

**INTERNATIONAL COURT OF JUSTICE**

General List No. 91

**APPLICATION**

**INSTITUTING PROCEEDINGS**

filed in the Registry of the Court

on 20 March 1993

**APPLICATION OF THE CONVENTION  
ON THE PREVENTION AND PUNISHMENT  
OF THE CRIME OF GENOCIDE  
(BOSNIA AND HERZEGOVINA v. YUGOSLAVIA (SERBIA AND MONTENEGRO))**

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**APPLICATION OF THE  
REPUBLIC OF BOSNIA AND HERZEGOVINA**

20 March 1993.

To His Excellency, the President, to the Judges of the International Court of Justice, the undersigned being duly authorized by the Republic of Bosnia and Herzegovina:

I have the honour to refer to Article IX of the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948 (hereinafter referred to as the "Genocide Convention"). Under the jurisdiction thereby conferred upon the Court, and in accordance with Article 36 (1) and Article 40 (1) of the Statute of the Court and Article 38 of the Rules of Court, I hereby submit on behalf of the Republic of Bosnia and Herzegovina, an Application instituting proceedings against Yugoslavia (Serbia and Montenegro) for violating the Genocide Convention in the following case.

**I. STATEMENT OF FACTS**

***A. Introduction***

1. Not since the end of the Second World War and the revelations of the horrors of Nazi Germany's "Final Solution" has Europe witnessed the utter destruction of a People, for no other reason than they belong" to a particular national ethnical, racial, and religious group as such. The abominable crimes taking place in the Republic of Bosnia-Herzegovina at this time can be called by only one name: genocide. Genocide is the most evil crime a State or human

being can inflict upon another State or human being. The sheer enormity of this crime requires that the nations of the world stand together as one, and with a single voice stop the destruction of the Bosnian People.

2. The nations of the world, reeling from and outraged at the crimes of the Nazis, sought to create laws which would prevent genocide and punish those who would commit genocide. To wit, in 1948 the United Nations General Assembly adopted the Convention on the Prevention and Punishment of the Crime of Genocide (78 UNIS 277, adopted 9 December 1948, entered into force 12 January 1951). By its terms, the Contracting Parties sought to undertake measures which would end the crime and punish the transgressors. The People and State of Bosnia and Herzegovina have suffered and are now suffering from the effects of genocide imposed upon them by Yugoslavia (Serbia and Montenegro) and its agents and surrogates in Bosnia and elsewhere, whose ultimate goal is no less than the destruction of both the State of Bosnia and its People. The Bosnian People cry out to the world and pray that the civilized nations of Earth will fend its wisdom and "race and save the Bosnian State and People from annihilation.

3. This "Statement of Facts" seeks to establish that the People and State of Bosnia and Herzegovina have suffered from a crime no less than genocide, as defined by the 1948 Genocide Convention. In this brief Application, Bosnia and Herzegovina cannot possibly hope to catalogue all the available evidence related to the acts of genocide that have been perpetrated upon its People by Yugoslavia (Serbia and Montenegro) and its agents and surrogates. Nevertheless, the collection of evidence listed below clearly indicates that under the terms of the Genocide Convention, Bosnia and Herzegovina has created a prima facie case that the international crime of genocide has been inflicted upon its people by Yugoslavia (Serbia and Montenegro) and its agents and surrogates.

4. Those who are committing these unspeakable acts listed below are attempting to effectuate the complete and utter destruction of the State of Bosnia and Herzegovina as well as the extermination of its People. By the terms of the Genocide Convention, these are the very same acts that its Contracting Parties sought to "prevent and to punish". Therefore, the People and State of Bosnia and Herzegovina charge that Yugoslavia (Serbia and Montenegro) and its agents and surrogates have committed genocide, and will continue to commit genocide unless they are stopped. The Bosnian People pray that as the world learns of the atrocities committed in Bosnia and Herzegovina, humanity, justice, and rule of law will prevail. Their only hope is that the world will undertake to end the bloodshed against the People and State of Bosnia and Herzegovina and bring the transgressors to justice.

### ***B. The History of Bosnia and Herzegovina***

5. Throughout centuries Bosnia and Herzegovina was a theatre of constant fighting for supremacy of the world powers: Venice - Italy, the Ottoman Empire the Austro-Hungarian Empire and others. Her People were used for the goals of the powerful, being sometimes willing, most of the time unwilling, participants in their strategic conquests of lands and historic power plays. Yet, the People of Bosnia and Herzegovina managed to preserve their identity amidst the din of powerful armies and arms, the identity of tolerance and coexistence. The testimony to the preservation of their identity is the preservation of their common language, common culture, and respect for each other. The testimony to the tolerance and respect have been numerous cultural objects, Catholic churches and Islamic mosques, standing untouched next to each other for centuries until now, when the enemy of the culture

and the civilization annihilated them all. Over 50 per cent of all marriages in former Yugoslavia are mixed marriages. These marriages are also a powerful testimony of the tolerance, respect and the caring that the People of Bosnia and Herzegovina have held for each other.

6. Bosnia and Herzegovina is centuries old. The first recorded name of Bosnia appeared in the writings of the Byzantine emperor and author, Constantine Porphyrogenitus in the 10th century. From that time on many historically acknowledged rulers in that geographic region incorporated the name of Bosnia into their titles:

- the "Ban" (Governor) of Bosnia, the more widely known being, e.g. Ban Boric (1154-1163);
- Ban Kulin (1180-1203)
- Ban Stjepan Kotromanic (1322-1353) whose governorship extended over the area of Hum (today's Herzegovina);
- the King of Bosnia, e.g. Tvrtko I (1353- 1391), crowned in Mile near Visoko in 1377 (he also ruled over the areas of today's Serbia (Raska), Croatia and Maritime Dalmatia — his full title being "King of Bosnia, Raska, Dalmatia, Croatia and Primorje (Maritimes)");
- Tvrtko II (1421-1443) — during his reign the Serbian Despot (title of Serbian rulers) Stefan Lazarevic attacked Bosnia with his armies, specifically the region of the Srebrenica, trying to capture the strategic silver mine in the region in 1432-1433; subsequent to Srebrenica's capture by the Serbs, the Bosnian King Tomas liberated it in 1440;
- King Stjepan Tomasevic (1461 - 1463).

7. In 1463 the Ottoman Empire conquered Bosnia together with Serbia, Montenegro, Slavonia and Lika. Bosnia's distinctiveness was reconstituted in the form of the "Bosnian Pasha-dom (Pashaluk)" that was founded in 1580. This was the largest Turkish military-administrative unit in the Ottoman Empire, consisting of most of Serbia, Montenegro, Slavonia, Lika, Bosnia and Herzegovina and Dalmatia. The Bosnian Pasha-dom functioned in that form without any changes until the War of Vienna (1683-1699) between the Ottoman Empire and the Austro-Hungarian Empire. In 1703 the Vizier of Bosnia moved the seat of the Pasha-dom from Sarajevo to Travnik. From then and up until 1878, these borders would shift due to incursions by the Austro-Hungarian Empire and other ethnic armed formations.

8. At the Berlin Congress of 1878, the European military powers gave the mandate to conquer Bosnia and Herzegovina to the Austro-Hungarian Empire, which stipulated that the Turkish Sultan's sovereignty be formally "recognized". In 1908 the Austro-Hungarian Empire annexed Bosnia and Herzegovina, which then became an administrative unit of the Austro-Hungarian Empire. Nevertheless, the proclamation of Bosnia and Herzegovina's statehood was embodied within the Bosnian Sabor (Parliament), which became functional in 1916 at Sarajevo. In 1918 Bosnia and Herzegovina was made a part of the newly created Kingdom of Serbs, Croats and Slovenes, which was later renamed into the Kingdom of Yugoslavia in 1933. During the Second World War Bosnia and Herzegovina was a part — "Governorship of Bosnia and Herzegovina" — of the Independent State of Croatia. In 1945 Bosnia and Herzegovina became a federal unit within the former Yugoslavia and had the elements of statehood (administrative government, tax collection, social and welfare state programmes etc.).

9. Throughout the centuries Bosnia and Herzegovina offered refuge to all who needed it; e.g., the Sephardic Jews who escaped the Spanish Inquisition and Pogroms of King Ferdinand and Queen Isabella settled in Bosnia and Herzegovina and in 1565 formed their first municipality in Sarajevo. Bosnia and Herzegovina guarded its heritage with its own life. In Bosnia, the human rights of all were respected centuries before the Universal Declaration of Human Rights came into being. Now Bosnia is being punished for being open, universal and human, for trying to restore human and democratic values after decades of communist rule. The Bosnian People want to live together, as they did for centuries, regardless of ethnic background, religion or political affiliations. As one of the youngest sovereign democracies in the world and a Member of the United Nations Organization, the Republic of Bosnia and Herzegovina is experiencing the most difficult crisis in her thousand year history. Aggression brought upon her by Yugoslavia (Serbia and Montenegro), the former Yugoslav army, and extreme militant factions of the Serbian Democratic Party operating in conjunction with them has created this human tragedy.

### ***C. Historical Account of the Current Violence in Bosnia and Herzegovina***

10. The break-up of the former Yugoslavia and subsequent aggression against the newly independent States is the genesis of the genocide currently taking place in the Balkans. Since that time, the atrocities of Serbian forces committed against Bosnians and Croats have now been documented in many human rights reports. These recent acts of genocide are rooted in part due to the collapse of the League of Communists in early 1990. It was soon thereafter in April and May of 1990 that Slovenia and Croatia, which had always feared and resented Serbian nationalism, held free elections. Non-communist governments were elected in both States that vowed to convert the former Yugoslavia into a confederation or, if this were blocked by Serbia, to secede. After fruitless negotiations, both republics carried out this pledge on 25 June 1991.

11. Fighting between Serb guerrillas and Croatian forces, which had been occurring for months, intensified after Croatia's declaration of independence. Inexperienced and outgunned Croatian forces suffered heavy casualties and lost about one-third of Croatia's territory to Serbian insurgents acting in conjunction with the former Yugoslav People's Army (YPA). These agents and surrogates of the former Yugoslavia proclaimed the "union" of the areas they inhabited with Serbia. In January of 1992, Croatia agreed to the deployment of a United Nations peacekeeping force in the areas of conflict inside Croatia.

