats and Muslims are taking it
dead serious.

S. Marquette

**YUGOSLAVIA'S APPLICATION AGAINST THE STATES
MEMBERS OF THE NATO, 18 FEBRUARY 1994**

**FEDERAL REPUBLIC OF YUGOSLAVIA
FEDERAL MINISTRY OF FOREIGN AFFAIRS**

Beograd, 18 February 1994

**INTERNATIONAL COURT OF JUSTICE
PEACE PALACE
THE HAGUE
NETHERLANDS**

TO THE REGISTRAR OF THE COURT

Sir,

I have the honour to transmit to you, the Application instituting proceedings submitted by the Federal Republic of Yugoslavia. The Application is being submitted in accordance with Article 40 (1) of the Statute of the International Court of Justice.

Your attention is drawn to the request for the indication of a provisional measure in accordance with Article 41 (1) of the Statute of the International Court of Justice.

Accept, Sir, the assurances of my highest consideration.

Vladislav Jovanović
Federal Minister for
Foreign Affairs of the
Federal Republic of Yugoslavia

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To His Excellency
of Justice:

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APPLICATION INSTITUTING PROCEEDINGS
SUBMITTED BY
THE FEDERAL REPUBLIC OF YUGOSLAVIA

18 February 1994

To His Excellency, the President, to the Judges of the International Court of Justice:

I have the honour to refer to the provisions of Article 36 (1) of the Statute of the International Court of Justice and submit hereby on behalf of the Government of the Federal Republic of Yugoslavia an Application instituting proceedings against Belgium, Canada, Denmark, France, Germany, Greece, Iceland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Spain, Turkey, United Kingdom of Great Britain and Northern Ireland, the United States of America and the member-States of the North Atlantic Treaty Organization (hereinafter NATO) - for the decisions taken by the above mentioned states at the meeting of the North Atlantic Council on 9 February 1994 which are to be considered as a violation of Article 2 (4) of the Charter of the United Nations.

The said decisions read as follows:

The COUNCIL:

- (1) expresses its indignation at the indiscriminate attacks which have once again struck the people of Sarajevo in recent days;
- (2) notes that the siege of Sarajevo is continuing, and that consequently the Bosnian Serbs bear the main responsibility for the tragic loss of civilian life that results from it;
- (3) reaffirms the Alliance's support for a negotiated settlement of the conflict in Bosnia, agreeable to all parties;
- (4) recalls that on 11th January 1994, the Heads of State and Government of the members of the Alliance reaffirmed their readiness, in accordance with the Alliance decisions of 2nd and 9th August 1993, to carry out air strikes in order to prevent the strangulation of Sarajevo;
- (5) commends the European Union Action Plan of 22nd November 1993 to secure a negotiated settlement, and considers, in this context and with regard to UN Security Council Resolutions 824, 836 and 844 that the lifting of the siege of Sarajevo could be a step toward the placing of Sarajevo under UN administration, in

- (6) condemns the continuing siege of Sarajevo and, with a view to ending it, calls for the withdrawal, or regrouping and placing under UNPROFOR control, within ten days, of heavy weapons (including tanks, artillery pieces, mortars, multiple rocket-launchers, missiles and anti-aircraft weapons) of the Bosnian Serb forces located in an area within 20 kilometres of the centre of Sarajevo, and excluding an area within two kilometres of the centre of Pale;
- (7) calls upon the Government of Bosnia-Herzegovina, within the same period, to place the heavy weapons in its possession within the Sarajevo exclusion zone described above under UNPROFOR control, and to refrain from attacks launched from within the current confrontation lines in the city;
- (8) calls upon the parties to respect the ceasefire; all concerned should make every effort, during this ten-day period, to achieve by agreement the withdrawal or control of heavy weapons as called for in the preceding paragraphs; failure to reach such an agreement will not result in the extension of this period;
- (9) authorizes the NATO Military Authorities to support UNPROFOR in carrying out its task of identifying heavy weapons that have not been withdrawn or regrouped in conformity with these decisions;
- (10) decides that, ten days from 24.00 GMT 10th February 1994, heavy weapons of any of the parties found within the Sarajevo exclusion zone, unless controlled by UNPROFOR, will, along with their direct and essential military support facilities, be subject to NATO air strikes which will be conducted in close coordination with the UN Secretary General and will be consistent with the North Atlantic Council's decision of 2nd and 9th August 1993;
- (11) accepts, effective today, the request of the UN Secretary General of 6th February and accordingly authorizes the Commander-in-Chief, Allied Forces Southern Europe to launch air strikes, at the request of the United Nations, against artillery or mortar positions in or around Sarajevo (including any outside the exclusion zone) which are determined by UNPROFOR to be responsible for attacks against civilian targets in that city;
- (12) demands strict respect for the safety of UNPROFOR and other UN and relief agency personnel throughout Bosnia-Herzegovina and for the right of free access of all these personnel to Sarajevo;

(extract from the NATO Press Release (94)15)

2. From the letter of Dr. Boutros Boutros Ghali, President of the Security Council, it is evident that such a resolution is not in the Security Council's power to invoke. The parties to the conflict, that, notwithstanding the fact that they are acting nationally, they must take, under the provisions of the coordination with the United Nations measures, through the United Nations, the Republic of Bosnia and Herzegovina, the performance of

3. These decisions by the representatives of the Republic of Yugoslavia leave or not to take to the extension of Yugoslavia. The States of America Germany.