12. The next former Yugoslav republic to be engulfed in the fighting was Bosnia and Herzegovina. Elections in Bosnia and Herzegovina in November and December 1990 led to the victory of three ethnically based parties representing Serbs, Croats, and Muslims. These three parties formed a coalition government with the Party of Democratic Action leader, His Excellency Alija Izetbegovic, as head of the collective Republic Presidency.

13. Nevertheless, from September to November 1991, the Serbian Democratic Party declared that several Serbian so-called autonomous regions within Bosnia and Herzegovina would secede from the Republic if the Republic declared its independence from the former Yugoslavia. Some of these regions had Serbian majorities, while others had relatively few Serbs, but were strategically located between the Serb majority areas and Serbia itself.

14. In December of 1991, Bosnia and Herzegovina applied to the European Community (EC) for recognition as an independent State. Its Government also announced that a referendum

would be held on Bosnia and Herzegovina's independence on 29 February and 1 March 1992. Independence was overwhelmingly approved by 99.4 per cent of those voting. Turnout was 63.4 per cent, largely because ethnic Serbs (who make up about 31 per cent of the Republic's population) boycotted the vote. In other words, almost 63 per cent of the electorate opted for independence. Nevertheless, this referendum was valid under the then applicable constitutional law. The sovereign State of the Republic of Bosnia and Herzegovina proclaimed its independence on 6 March 1992. The Presidency of the Republic of Bosnia and Herzegovina has seven elected members — two Muslim representatives, two Croat representatives, two Serb representatives and one member representing other and undeclared citizens of the Republic. This body, which represents all of the citizens of Bosnia and Herzegovina including the Bosnian Serbs, has envisioned a constitutional and administrative framework very similar to the one found in the United States of America and the other Western democracies.

15. Accordingly, the European Community decided to recognize the Republic of Bosnia and Herzegovina on 6 April 1992. But on 4 April 1992, Serb militia forces acting at the behest of and in co-operation with the former Yugoslav People's Army (YPA), including its air forces, had launched military attacks throughout the Republic of Bosnia and Herzegovina. The attacks intensified after EC recognition was extended on 6 April.

16. On 7 April, Serb militia forces, acting at the behest of and in co-operation with the former YPA, announced that they had somehow created the so-called "Serbian Republic of Bosnia and Herzegovina". These former YPA military and paramilitary forces and militias quickly seized about two-thirds of the territory of the Republic of Bosnia and Herzegovina. These former YPA military, paramilitary, and militia forces rapidly conquered ethnically mixed areas and Muslim-majority areas in central and eastern Bosnia.

17. In an unsuccessful attempt to head off United Nations economic sanctions against Yugoslavia (Serbia and Montenegro) for their support and direction of Serb military and paramilitary forces in Bosnia and Herzegovina, the former YPA announced in May that it was withdrawing from the Republic. Nevertheless, the former YPA also announced that the former YPA soldiers who were born in Bosnia and Herzegovina (whom they estimated to be about 80 per cent) could stay in the Republic with the former YPA's weapons, equipment, and supplies. As of today, these Serbian military and paramilitary forces and militias in Bosnia and Herzegovina operate under the direction of, at the behest of, and with assistance from Yugoslavia (Serbia and Montenegro). For this reason, the Respondent is fully responsible under international law for all of their activities as well as the activities of the former YPA.

18. Respondent's military and paramilitary forces and its militias even bombarded and laid siege to Sarajevo, the capital of the Republic of Bosnia and Herzegovina. The United Nations received permission from these warring forces to send a peacekeeping contingent from the United Nations force in Croatia to secure the Sarajevo airport on 29 June in order to open a humanitarian aid pipeline into the city. Nevertheless, the Respondent's siege and bombardment of Sarajevo, by means of military and paramilitary forces and militias and agents and surrogates, ruthlessly, brutally, callously, and inhumanely continues today.

19. The focus of international concern about the situation in Bosnia and Herzegovina soon expanded beyond Sarajevo, as a result of accumulating reports from the nearly 2 million Muslim and Croat refugees expelled from these Serb-held territories. Victims spoke of the use of intimidation and violence to induce them to leave their homes. Most appalling, however,

were reports of Serb-run detention camps. Witnesses told of summary executions, gang rapes of female prisoners, beatings, torture and starvation of prisoners.

20. On 7 August, Bosnian diplomats released an 8 July memo from United Nations peacekeepers in Croatia, which stated that Serb militia forces in the Republic of Bosnia and Herzegovina had intensified so-called "ethnic cleansing" operations in May 1992. According to United Nations General Assembly resolution 47/121 (18 December 1992), below, Respondent's "ethnic cleansing" against the Bosnian People ". . . is a form of genocide". Indeed, Bosnia and Herzegovina submits that in fact "ethnic cleansing" is really a euphemism for acts of genocide within the meaning of the Genocide Convention.

21. Thus, from the very moment of its birth as an independent State on 6 March 1992, until the present hour, the People and State of Bosnia and Herzegovina have been under the constant threat of extermination by Yugoslavia (Serbia and Montenegro) acting in conjunction with its agents and surrogates and military, paramilitary and militia forces under its control in sovereign Bosnian territory. Accordingly, the People and State of Bosnia and Herzegovina charge that acts of genocide have been, and are still being perpetrated upon them by Yugoslavia (Serbia and Montenegro) and its agents, and surrogates, as well as by military, paramilitary and militia forces that it still controls in sovereign Bosnian territory. Consequently, the People and State of Bosnia and Herzegovina invoke the norms and standards of international law, and rely upon this Court, to bring them immediate, effective, and definitive relief.

#### ***D. Planning for a "Greater Serbia"***

22. As previously explained, much of the earliest violence (predating recognition) was caused by paramilitary units from Serbia and Montenegro in the former Yugoslavia, which carried out acts of terror and intimidation against non-Serbs. The war did not break out spontaneously but was consciously stimulated from the outside in the absence of any significant threat to the safety of the Serbian population in Bosnia. The greatest atrocity — the systematic shelling and starvation by siege of large cities — was carried out by Yugoslav/Serbian forces, which alone had both the means and the will to carry out such crimes against humanity. Civilians were the primary targets of military action, making a mockery of the Geneva Conventions. Accompanying abuses of individuals and groups of non-Serbs took almost every conceivable form of torture, humiliation, and killing. The policy of driving out innocent civilians of a different ethnic or religious group from their homes, so-called "ethnic cleansing", was practised by Yugoslav/Serbian forces in Bosnia on a scale that dwarfs anything seen in Europe since Nazi times.

23. Considering the manner of the aggression, confiscation of documents and the consequences manifested by the aggression, it is clear that the Yugoslav/Serb aggression has been planned in advance, with the objective of destroying Muslims within the nation and occupying areas where they live. Yugoslavia (Serbia and Montenegro) has been and is continuing today to implement longstanding plans to create a so-called "Greater Serbia" that go back for almost 150 years.

24. The Respondent's concept of the "Greater Serbia" is based upon the "Nacertanije (Plan)" published by the Serbian priest Garasanin in 1844. More recently, this plan to create a "Greater Serbia" was forthrightly articulated in a "Memorandum" published by the Serbian Academy of Sciences and Arts in Belgrade in 1984. The current President of Yugoslavia

(Serbia and Montenegro) was the guiding hand behind the drafting of that "Memorandum", which calls for the creation of a "Greater Serbia".

25. For example, the Respondent's plan to create a "Greater Serbia" also goes back to a 20 December 1941 proclamation by General Draza Mihajlovic, the commander of the Royal Chetniks. The proclamation was a directive to Serbian military commanders in the field stating the following war aims, in relevant part:

- creation of a Great Yugoslavia with the Greater Serbia which ought to be ethnically pure within the boundaries of Serbia, Montenegro Bosnia and Herzegovina, Srijem and Backa
- cleansing of the State territory of all national minorities and non-national elements
- creation of joint borders between Serbia and Montenegro and between Serbia and Bosnia by way of cleansing of Sanjak of Muslim population and Bosnia of Muslim and Croat population
- struggle to incorporate into our State all of the Slovene territories under Italy and Germany as well as Bulgaria and Northern Albania with Shkoder".

26. Respondent has also incorporated the policy of Captain Milos N. Jovanovic, the commander of the Ozren corp, who instructed Golub Mitrovic, the commander of the Zenica Chetnik column in his letter of 13 February 1943:

"Not a single Muslim is going to remain amongst us. All those Catholics who have sinned against our people, as well as all the intellectuals and all those economically superior we shall destroy mercilessly."

Likewise, another historical figure who contributed to Respondent's plan for a Greater Serbia was Mile Santic, the Chetnik military commander attending the Chetnik assembly at the end of June 1942 in Trebinje, where he stated:

"The Serbian lands must be cleansed from Catholics and Muslims. They will be populated by Serbs only. The cleansing will be done thoroughly. We shall push them all and destroy them without exceptions and without mercy. That shall be the starting point of our liberation. That must be done very quickly and with a revolutionary fervour."

27. It is obvious that Respondent's longstanding plans to create a "Greater Serbia" are currently being implemented in Bosnia and Herzegovina. In the period of the aggression until now, hundreds of thousands of citizens have been killed; hundreds of thousands have been severely injured; many hundreds of thousands have been confined to concentration and extermination camps; millions have been driven out of their homes — "ethnically cleansed" — to other regions and countries. In one such instance of genocide, Dr. Filipovic — a member of the Bosnian Government — in his press release on 16 October 1992, stated that as many as 5,000 bodies were cremated in a furnace at the Tomasica iron ore mine, according to eight eyewitness accounts. Some witnesses report that people were burned alive in the furnace (identities of the witnesses are known to the Bosnian Government). People who have escaped from the Prijedor mine report that some 20,000 people were killed there and that the bodies were covered with mining debris.

28. Among the victims, there is a large number of children who have suffered in their homes, on the streets, in hospitals, and in maternity wards. Bosnian officials have numerous

documented cases where the aggressor has carved with knives or burned with hot irons humiliating symbols on the bodies of living people. Victims have been tortured by thirst, starvation and beatings until they died. Some have been forced to give blood until completely drained of blood. Girls are being raped, and breasts of women have been dissected after they have been raped. People are being burned, crucified and thrown into pits.

29. All symbols that identify national and religious sites are being destroyed; centuries old religious buildings and cemeteries are being dug up. Hundreds of communities, dozens of cities with the most vital industrial plants, apartments and other buildings are being demolished. Most of the industries and factories have been dismantled and stolen; the most modern factories have been transferred to Yugoslavia (Serbia and Montenegro). Bosnia and Herzegovina is defending itself, but with inadequate arms. The Bosnian People are unable to stop the crimes conducted by the better equipped military machine of Yugoslavia (Serbia and Montenegro) acting in concert with its agents and surrogates in Bosnia and elsewhere.

### ***E. The Convention on the Prevention and Punishment of the Crime of Genocide***

30. For the sake of convenience, specific factual allegations of genocide by Yugoslavia (Serbia and Montenegro) and its agents, surrogates, military and paramilitary forces and militias that it controls, will hereinafter be organized in accordance with the relevant provisions of the Genocide Convention, which read as follows:

"The Contracting Parties,

Having considered the declaration made by the General Assembly of the United Nations in its resolution 96 (I) dated 11 December 1946 that genocide is a crime under international law, contrary to the spirit and aims of the United Nations and condemned by the civilized world;

Recognizing that at all periods of history genocide has inflicted great losses on humanity; and

Being convinced that, in order to liberate mankind from such an odious scourge, international co-operation is required,

Hereby agree as hereinafter provided:

#### Article I

The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.

#### Article II

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such:

- a. Killing members of the group;
- b. Causing serious bodily or mental harm to members of the group;
- c. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- d. Imposing measures intended to prevent births within the group;

- e. Forcibly transferring children of the group to another group.

### Article III

The following acts shall be punishable:

- a. Genocide;
- b. Conspiracy to commit genocide;
- c. Direct and public incitement to commit genocide;
- d. Attempt to commit genocide;
- e. Complicity in genocide.

### Article IV

Persons committing genocide or any of the other acts enumerated in article III shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals."

31. The People and State of Bosnia and Herzegovina declare the following evidence to be good and sufficient to constitute a prima facie case of genocide against the Respondent, and request that all appropriate actions be taken forthwith by this Court in accordance with the standards of the Convention and the norms of international law. Listed below are specific instances of acts of genocide as organized in accordance with the relevant provisions of the Genocide Convention quoted above. With respect to each claim examined, Applicant submits that as long as the circumstances of the situation indicate that the actors "intended to destroy, in whole or in part, a national, ethnical, racial, or religious group", the actor has committed an act of genocide, within the meaning of the Genocide Convention. These acts, which have been confirmed by the public record, are sufficient to charge and establish against Yugoslavia (Serbia and Montenegro) and its agents and surrogates a prima facie case of genocide within the meaning of the Convention.

#### ***F. Specific Factual Allegations of Acts of Genocide***

32. Shortly after the former Yugoslavia army swept into eastern Bosnia in April of 1992, a bearded soldier climbed the minaret of the Rijecanska mosque in the town of Zvornik, hung a skull-and-crossbones flag out the window, and placed a cassette on the recorder. From the tower, where the Muslim call to prayer formerly sounded five times a day, blood curdling Serbian nationalist songs blared forth: "If you're not with us, we will kill you. We will slit your throats" and "You're a liar if you say Serbia is small."

33. An official list of 115 destroyed and damaged mosques and other objects, obtained by *Newsday* from *Behar*, a new Bosnian cultural affairs monthly, covered only the first six weeks of the war. See *New York Newsday*, 2 September 1992:

"It is terrible. It is unbelievable from the point of view of the history of art and architecture', commented Bogdan Bogdanovic, a Serbian architect and ex-mayor of Belgrade. 'Beautiful cities have been completely destroyed, and an enormous number of historic buildings. It is a great crime against civilization, a disgrace for my people and for the army which does that.'

The destroyed or damaged treasures include the oldest, the most famous, and the most beautiful mosques in Bosnia, according to the official Bosnian list, and numerous other sources. All 14 mosques in and around Foca, among them the Aladza (the colored mosque), built in 1550 and said to be one of the most beautiful mosques in Europe, were destroyed, as was the Ustikolina Mosque near Foca, built in 1448, the oldest mosque in Bosnia; 13 mosques in Mostar all built between 1528 and 1631 — among them the Karadioz-Begova mosque, built in 1557.

Priceless treasures in Sarajevo have been damaged or destroyed including the Gazi Husref Beg Mosque, built in 1530, the Imperial Mosque, founded in 1450 and rebuilt in 1565, the Ali Pasha Mosque from the same period, and a dozen smaller mosques of similar age. Serb artillery badly damaged the Gazi Husref Beg library, from about 1530, and the century old city hall, which contained the national library, and completely destroyed the library of the Oriental Institute and the new Islamic seminary and also assaulted nearly every library at Sarajevo University.

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The pattern is repeated across Bosnia . . . 200 mosques were destroyed and another 300 damaged between April and late July . . . in areas of Serb occupation, 90 percent of the mosques have been destroyed.

.....

. . . the Aladja [Aladza] mosque was damaged by mortars during the Serb assault in mid-April but survived because of its stone construction. Early in July, the Serbs planted dynamite around the site and blew it up. Then they bulldozed the rubble . . . Today grass is growing on the site. The Serbs also blew up Ustikolina with dynamite at the end of June, and destroyed Ferhadija in Banja Luka in May.

'Our clear impression is that they are not destroying some historical monuments but every historical monument which represents the culture, tradition and continuity of a people', said Zehrid Ropic, a Tuzla architect . . .

. . . mosques were used by Serbs as prisons, slaughterhouses and morgues. Alija Luinovic, 53, who was one of the witnesses quoted . . . "They didn't let us go to the toilet. We had to relieve ourselves in the sacred ablution basin, . . ."

*Killing members of a group*

34. On 16 May 1992, at least 83 Muslims were summarily executed by Serbian paramilitary units in the village of Zaklopaca, which had been an almost exclusively Muslim village. By the account of one witness, Najla Hodzic, the Serbian paramilitary units (Chetniks) clearly committed acts of genocide. At 4.30 p.m. Serbian soldiers approached Hodzic's house, and called Hodzic's brother-in-law Haso, an "Ustasa". The Serb units ordered Haso to give up his weapons (Haso was unarmed at the time) and when he did not comply immediately, he was shot and killed on the spot. This is an act of genocide: the soldiers labelled Haso an Ustasa, indicating their identification of him as a Muslim, and killed him immediately after identifying him as a Muslim. These are the very acts the Convention sought "to prevent and to punish". (Interviewed by Helsinki Watch, *War Crimes in Bosnia-Herzegovina* 35, 35-37

(1992) (personal testimony of summary executions by Serbian soldiers against Bosnian citizens).)

35. There are many other reports of Serbian soldiers who have intentionally killed helpless Muslims located in non-military targets. For instance, in the city of Bihac where there are no significant military targets, daily shelling occurs. In this city, a director of a hospital stated that 51 children have been killed. (United Nations Documentation: Commission on Human Rights, UN doc. E/CN.4/1992/S-1/9, 24 August 1992, p. 4.)

36. The United States State Department also confirms the existence of intentional killings of Muslims and Croats by Serbian paramilitary forces in the Republic of Bosnia and Herzegovina. (A Staff Report to the Committee on Foreign Relations of the US Senate, "The Ethnic Cleansing of Bosnia-Herzegovina", 15 August 1992.) State Department spokesman Richard Boucher confirmed reports of the existence of detention centres in Bosnia and Herzegovina where citizens are being tortured and killed (*Id.*, p. 5). Furthermore, Serbian unit snipers opened fire on a bus transporting orphans out of a city which resulted in the death of an infant and toddler (*Id.*). In the town of Kozaracs and surrounding villages (a predominantly Muslim area), Serb unit forces attacked on 24 May with mortar and artillery in an attack that lasted all night. The townspeople eventually surrendered after hiding in the woods. They were released once they had forfeited their weapons. The next day, however, the Serb units showed up again and shelled the now defenceless villagers and townspeople (*Id.*, p. 8).

37. This report also documents the killing of elderly persons (*Id.*). Recreational killings of Muslims and Croats occurred in the Serb-run detention camps. Paramilitary groups from Serbia would enter the camps at night and make the prisoners sing Serbian nationalist songs. Those judged insufficiently enthusiastic would be pulled outside and made to fight in what was effectively a human cockfight. Two men would take turns slapping each other. The man judged to be the weaker slapper would be killed. A witness testified that one time the Serbian paramilitaries cut off the loser's ears and nose before slitting his throat (*Id.*, p. 11 ). The report also states that the main victims of Serbian unit aggression are civilians, not combatants (*Id.*, p. 12). There are explicit incidences of Serbians making a conscious effort to kill Muslims. One witness recounts the events preceding the killing of a Muslim as follows: "They asked the man: 'What is your religion?' Then they killed him." (*Id.*, p. 17.) In fact, Muslim places of worship are routinely treated as military targets. A witness states that seven Muslims were killed at a mosque, and that the mosque was subsequently destroyed (*Id.*, p. 18).

38. Additional United States State Department findings are detailed in the United States Department of State publication *Dispatch* ("Supplemental Report on War Crimes in the Former Yugoslavia", United States Department of State *Dispatch*, 2 November 1992, Vol. 3, No. 44, p. 802). This report described the point-blank killing of Muslim refugees by Serb militia forces; how more than 200 Muslim men and boys were systematically massacred by Serbian militia forces on a narrow mountain track, their bodies thrown over the edge once they were killed (*Id.*, p. 802). One witness who was captured by Serb forces gave the following account of his captivity: He saw at least 30 people taken to sewage canals where their throats were cut; he saw a doctor slit the throats of healthy young persons, cut the organs and pack them in plastic bags, and then put them in a refrigerator truck; he also saw how the guards broke a prisoner's head with gun butts to spill the brains. They then called the dogs to eat the brains (*Id.*, p. 803).

39. Another example of the intent to kill Muslims specifically is the killing of Imam Mustafa Mojkanovic of Bratunac. He was tortured to death at the town's soccer stadium in front of thousands of Muslim children, women and the elderly. Serb unit guards ordered him to cross himself. When Mojkanovic refused, they beat him, stuffed his mouth with sawdust and beer, and slit his throat (*Id.*, p. 804).

40. Killings of Muslims by Serb forces are quite sadistic in nature as well. One Muslim prisoner of a Serb-run detention camp told of three prisoners beaten unconscious and then revived with cola water. Then, one of the prisoners was forced to bite the testicles off another. That prisoner died of blood loss that evening (*Id.*, p. 827).