4. It should also be contrary to the international law for the beginning of airstrikes.

1. From the text of the decisions, it is quite evident that what is involved is a gross violation of the Charter of the United Nations since the decisions constitute a direct threat of use of force which is forbidden under Article 2 (4) of the Charter. The decisions taken by the said member-States of NATO, as a regional international organization, constitute a breach of the express prohibition provided in Article 53 (1) of the Charter of the United Nations which determines that no action of regional organizations can be taken without the authorization of the Security Council of the United Nations.

2. From the letter of the Secretary-General of the United Nations, H.E. Dr. Boutros Boutros-Ghali, of 10 February 1994 addressed to the President of the Security Council of the United Nations (enclosed herewith), it is evident that such an authorization does not exist, just as it does not exist in Security Council Resolutions 824, 836 and 844 which the said decisions invoke. The paragraph 10. of the Resolution 836 reads as follows: "Decides that, notwithstanding paragraph 1 of resolution 816 (1993), Member States, acting nationally or through regional organizations or arrangements, may take, under the authority of the Security Council and subject to close coordination with the Secretary-General and UNPROFOR, all necessary measures, through the use of air power, in and around the safe areas in the Republic of Bosnia and Herzegovina, to support UNPROFOR in the performance of its mandate set out in paragraphs 5 and 9 above."

An express warning to this effect is contained also in the letter of the President of the Federal Republic of Yugoslavia, H.E. Mr. Zoran Lilic, of 11 February 1994 addressed to the Secretary-General of the United Nations (enclosed herewith).

3. These decisions have been followed also by the order to diplomatic representatives and the members of their families to leave the Federal Republic of Yugoslavia and an advisory to the citizens of some States to leave or not to travel to the Federal Republic of Yugoslavia. This amounts to the extension of the threat of use of force also to the Federal Republic of Yugoslavia. These measures have already been carried out by the United States of America, Great Britain, France, the Netherlands, Denmark and Germany.

4. It should also be borne in mind that, without any authorization and contrary to the said decisions of the Charter of the United Nations and international law, NATO set 21st February 1994 as an ultimatum deadline for the beginning of the realization of its threat and the carrying out of airstrikes.

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His Excellency
Mr. Vladislav Jov
Federal Minister :
Affairs of the
of Yugoslavia

REQUEST FOR THE INDICATION OF PROVISIONAL MEASURES

Bearing in mind the gravity of the said violation of the Charter of the United Nations which constitutes a precedent in international relations, as well as the irreparable consequences that may be caused by such inadmissible use of force, I request that, in accordance with Article 41 (1) of the Statute of the Court and Articles 73, 74 and 75 of the Rules of Court, the Court indicate the provisional measure of

banning the use of force and the carrying out of air in the manner set out by the Decisions taken at the meeting of the North Atlantic Council on 9th February 1994.

I herewith also inform that the agent authorized to take any action on behalf of the Federal Republic of Yugoslavia regarding this Application is the Charge d'Affaires of the Federal Republic of Yugoslavia in The Hague, Dr. Djordje Lopicic.

Please accept, Sir, the assurances of my highest consideration.

Vladislav Jovanovic
Federal Minister for
Foreign Affairs of the
Federal Republic of
Yugoslavia

INTERNATIONALE DE JUSTICE

INTERNATIONAL COURT OF JUSTICE

PALAIS DE LA PAIX 357 KJ LA HAYE 1294-BAB
TELEPHONE: 078 004441 TELENO: 1297
TELEFAX: INTERCOURT LAMAY
TELEFAX: 078 004038



PEACE PALACE 357 KJ THE HAGUE NETHERLANDS
TELEPHONE: 078 004441 TELEFAX: 078 004038
CABLES: INTERCOURT THE HAGUE
TELEFAX: 078 004038

90614

16 February 1994

Sir,

I have the honour to acknowledge receipt of Your Excellency's communication of today's date, received in the Registry by facsimile, incorporating an "Application instituting proceedings submitted by the Federal Republic of Yugoslavia". In exercise of my duty under the Statute and Rules of Court, I have carefully examined this communication from the standpoint of formal compliance with the procedural requirements laid down by those texts.

With regret I have to inform Your Excellency that I am unable to regard your communication as constituting an "application" justifying action by me under Article 40 of the Statute and Article 31 of the Rules of Court. In particular, I have to draw attention to paragraph 2 of the latter Article, which provides that

"The application shall specify as far as possible the legal grounds upon which the jurisdiction of the Court is said to be based; it shall also specify the precise nature of the claim, together with a succinct statement of the facts and grounds on which the claim is based."

I observe that no indication at all is given in your communication of any legal grounds of jurisdiction whatever; nor is any claim presented, as distinct from a request for the indication of provisional measures. Nor can the communication be accepted as a request, formally valid, for the indication of provisional measures; Article 24, paragraph 1, of the Rules of Court provides for such a request "at any time in the course of the proceedings in the case in connection with which the request is made", but no "case" exists until an application, formally valid, has been filed instituting proceedings.

I therefore do not propose to take any further action on your communication.

His Excellency
Mr. Vladislav Jovanovic
Federal Minister for Foreign
Affairs of the Federal Republic
of Yugoslavia

COUR INTERNATIONALE DE JUSTICE

INTERNATIONAL COURT OF JUSTICE

- 2 -

I am taking the opportunity of a call on my by His Excellency,
Dr. Djordje Lopicic, Chargé d'Affaires of the Federal Republic of
Yugoslavia in The Hague, to hand him the present letter for transmittal
to Your Excellency.

Accept, Sir, the assurances of my highest consideration.

Valencia Ospina

Valencia Ospina
Registrar