41. Prisoners at the death camps are often killed for things such as not singing Serbian national songs loudly enough (*Id.*). Many Muslims at these camps are killed by knife carvings in the shape of a cross in their chests (*Id.*, p. 828). This report also said that 36 Muslim adult patients and 27 Muslim children were taken out of the hospital and shot on the hospital "rounds in order to make room for wounded Serbian soldiers (*Id.*).

42. Reports of mass killings of Muslims and Croats in Bosnia and Herzegovina have also been reported by the International Society for Human Rights. (Jon Dobinson, "Human Rights in the Former Yugoslav States: Report 2 — Ethnic Cleansing", *ISHR*, July 1992.) This report cited how United States Representative Frank McCloskey was one of a number of foreign observers who in January of 1992 inspected the bodies of 43 Croats killed in a massacre in the city of Vucin. He observed that people had been burned to death, killed with axes or a chain saw, or shot at close range. Noses, fingers, and ears had been cut off, and eyes had been gouged out (*Id.*, p. 7). The report also documents how many Muslim residents of the town of Sarajevo and Visegrad had been kidnapped and killed (*Id.*, p. 8). Further, buses filled with Muslim and Croat refugees were set on fire by Serbian militia members, and then shot up with a machine gun. Many of those on the buses were women and children (*Id.*, p. 10).

43. Additional reports of killings of Muslims are detailed in witness accounts recorded by *Save the Humanity*. (Statements of Witnesses, *Save the Humanity*, Danijela Ozme 7, 71000 Sarajevo, Bosnia and Herzegovina.) Here, accounts are given of Muslims killed with wooden crosses tied to their bodies. (Witness 1, 30 May 1992.) Another witness testifies that after Muslim houses were robbed, the men were beaten for 4 to 6 hours, while the women and children were forced to listen to their screams for help. After this, 35 of the men were shot to death. (Witness 2, 1 June 1992.) Other witnesses also testify that these were organized murders. (Witness 3, 28 May 1992; Witness 6, 31 May 1992.)

44. All of the above accounts clearly establish violations of Genocide Convention. Article II. paragraph (a) "Killing members of the group".

44A. Information Coordinator on War Crimes in Former Yugoslavia, a Canadian research group, compiled statements from a group of Bosnian Muslims who survived concentration camps run by various Serbian military and Paramilitary forces in Bosnia-Herzegovina.

44B. In one account, a Muslim woman identified as SN 011 described the atrocities committed against her and her family and prayed for the punishment of the Serbian forces for these genocidal acts.

(a) "I accuse them for burning down my home, destroying all of our property, for taking my husband and my father-in-law to a concentration camp and for torturing them. I accuse them for harassing and terrorizing my mother and my sister, threatening [them] with murder . . . and expelling them from the town they lived in and telling them that all that they are coming to my mother and my sister is because they are Muslim and that all the Muslims are to be killed or expelled."

(b) "They should be punished for all those innocent friends, cousins neighbors [and] acquaintances killed and tortured; for all the mothers, sisters [and] wives raped . . .; for the parents slaughtered in front of their children; they should not escape justice because of all the suffering, torturing, starvation and terror that they made my [husband] and my father-in-law endure, together with hundreds and thousands of other innocent people . . ."

44C. In another statement, a Muslim woman identified as AD 010, described an attack on her village by Serbian forces (Chetnicks).

(a) "On the 25 of May the Chetnicks attacked our village which was a Muslim village, and by the 31 of May all the men from the village were taken to a concentration camp. In the first attack they shelled the village. The people out of fear were fleeing their homes. I saw many of them fall, their bodies and limbs flying into the air. Bodies of men, women, children, and all that just because they were Muslims. They killed en masse, pillaged and burnt our houses, detained women, elderly and children and burnt them alive. They took the young men from 20-30 years of age [and] brought them to a school to torture them . . . One of my uncles was taken. He survived a firing squad. Two of his brothers and four of his nephews, together with 170 friends, cousins, neighbors. He laid hiding with three wounds. He managed to escape because the Chetnicks thought everyone was dead. We took him in a forest after a few days, but he could not go home, knowing that they would be looking for him since he witnessed a genocide of 180 Muslims. He's been hiding for two months and finally they found him one day and since then we have not heard from him."

(b) "They have been torturing us all in different manners. Every village had a Chetnick's headquarters where they spent most of the time. They would take our food, our gold and jewelry [and] money. They took [my neighbor's] son away and they threaten[ed] to kill him unless she brings some money. She and her husband were collecting money through the village, . . . and finally when they brought the money the Chetnicks let her son go, but they killed her husband. First they mutilated his body with knives, engraving a cross on his body, [leaving] him to bleed, and finally killing him only at night. In that same manner they killed another of my neighbors, it kept going on; and all this for one simple reason: They wanted to cleanse every thing Muslim."

(c) "They raped my neighbor, a 65-year-old woman, and then killed her. They killed her husband as well, who was a totally handicapped and helpless person. When we got the permission to bury them, we found them mutilated. We had to pick up his head and the brain with a shovel."

(d) "A friend of mine was kept in captivity because her husband was fighting on the Bihac front. They were threatening her with killing her and her three children if her husband [did] not come back and give himself up. After they took our husbands away we [did] not hear of them for almost two months. They sent us messages from the detention camps letting us know that they were alive. We women were at the mercy of the Chetnicks, being ourselves kept in

some kind of a detention camp. The whole village was under their occupation and we were let to do only what they decided we could do. We lived in fear because everyday they could kill someone, and we were waiting for the same thing to happen to us." (Information Coordinator on War Crimes in Former Yugoslavia, Statement of victim AD 010.)

44D. In another account, a Muslim civilian identified as 004 JF described his detention in several concentration camps.

(a) "On the 30 May, 1992, I was forcibly detained in Prijedor SUP at 9 p.m. In SUP, [a] Serb soldier pierced my skull with the gun breech. We were all being mercilessly beaten; Serbs ordered us to face the wall so that we cannot see who was beating us. There were about one hundred Serb soldiers in the room 'interrogating' and beating us. They kept swearing at us saying 'You f... want a republic' 'You f... want a state', 'You want a f... Muslim state', and so on. Serb soldiers coming from the front were there and they were really wild, the worst. A Muslim, Hamzo (first name), was shot in the forehead and killed by a Serb soldier the moment we stepped in the SUP building. A Muslim, Nizret Trto when asked for his profession answered that he was a 'dumpster' (dempsterista) and a Serb soldier said 'Oh, a sniper' (snajperista), and shot him in the head on the spot. Curt Vesil (58 years) and his son Sead were beaten to death. All their bones were broken, Sead's nose was torn apart."

(b) "From Prijedor SUP we were loaded into a bus, 150 of us crammed into the last third of the bus. Serb soldiers were driving the bus. Serb soldiers killed 2 or 3 Muslims in the bus. A normal road to Omarska is through Kozarac, but Serbs took us around through numerous Serb held posts or villages. At every such point, Serb villagers would enter the bus, Serb women, children, and they would hit us with wooden bars, stab us with knives, they would throw acid at us. Several people died, but we were not allowed to look. We reached the concentration camp Omarska at around 11 p.m. that night. When I was leaving the bus I saw that the bus was full of blood and many Muslims stayed on the floor, most of them dead."

(c) "I was in Omarska extermination camp from 30 May 1992 [until] 6 Aug. 1992. I was beaten there daily for 3 to 4 hours. Going to the toilet meant being practically killed by Serb hordes (soldiers). Omarska is a mine and there was a lot of material from the mine lying around—wooden beams, cables, iron bars, metal supporters, etc. Serbs used all these materials when beating us. They were hitting me, as well as others, in the testicles, using metal hampers, metal bars, kicking with the boots. My testicles were swollen, the size of large oranges. The number of tortures varies, from one [or] two to twenty or more. They would gather around vans, drink or take drugs, swearing at us: 'F... your Muslim mother', 'F... your Turkish (Croatian) mother', 'F. . . you and your Republic and so on. Serb torturers forced us to lie clown on the floor with our hands on the head so that we cannot see who was torturing us. We were taken outside and underwent the cruelest tortures and beatings from 8-9 a.m. till 7 p.m. Very often Serbs would put metal cans over our heads during the severe beatings so we could not see the torturers. Serb torturers would beat us, step or jump on us until they tired out. They were deliberately aiming their beatings at our testicles saying 'you'll never make Muslim children again'."

(d) "When a Serb from a nearby village got killed in the fighting, Serb guards would let the whole village come to the camp to vent their rage, which they would do by mutilating and killing us."

(e) "Every day Serb torturers killed about 70 to 100 Muslims (some Croats as well). There was a building we called a "White House" where the Serb torturers performed the killings. They first killed all the doctors and intellectuals. They even killed a UN doctor, Sadikovic Esad, I think he was in Zimbabwe or somewhere else in Africa with the UN."

(f) "Around 13 May 1992, I was lying among a yard full of corpses; I happened to be near a garbage container, a little bit out of reach. Serb forces kept firing at the corpses, but somehow, due to my position, the shots missed me, and I managed to sneak back into the barracks later."

(g) "One day I was in the detail loading corpses into a 7-ton truck. We were throwing corpses in, until the truck was one meter high with corpses. I sneaked away from that 'job', I could not take it. I saw Serbs using heavy machinery to excavate big holes, use trucks to dump the corpses into the hole, and use dump trucks and construction machinery to fill the holes and level the ground."

(h) "Serb torturers used iron bars to beat Muslims (some Croats) to death. They would not spare any part of the body, breaking all the bones so that the beaten Muslims begged their torturers for a bullet, to be shot dead. Serb torturers stabbed my arms with knives. I saw Serb torturers stab others . . . twisting and turning the knives inside them. I saw how Muslims were forced to bite each other's testicles off, their mouth filled with testicles and blood ripped blood vessels sticking out of their mouths. Daily Serb torturers forced Muslim prisoners to f. . . each other, to perform oral sex on each other, forcing these bestialities especially among family members, between a father and son "

(i) "In a small room filled with Muslims, Serbs would throw tires that were set on fire and Muslims would burn alive. We had to lie down on the runway, or road with our heads down. I saw Muslims beside me being shot dead for moving their heads. While we were lying down, Serbs would jump on us in their boots, jump on us from the steps, from garage roofs, breaking people's bones, they would drive cars, even heavy trucks over us, seriously injuring and to a large extent killing the unfortunates. I would be lying down for 4-5 hours, being mercilessly beaten by five even ten Serbs at a time."

(j) "Serbs were executing planned killings. Omarska extermination camp was a place where Serbs were executing so called 'revenge' killings. Serbs would accuse doctors of choking to death Serb children, professors and teachers of being unfair to Serb students, and killed them immediately for these 'crimes'. I was lucky to have given an assumed name, for Serbs asked for me by name to kill me (my Serb neighbors could not recognize me, the tortures chang[ed] completely my features). (I learned later that Serbs searched to find me abusing my family, my father and my wife in the process.)"

(k) "Omarska extermination camp had women prisoners as well. Daily Serb soldiers would take girls and bring 5-6 men per girl, Serb soldiers, prisoners to rape them. Sometimes I was among the men forced to rape the girl[s] . . . They were raped constantly, non-stop every day. They raped older women, Croats, 60-65 years of age. One named Divis, was raped by 12 men. There were many young girls, around 16 years that were being raped daily . . ."

(l) "Serbs would torture us by extinguishing their cigarettes on our bodies. However that was reserved mostly for Muslim women. Serbs would extinguish their cigarettes on the Muslim women's naked bodies, mostly their breasts and vaginas. Serbs would also shove bottles

(mostly half-liter beer bottles) up the Muslim girls' vaginas . . . Serbs would stick a bottle inside Muslim women's vagina and then break them inside them."

(m) "In Omarska there was a shop where dump trucks were being repaired - we called it the 'Red House'. Serb torturers killed many prisoners in the Red House. That was the place where I saw the Serbs cut people's noses, ears, limbs. When I was cleaning the room in the Red House the floor was full of human body pieces, pieces of the skull, fingers, ears, noses. Outside on the road, skull pieces were scattered everywhere."

(n) "On the 25 or 26 June Serbs forced me to drink 5 liters of used, dirty motor oil drained from a truck oil filter, with the intent to kill me in a terribly painful manner "

(o) "I witnessed Serb guards shoving a fire hydrant hose into a man's sphincter (it was a man from a village Kozarac), letting the water run full force from the hydrant. until the man swelled and then died bursting to pieces."

(p) "Serb torturers were constantly robbing Muslim prisoners of their belongings. Many of us prisoners had thousands of German Marks with us. Serbs would sell us food at exorbitant prices. Once we paid, Serbs would come, beat us and take the sold goods back . . . Serbs were taking Muslim prisoners' watches, jewelry. At first Serbs cut people's fingers to get the rings off of them, later after a period of starvation, rings would come off easily. Serbs were knocking Muslim prisoners' teeth to get at the gold fillings . . ."

(q) "Serbs were rounding up all non-Serb civilians, mostly Muslims, and bringing them to Omarska from nearby villages—Carakovo selo, Hambarina, Ljeskava, Ljubija, Ravska. It seems only one or two from each village would make it to the extermination camp Omarska. Carakovo selo had 4,000 people, they were all rounded up, but only one made it to the extermination camp. From comparing testimonies of the surviving eyewitnesses, in Prijedor itself Serbs slaughtered 22,000 Muslims. Out of a population of 42,000 hardly 2,000 remained."

(r) "Serb torturers were starving us in Omarska. For 40 days I was eating only bread. Serbs would ration bread, one loaf of less than 1 kg was cut into 47 slices, and one slice was the ration per prisoner with some dirty water. In order to get to the kitchen I as well as the others had to endure cruel beatings by Serbs. They were also beating us while we were eating. Serb torturers allowed us 1 minute to finish the meal. In the extermination camp Omarska there was water that was used to flush the ore from the mine, as well as the water used to wash the machinery. We were forced to drink that water to survive. I lost 39 kg in Omarska."

(s) "On 25 May 1992 [a] Red Cross visit to the extermination camp Omarska was announced. Serb torturers hid immediately 150 Muslim prisoners, threw in some beds in the rooms with bed linen, and we were forced to tell the Red Cross that we were Muslims fighters, captured just prior to their (Red Cross's) arrival."

(t) "On the 6 Aug. 1992, we were driven away by Serb hordes to Manjaca concentration camp. There had been over four thousand Muslims (and Croats) that arrived to Omarska with me. Less than fourteen hundred of us were left to go to Manjaca. They moved us from the extermination camp Omarska, as Red Cross members told us, because the world has found out about us, news articles were being published about us. We were driven in the bus. Serb torturers were beating us all the time in the bus, forcing us to sing Chetnik songs, killing us.

They slit throats of seven people right in front of my eyes. The trip of about 40 km took us 12 hours. The bus would often stop, Serb civilians soldiers, Chetniks with long beards and Chetnik insignia, women [and] children would enter to beat us mercilessly, with stones and anything else. Serbs did not give us anything to drink, it was hot and they forced us to swallow a handful of salt. I was perspiring profusely, and in order to survive I drained the perspiration from my sweatshirt into [my] hands and drank that ',

(u) "In Manjaca, Merhamet (Red Crescent) registered us. The Red Cross took over food deliveries. However most of the food was taken away by the Serb guards. We were supposed to receive some fish for breakfast (2-3 pieces), but Serbs were giving us one for two people, and even that not always. When the Red Cross truck arrived Serbs first collected, at the entrance to the storage depot, rations for their army. Later on, when the Red Cross left, Serbs would wheel away most of the fruits and vegetables. Muslim prisoners would be checked by Red Cross medical staff which would prescribe drugs. These drugs never reached any prisoners, they were all taken by Serb guards for their needs. The only thing we received were pills for strength, which Red Cross gave us right into our hands."

(v) "In Manjaca Serb guards forced us to [do] all kinds of manual labour. We were forced by Serbs to cut wood in the forests, dig potatoes, cut the grass, load the hay, pick corn, graze sheep, cows, etc. Around one thousand people or more went out, working in the stables, in machine shops, sewing clothes, making wooden figurines, butts for rifles, and so on."

(w) "In Manjaca concentration camp I witnessed Serbs taking 142 Croats for [a] prisoner exchange in Knin. As told to me by one of the Croats, Halupa Zdenko, it took them 5-6 days for the trip but the exchange was not executed, because Serbs demanded a Serb major in exchange. In Knin they were holding them in a tower. Serbs would let dogs [and] children . . . come and abuse them. They broke bones of . . . most of them. When they returned I watched from the kitchen how Serbs were beating them severely." (Information Coordinator on War Crimes in Former Yugoslavia, Statement of victim 004 JF.)

44E. In another account, a young Muslim female identified as JK 001 reported the details of expulsion by Serbian forces.

(a) "Every day they entered houses in which there were only women and children remaining. They plundered, killed and raped even the 5-year-old girls and old women. So our own house was a prison camp to us for they could come in and kill us at any time of day or night. When they were searching my home we were taken into the backyard and made to stand in a row. They threatened to shoot us if they found weapons in the house. There were no weapons, they plundered the house and took the gold and told us they would come back again and kill us because we were Muslims . . ."

(b) "I and my old mother together with our neighbors joined those people. We stayed in the houses that had been plundered and the owners of which had been killed or taken to camps. It was horrible. There were about fifty of us in one house, we slept on top of each other, and the odor of the dead bodies which were in the garages [and] in the gardens, was everywhere. They killed the men and the women had to bury their husband, or son, or father with their own hands and to the best of their abilities. There was blood, blood of an innocent son, child, woman, or man on the walls of the house. We slept there and waited for our departure, and they were standing on guard outside, singing, drinking, and listening to the Tchetnik songs and even shooting the houses."

(c) "After a few days 9 trailers and several buses came . . . On [the way to] Vlasic, 160 men, old and young, were taken from that first convoy that had left before mine, and killed. That information frightened us, so we became upset and started to leave, but they made a circle around us and said that we would get what we deserved, and that was death, death to all Muslims or 'Bulas' as they were calling us. They loaded us onto the trailers and we left, not knowing ourselves whether we were going to death or to freedom . . . When we came to Vlasic they gave us three minutes to get off the trailer. We were falling down like sacks out of the trailer and it was hardest for the old women and children. When we got out they started to separate girls and women. Fortunately I had a scarf on my head and my aunt's child in my arms. They set apart about thirty girls. They separated an old woman from her two daughters; she protested, cried, went down on her knees and begged, but there was no mercy, she got a bullet in the head. The girls were taken to an unknown destination and even today it is not known. In a line we started walking towards Travnik; the men went separately and the Tchetniks were shooting after them and many of them got killed because they had been at the back of the line. They told us to follow the road and we would get to our 'balijas' (derogatory word for Muslim), and to tell them they should be grateful that they did not kill us all. The journey was long and strenuous; many old women were carried in blankets or in wheelbarrows, and some sons carried their mothers on their backs until finally we reached Travnik, which was hard to believe after so many dead bodies of our Muslims had been left lying on the road and everywhere where the Tchetnik's foot was set. And the only reason for that all is that we are Muslim." (Information Coordinator on War Crimes in Former Yugoslavia, Statement of victim JK 001.)

44F. In another statement, a concentration camp survivor identified as 003 NA described the conditions of his confinement.

(a) "On May 27, 1992, . . . Serbian forces kept announcing over the radio that people must gather at the practice field. Muslims and Croats started leaving their homes and Serb forces forced them to march to the practice field under mortar fire. I saw tens of people being wounded as well as a number of civilians being killed . . . From there I observed Serbian Armed Forces [the official forces of the Serbian municipality of Sanski Most] footing the marked houses (with white sheets), burning them to the "round afterwards. A large number elderly stayed in their homes thinking that no harm [would] come to them because of their age. However, Serbian Armed Forces went around killing them . . ."

(b) "During the abduction and in the confinement, I suffered constant beatings at the hands of the Serbian Armed Forces and Serb civilians. Serbian Armed Forces and Serb civilians were hitting me with bats, rifle butte, kicking me with boots. One Serb, a neighbor that went to the same school as I attempted to murder me. He put a gun barrel into my mouth while another took my hand, pulled a knife and attempted to cut two fingers off my hand (this is to mimic the popular Serb three finger salute), but somehow they changed their minds . . . I was beaten over the head with chair legs, kicked in the kidneys, in the back. My head was so swollen, twice the normal size from the beatings that my father, who was also detained there, could not recognize me."

(c) "During the confinement we were given some drenched oozi food, one tablespoon per meal, twice a day, sometimes not even that. Serb guards allowed us thirty to forty seconds for the 'meal'. While trying to get to the meal servers and during the meal, we were constantly beaten . . . I lost there, in one month, fifteen kg."

(d) "On 7 July 1992, we were driven away by the Serb hordes to Manjaca concentration camp in transport trucks. Serbs packed about 180 people into a half-ton truck, closed us in with the tent-cloth, which was held tightly in place with steel cables. On the way Serbs would stop the truck in a sunny spot and wait for the temperature to rise. People had no choice but to urinate and defecate on themselves and people around them. In the truck I was in, eighteen Muslims died from thirst. After we arrived, we were first severely beaten by Serb hordes, they shaved our heads and then Serbs threw us into stables, where sheep and cows had been kept before. The stable swarmed with flies and the conditions were appallingly unsanitary. Some were prickly and sharp grass was strewn over the cement floor where we were sleeping. The stable was 40-60 meters long, its sides made of tin. There were six or more stables in the concentration camp, all surrounded by barbed wire, the "round around them mined with explosives, there were watch towers there with machine-gun positions. Serbs crammed about 700 people into one stable. We could only sleep lying on the side. While inside, Serbs forced us to keep silent, not a sound was allowed to be uttered. In the silence we could hear terrible screams. At first we thought the sounds were coming from some animals, but soon realized they were coming from people under extreme torture. Serb camp guards rationed our water, one glass of water a day [for] four people (it was summer!). If one in the group drank the whole glass the rest would get nothing. In the morning we were fed tea without sugar and with no bread. For dinner we would get exactly three beans in tepid water without any spices, seldom with bread, which was a thin slice or half a slice sometimes. We had to eat in the crouching position, holding our heads down. Dishes were unwashed, and often I would see feces swimming in my dish. On occasion we were fed meat from dead animals. Serbs enjoyed forcing pork on hojas (Muslim priests) and other Muslims. The starvation was so severe that I know cases of Muslims not having any bowel movements for two months."

(e) "Serbs 'interrogated' us daily—there would be up to twenty 'interrogators' at a time shouting at me at the same time and hitting me. The 'interrogation' was invariably accompanied with physical mistreatment, with severe beatings. Serb guards, soldiers, civilians, interrogators, most of them drunk or drugged most of the time, were incessantly humiliating us verbally, swearing: 'F . . . your mother', 'F . . . your Turkish mother and family', 'F . . . you and Alia—allusion to Alia Izetbrgovic, the democratic president of the [R]epublic of Bosnia and Herzegovina', 'You f... Turkish bastards, you want a state', and so on. The concentration camp's P.A. was constantly blaring Chetnik songs . . ."

(f) "Every day Serb guards would take us out of the stables at 7 a.m., forced us to sit in the sun holding our heads down — we had to hold our heads down all the time — and our hands behind our backs. Serbs forced us to stay in this position till 3-4 p.m. Serbs — guards, soldiers, civilians — would come and beat us with bats, pieces of wood, metal bars, hoses, wire cables, [and] would kick us; they would hit us in the kidneys, across the neck, over the head, across the back. We had to look straight down at all times. Fathers and sons would not know [of] each other although they may have actually been [within a] few meters of each other."

(g) Around 10 July 1992, Emir Mulalic, a policeman from Sanski Most was being beaten with the intent to kill, the beating being so savage. After he passed away, I heard Serbs order two camp prisoners to hold him. Serbs forced the two to hold the corpse for two hours. Then they called a doctor, who declared him dead from a burst vein in the brain."

(h) "Often Serb civilians were let into the concentration camp including women and children. They would spit on us, stone us, beat us with anything they could lay their hands on. Some

would even cut fingers off[f] prisoners' hands leaving only three fingers (Serb salute). Serbs forced us to do all kinds of manual labour, such as agricultural chores, digging potatoes, digging irrigation ditches, we had to work as lumberjacks carrying wood from the forests on our backs—Serbs forced the prisoners into the woods in their T-shirts in winter in bitterly cold weather. While working in the fields, I saw Muslims grazing grass from being starved until their stomachs swelled." (Information Coordinator on War Crimes in Former Yugoslavia, Statement of victim 003 NA.)

44G. Although the incidents described above alone support the charge of genocide, they are only representative of the accounts by a group of Bosnian Muslim refugees in Canada, victims of the mass rapes, killings, and other tortures that have been committed by Serbian forces in Bosnia-Herzegovina.

44H. In addition, Muslim victims are not the only witnesses to the genocidal acts committed by the Serbs. In the 27 November 1992 issue of *The Globe and Mail*, Borislav Herak, an imprisoned Serbian soldier described murders, rapes, and other tortures in which he participated or observed. (John Burns, "Serb Soldier Finds Killing of Innocents Easy", *The Globe and Mail*, Friday, 27 November 1992.) Herak's story is the first account given by a perpetrator to outsiders of how the Serbian nationalist forces have carried out their plan of ethnic cleansing".

44I. With other Serbian soldiers, Herak emptied a 30-bullet magazine at a family he had found in the basement of a home at Ahatovici, a Muslim village. Four children under the age of 12, two elderly women, and four men were killed. Herak explained that Serbian commanders called the Serbian operation in the village *ciscenje prostora*, or the cleansing of the region, and had told the Serbian fighters to leave nobody alive. (*Id.*).

"We were told that Ahatovici must be a cleansed Serbian territory, that it was a strategic place between Ilidza and Rajlovac, and that all the Muslims there must be killed. We were told that no one must escape, and that all the houses must be burned, so that if anybody did survive, they would have no where left to return to. It was an order, and I simply did what I was told." (*Id.*).

44J. In another incident, Herak used a hunting knife to cut the throats of three captured Muslim men who were Bosnian soldiers. (*Id.*).

44K. In early June, Herak watched a Serbian unit called the "special investigation group" machine-gunning 120 men, women and children in a field outside Vogosca. Dump trucks were used to transport the bodies to scrub land beside a railway yard at Rajlovac, near Sarajevo, where the bodies were piled in an open pit, doused with gasoline and set afire. (*Id.*).

44L. In another incident that occurred in July, Herak saw 30 men from Donja Bioca, a Muslim village five kilometers north-west of Vogosca, shot and incinerated in a furnace at a steel plant at Ilijas, a town north of Vogosca. He said some of the men were still alive when they were thrown into the furnace. (*Id.*).

44M. Herak also described seeing the bodies of 60 Muslim men who he said had been used by Serbian forces as a "human shield" when Bosnian forces were trying in August to drive Serbian forces off Zuc Mountain, outside Vogosca. (*Id.*).

44N. Regarding the use of rape as a weapon of war, Herak explained that he and his companions were encouraged to go to a motel by Serbian commanders who told them that raping Muslim women was "good for raising the fighter's morale". Herak stated that he went to the motel once every three or four days, and that although Serbian fighters routinely took the women they raped away and killed them, there were always more women arriving. (*Id.*).

*Causing serious bodily or mental harm to members of the group*

45. Article II (*b*) of the Genocide Convention defines genocide as "Causing serious bodily or mental harm to members of the group" if committed "with intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such". In the war against Bosnia and Herzegovina by the Respondent, rape is being used as a weapon of war. The rapes of Bosnian women are not sporadic incidents, but rather are part of a calculated plan of destruction of the Muslim people in Bosnia.

46. "Rape and sexual abuse as forms of torture or cruel, inhuman or degrading treatment are clearly in contravention of international human rights standards, as well as of international humanitarian law, which apply in the conflict in Bosnia-Herzegovina." (Amnesty International, "Bosnia-Herzegovina — Rape and Sexual Abuse by Armed Forces", January 1993, p. 2) (hereinafter "Amnesty International Report").) In particular, rape and sexual abuse are in direct violation of the Genocide Convention because they cause "serious bodily" and "mental harm".

47. According to investigations by both Amnesty International and the European Council, the rapes and sexual abuses that are occurring in Bosnia and Herzegovina are part of a deliberate and organized plan of destruction of the Muslim people. This constitutes genocide under the terms of the Convention.

48. In its report, "Bosnia-Herzegovina: Rape and Sexual Abuse by Armed Forces", Amnesty International found that "abuses against women, such as rape, have been widespread in Bosnia-Herzegovina" and that "Muslim women have been the chief victims and the main perpetrators have been members of Serbian armed forces" (Amnesty International Report, p. 3). Amnesty International concluded that the rapes and sexual abuse of Muslim women in Bosnia and Herzegovina have been carried out in an organized or systematic way, with the deliberate detention of women for the purpose of rape and sexual abuse. Such incidents would seem to fit into the wider pattern of warfare, involving intimidation and abuses against Muslims and Croats which have led thousands to flee or to be compliant when expelled from their home areas out of fear of further violations. (*Id.*, p. 4.)

49. The European Council reached similar conclusions regarding the genocidal acts of the Serbian forces:

"[R]ape is part of a pattern of abuse, usually perpetrated with the conscious intention of demoralizing and terrorizing communities driving them from their home regions and demonstrating the power of the invading forces. Viewed in this way, rape cannot be seen as incidental to the main purpose of the aggression but as serving a strategic purpose in itself." (EC Investigative Mission into the Treatment of Muslim Women in the Former Yugoslavia — Report to EC Foreign Ministers.)

The Council found that the thrust of the Serb attacks in Bosnia and Herzegovina have concentrated on areas with a large Muslim population including the Brcko region (44 per cent Muslim), the Drina valley (Zvornik — 60 per cent, Bratunac — 64 per cent, Srebrenice — 74 per cent, Visegrad — 63 per cent, Gorazde — 70 per cent and Foca — 51 per cent) and the Prijedor area (44 per cent Muslim) "in an effort to carve out ethnically homogenous territory between Serbia and the Serbian areas of occupied Bosnia-Herzegovina and Croatia". (*Id.*) The specific targeting of these highly Muslim areas shows a clear intent to harm this particular religious group.

"On the basis of its investigations the Mission is satisfied that the rape of Muslim women has been — and perhaps still is — perpetrated on a wide scale and in such a way as to be part of a clearly recognizable pattern sufficient to form an important element of war strategy." (*Id.*)

50. Confirming reports and obtaining statistics of the rapes in the Bosnia Herzegovina conflict is difficult for several reasons. Because the war continues, there are numerous practical obstacles impairing the systematic collection of data. In addition, the social stigma of rape discourages women from coming forward with accounts of the abuses they have suffered.

51. However, reliable estimates and confirmed accounts exist. According to investigations by the European Council, over 20,000 Muslim women and girls in Bosnia have been raped. (EC Report.) The Bosnian Government estimates the number at closer to 50,000. (*Time*, "Behavior: Rape and War", Vol. 141, No. 8, 22 February 1993, p. 48.)

52. In May 1992, 40 Muslim women were captured and raped by Serbian forces in Brezovo Polje. One of the victims, 23-year-old Mirsada, told a reporter that her Serbian abductor had told her, "We have orders to rape the girls. I am ashamed to be a Serb. Everything that is going on is a war crime." Another victim, 23-year-old Hafiza, stated that she tried to talk her attacker out of raping her, but he replied, "I must. I must." ("Supplemental Report on War Crimes in the Former Yugoslavia" submitted by the United States to the United Nations Security Council, Vol. 3, No. 46, 16 November 1992, p. 831 (hereinafter "Supplemental Report").)

53. Dr. Milika Kreitmayer, leader of the gynaecological team that examined 25 of the 40 victims from Brezovo Polje, concluded that the object of the rapes was

"to humiliate Muslim women, to insult them, to destroy their persons and to cause shock. These women were raped not because it was the male instinct. They were raped because it was the goal of the war. My impression is that someone had an order to rape the girls." (Roy Gutman, "Bosnian Women Terrorized by Serbs", *New York Newsday*, Sunday, 23 August 1992.)

In addition, Dr. Kreitmayer reported that practically every woman in the Muslim town of Liplje was raped. These incidents occurred at the end of May 1992, while more than 400 of the villagers were held in a large house by Serbian forces. The reports were confirmed by both local police officials and the gynaecological institute doctors after examining and questioning the victims. (*Id.*)

54. In September 1992, at least 150 pregnant Muslim women and teenage girls were brought into Bosnian Government held areas of Sarajevo. All of these women reported being raped by Serbian nationalist soldiers. These women reported being imprisoned for months in order to

keep them from terminating their pregnancies. One Serbian soldier told the women, "When we let you go home, you'll have to give birth to a Chetnik. We won't let you go while you can have an abortion." (Supplemental Report, p. 830.)

55. In the district of Grbavica in May 1992, approximately 20 girls were seized by Serbian fighters. A 15-year-old girl stated that they were held in a small room and ordered to undress:

"We refused, then they beat us and tore our clothes off. They pushed us on the floor. Two of the men held me clown while two others raped me. I shouted at them and tried to fight back but it was no use. As they raped me they said they'd make sure I gave birth to a Serbian baby, and they kept repeating that during the rest of the time that they kept me there." (*Id.*)

56. In the Muslim town of Kijuc, in May or June 1992, eight women were raped by a group of Serbians in front of the house they took shelter in. One of the victims a 60-year-old woman, reported that she was raped by three men. One man first forced his hand into her vagina at knife-point and then made her lick her own blood. Two of the women then had their throats slit. (Amnesty International Report, p. 7.)

57. In the Serb-run concentration camp in the Bosnian town of Trnopolje, on 31 May 1992, a Bosnian woman was raped by eight different soldiers. Afterwards, one of the soldiers slashed her breasts with his knife. The woman had joined a group of 15 women on a fine for water. They were approached by the Serbian soldiers who separated out six young women and led them to a small house. While shouting obscenities, the soldiers ordered the women to undress and walk around in a circle. After 15 minutes, the soldiers began to rape several of the women at a time at gunpoint. (Complaint of Jane Doe I and Jane Doe II against Radovan Karadzic, United States District Court for the Southern District of New York, Submitted, 11 February 1993.)

58. The above accounts are only a few of the confirmed cases of rapes committed against Muslim women in Bosnia and Herzegovina. In the Bosnian conflict, rape is being used as a widespread means to destroy the Muslim people. As a form of revenge and humiliation, the mass rapes are being used to intentionally destroy the national, religious and cultural identity of the Muslim people in Bosnia. This constitutes genocide.

59. In addition to evidence of rapes and sexual abuse, there are many examples of Serb forces intentionally causing severe physical and mental harm to Croats and Muslims within the Bosnian Republic. A United Nations report describes several such instances. (United Nations Documentation: Commission on Human Rights, UN doc. E/CN.4/1992/S-1/9, 24 August 1992.) Oftentimes, many villagers are taken by Serb forces to the local police station for interrogation where they are beaten and tortured by the police or forced to beat each other (*Id.*, p. 2). The United Nations report also says that Sarajevo is shelled on a regular basis in order to deliberately spread terror amongst the population (*Id.*, p. 4).

60. The United States Senate Committee on Foreign Relations has also documented the severe physical and psychological abuses that have occurred in the Nazi-style, Serb-run detention centres. (A Staff Report to the Committee on Foreign Relations of the US Senate, "The Ethnic Cleansing of Bosnia-Herzegovina", 15 August 1992.) The report documents how women and children are kept in large numbers in small rooms where the sanitary conditions are appalling. According to many accounts, detainees had no toilets and, in some areas, defecated and urinated in the same room as they slept (*Id.*, p. 10). Serbian guards would extinguish

cigarettes on the women's hands (*Id.*, p. 16). Further, this report documents the rapes that occur of girls and young women. In some cases, the guards would kill the women after raping them (*Id.*, p. 10). The treatment of male prisoners is also quite brutal. Almost all men prisoners were beaten. In some of the prison camps, the prisoners were provided with little or no food (*Id.*). Fathers and sons were forced by Serbian guards to beat each other at one camp. At the same camp, a paralysed man was beaten unconscious and revived with water (*Id.*, p. 17). The report also mentioned how a young man's hands were beaten with a hammer until they swelled (*Id.*, p. 26). Mental harm included forcing Muslim prisoners to bow and cross themselves (*Id.*, p. 17).

61. United States State Department reports also confirm the existence of purposeful attempts to physically and mentally wound the Muslims and Croats. One prisoner was taken out of the detention centre by a Serb guard who later returned with the prisoner's severed head. ("Supplemental Report on War Crimes in the Former Yugoslavia", United States Department of State *Dispatch*, 2 November 1992, Vol.3, No.44, p.803.) This report also documents how young girls are being raped in front of their mothers, undeniably causing tremendous mental and physical suffering for the mother and daughter (*Id.*, p. 804). Torture of prisoners is also discussed in this report. One prisoner testified in regard to the severe beatings that he sustained, as well as sexual torture administered on the prisoners. He said that several men had been forced by the guards to have intercourse with each other, and that guards cut off some prisoners' hands and penises as a punishment to frighten the other men (*Id.*, p. 804).

62. Reports from witnesses at the Omarska camp also described torture administered by Serbian guards. One witness described how guards would pour acid on the fresh wounds of prisoners after some of the public beatings and laugh as the prisoners screamed from pain (*Id.*, p. 805). This witness also described how a Muslim man from Kozarac, who had owned a motorcycle, was tortured in front of other witnesses. He was severely beaten all over his body and his teeth were knocked out. The guards then tied one end of a wire tightly around his testicles and tied the other end to the victim's motorcycle. A guard then got on the motorcycle and sped off (*Id.*, p. 805).

63. This report also describes how a 33-year-old Muslim woman who was interned in the Manjaca camp near Banja Luka was interrogated. During her interrogation, two guards beat her and burned her with a cattle prod. They then raped her in front of her children, a 12-year-old daughter and a 9-year-old son. Her daughter was raped twice (*Id.*, p. 806).

64. At the town of Vlasica, similar atrocities occurred. Here, one 16-year-old witness testified that after beatings, the Serbian guards forced the prisoners to drink glasses of urine (*Id.*, p. 829). At the Luka-Brcko camp, Muslim prisoners had crosses engraved into their forehead with knives by the Chetniks. They gave them Orthodox names like Alexander, and forced the Muslims to say "I am Alexander" or face beatings (*Id.*, p. 829).

65. A report by the International Society for Human Rights also documented acts of Serbian aggression directed toward causing physical and mental injury to Muslim and Croatian residents of Bosnia. (don Dobinson, "Human Rights in the Former Yugoslav States", *ISHR*, July 1992.) In a Serb-run camp near the Prijedor area of Bosnia, witnesses report that girls as young as 13 said that they had been raped by camp guards (*Id.*, p. 7).

66. Similar reports were printed in a publication entitled *Save the Humanity*. ("Report on War Destructions, Violation of Human Rights and Crimes against Humanity in Bosnia &

Herzegovina", *Save the Humanity*, Sarajevo, 3 June 1992.) According to various statements gathered by the publication, the report concludes:

"The treatment with captured civilians, Muslims and Croats, according to witnesses, can be compared with the treatment of Hitler concentration camps from the Second World War. The features of mistreatment are torture, beating up and other physical maltreatment. There are a lot of executions, too, and mostly young men are executed. Lately we are getting information that blood is being taken from the captured." (*Id.*, p. 8.)

67. Part II of the *Save the Humanity* report details similar accounts of mistreatment and torture and also includes details of rape committed by Serb forces against women prisoners. Girls over the age of 12 and women are forced to be prostitutes, and very often the women are raped. ("Report on War Destructions, Violation of Human Rights and Crimes against Humanity in Bosnia & Herzegovina, Part II", *Save the Humanity*, Sarajevo, 7 July 1992, p. 6.)

68. The foregoing evidence is sufficient to establish violations of Genocide Convention Article II (b), "Causing serious bodily or mental harm to members of the group". The Peoples and States of the world should be especially horrified at the rape of the Bosnian women. And all the world community should be aghast at the crimes inflicted upon the Bosnian People.

68A. In early September of 1992, in Bosanski Petrovac, a group of Muslim villagers were approached by uniformed Serbian soldiers. A woman in her thirties gave a statement regarding the incident. The soldiers took her to a house, stripped her at knife-point, asked her to say whether her husband had weapons, threatening that they would kill her if she denied it, and raped her. Two teenage girls were also raped by the soldiers. Two adult males were taken to a nearby forest, bound with chairs, beat and burned with cigarettes by the Serbian soldiers. (Amnesty International, "Bosnia-Herzegovina — Rape and Sexual Abuse by Armed Forces", 21 January 1993, p. 6.)

68B. A 27-year-old Muslim woman interviewed by Amnesty International described her abduction by Serbian soldiers. In late July she was taken by uniformed Serbs to a private house in the town of Kotor. Inside, the officer hit, bit and raped her, keeping an automatic weapon close at hand throughout. (*Id.*, p. 7.)

68C. On 17 June approximately 1,000 women and children were taken away by Serbian forces from their home village of Brezovo Polje by bus. Travelling without food or water, they arrived in the town of Caparde several days later. In the course of the journey some women and girls were taken by Serbian soldiers from the buses while they were parked in the village of Ban Brdo for several nights and were returned with blood stains and torn clothes. (*Id.*, p. 10.)

68D. At Caparde the older women were separated, reportedly by paramilitaries from the group controlled by Zeljko Raznatovic (commonly known as Arkan), and were taken by bus to the battle-lines which they then had to cross on foot. The younger women were held for several nights in a furniture warehouse in the town. Serbian soldiers selected and raped 40 of the women between the ages of 15 and 30 years. The young women rejoined the older women four days later after being forced to pass along a mined road. Doctors who received them in the Bosnian Government-controlled town of Tuzla following their release reportedly said that some of the girls were pregnant. (*Id.*)

68E. In an interview with a Zagreb doctor a 17-year-old Muslim girl from the village of Kalosevici near Teslic stated that Serbs in JNA (Yugoslav People's Army — *Jugoslavenska Narodna Armija*) uniform took her and other women from the village in late April to an unknown location, apparently some sort of workers' huts, in woods near the town. She was held there for three months until released with 12 other women by a local Serb. Twenty-four women were held in her hut, although she believes she saw about 100 women in total as they were unloaded. She and others were beaten upon arrival and on later occasions. Twelve women, including the informant, who were held in her room were raped in the room in front of the other women on multiple occasions, sometimes by more than one man at a time. Other women who tried to defend her on one occasion were beaten and one of the perpetrators told her, "You will bear a Serbian child." (*Id.*).

68F. In a hospital in Zagreb, 17-year-old Marianna described her confinement in a detention camp. For months she was raped as many as ten times a day by Serbian soldiers after she and 24 other women were taken from their Bosnian village Tesanj, to a camp in a nearby forest. During the rapes, a Serbian guard told her, "Now you will have Serbian babies for the rest of your life." (Tom Squitieri, "Weapons in Bosnia: Rape, Degradation", *USA Today*, 10 August 1992, p. 1.)

*Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part*

69. Under the terms of this section, there are two elements which if found would constitute genocide. There must be the deliberate infliction of conditions of life coupled with a calculation that such acts would bring about the physical destruction of the group in whole or in part. Thus by the language of the Convention the actor need not believe, for instance, that his or her acts would destroy all Muslims or even all Bosnian Muslims. For example, if the conditions are inflicted on the Muslim section of a small town, this would be enough to satisfy the definition of genocide under this section of the Convention. Below are instances of acts which fulfil the Article II (c) definition of genocide.

70. Perhaps the most widespread genocidal act inflicted on the People of Bosnia by the Serb forces has been the destruction of entire villages in which Muslims and Croats lived. This practice was documented in United Nations reports (United Nations Documentation: Commission on Human Rights, UN doc. E/CN.4/1992/S-1/9, 28 August 1992.) In the town of Bosanka Dobinca every night houses were burnt (*Id.*, p. 2). In the village of Celinac, 17 houses occupied by Muslim families were blown up in a single night, after reports were received that some soldiers from the village had been killed in combat (*Id.* p. 3). The delivery of food and humanitarian aid is also jeopardized by the constant shelling of United Nations Protection Forces' barracks and headquarters, as well as the airport itself. All inhabitants of the city are seriously affected by such attacks (*Id.*, p. 4). There are no significant military targets in Sarajevo, and the purpose of the shelling seems to be that of terrorizing the population (*Id.*). Further, the siege has had a dramatic effect on the economy of the region, making this previously prosperous region dependent on foreign aid provided by the international community (*Id.*, p. 5). The report also documents the conditions at Serb-run detention centres. Many prisoners are in a poor state of health, with signs of malnutrition and in some cases torture. One man detained in the Manjaca camp who was recently taken to the hospital weighed only 34 kilogrammes.

71. A report to the United States Senate Foreign Relations Committee has detailed similar genocidal practices by the Serbs. (A Staff Report to the Committee on Foreign Relations of the US Senate, "The Ethnic Cleansing of Bosnia-Herzegovina", 15 August 1992.) Prisoners in these Serb-run camps were given little or no food (*Id.*, p. 10). A witness from Kozarac described conditions in the camp where he was detained. More than 150 persons were kept in a garage where only a little air was allowed to enter the room from a small window. He also described how the persons were forced to urinate in and around the building because many prisoners were shot when they tried to use the toilets located outside the building. There was practically no food. In the morning, prisoners were given just a little tee with no sugar. At lunch, there was only soup, and there was only wheat for dinner. The children got diarrhoea. There was a doctor, but he could do nothing because of a lack of medicine (*Id.*, p. 29).

72. On 1 May 1992, Serbians in the area of the village of Skelani in the municipality of Srebrenica declared the city to be a Serbian village. On 7 May, the village fell into the hands of Serbian forces. By 3.00 p.m., all Muslims in the area were ordered to relinquish their firearms, which were mostly hunting rifles and the like. Vahida Selimovic was attempting to go to work, when the following events occurred:

A. The Serbian forces refused her passage, claiming she required a "permit".

B. On 8 May, Serbians wearing Chetnik garb came into her house and shot all the male adults in the house. Afterwards, the Serbs cursed at the women calling them Turks and threatening to kill them. Some time later the women were transferred to Novi Pazar.

C. On 9 May, the independent Serbian news agency *Borba* reported that after Skelani fell, 550 Muslims (mostly women, children, and the elderly) were expelled from the village. Serbian forces declared Skelani to be a Serbian village and refused to allow any Muslims access into the area. (Interviewed by Helsinki Watch, *War Crimes in Bosnia-Herzegovina* 41, 41-43 (1992) (personal testimony of the Serbian takeover of the Bosnian village of Skelani).)

As described by Vahida Selimovic, all three of these acts by Serbian forces are genocidal. Requiring the "permit" and expelling the Muslims fulfils Article II (c)'s definition that a group (here the Muslims) were being treated in such a way as to effectuate the physical destruction of them as a people. The Muslim citizens were turned into refugees by the Serbians, and driven from their homes in Bosnia. The Serbs manifested their intent to do so on 1 May and again on 9 May, when the forces declared Skelani to be a Serbian village, quite without regard to the Muslim population residing therein. Thus the Serbs committed genocide by declaring Skelani to be "Serbian", manifesting their intent to destroy the Muslim population residing therein, and afterwards carrying out the policy by murdering members of the group and then expelling the rest. Also note that the murder of Vahida Selimovic's husband constitutes a genocidal act under Article II (a). The soldiers' labeling of the survivors as "Turks" also indicates their identification and hatred of the Muslims, and manifests their clear intent to massacre as many male Muslims as possible, thereby helping destroy in part the Muslim ethnic group inside Skelani. In sum, the grisly Serbian activities in Skelani represent a very clear example of the genocide occurring within Bosnia.

73. The concentration camps inside Bosnia and the former Yugoslavia also provide evidence of genocide. These prisons are run by Serbs for the express purpose of detaining Bosnian non-Serbs. There are at least 100 such camps in existence, creating appalling living conditions for the non-Serbs imprisoned inside. (Information compiled from Bosnian governmental sources

and forwarded to Helsinki Watch, *War Crimes in Bosnia-Herzegovina* 44, 44-48 (1992) (describing the existence and conditions of concentration camps in Bosnia Herzegovina.) United Nations documents provide additional evidence that the camps' purpose is to detain, torture and possibly execute non-Serbs (*Id.*, pp. 44-48). The practice of creating concentration camps for the purpose of holding ethnic groups falls under Article II (c) of the Convention. The Serbian intent to destroy non-Serbs is obvious; the camps' sole purpose is for the mass incarceration of Bosnian ethnics which are not Serbian. By deliberately inserting non-Serbs into the camps, the Serbs are imposing conditions of life which make it impossible for those imprisoned to assert their nationality. As Serbian military officials in Banja Luka stated, the prisoners are categorized, including a category for "Muslim combatants". The following is a partial list of United Nations findings regarding some of the camps:

In Bosanski Novi: a football field is used as a holding "round for Muslims while their houses are being searched by the Serbian forces and the men of fighting age are transported to concentration camps.

In Xeraterm (Termokerm): United Nations officials stated that between 100 and 200 Muslims were imprisoned under "extremely bad conditions".

In Omarska: A camp used with apparently the primary purpose of holding Muslim governmental officials, especially from the town of Prijedor.

In Manjaca: The United Nations reported that Muslims being held in the camps received regular beatings, deprivation of food and water, and poor shelter. (*Id.*, pp. 46-47.)

74. At this time, it is impossible to verify whether actual executions are taking place in these camps. It is clear, however, that on the basis of the evidence available, the Serbian camps qualify under Article II (c) as deliberate inflictions of conditions of life calculated to bring about the physical destruction of Muslims and other non-Serbs in whole or part. The conditions in the camps indicate the Serbs have no regard for the life of the prisoners and as such the camps themselves appear to have no other purpose than to inflict genocide on those detained within. There can be little doubt that the camps are designed to destroy the Muslims and other non-Serbs as a people. Note that should executions be verified in the camps, this would constitute prima facie evidence of Article II (a) genocide. Torture and physical violence against inmates would fall under Article II (b) and would also constitute prima facie evidence of genocide. Even without these conditions, the existence of the camps themselves are enough to establish that the crime of genocide has been committed by Serbians against Bosnian non-Serbs.

75. The creation by former Yugoslavian forces of ghettos for non-Serbs in Bosnia have the same purpose as the concentration camps and are therefore genocidal in nature. Ghettos for non-Serbs appear to be similar to the Nazi Warsaw ghetto created for Jews and seem to have the same purpose, namely to inflict conditions of life which will destroy those inside as a people. The Muslim ghetto in Brezovo Polje is but one example. There 1,500 people have been detained in this Muslim village, which is surrounded by Serbian villages and armed forces. (Interview by Helsinki Watch, *War Crimes in Bosnia-Herzegovina* 48, 48-49 (1992) (persona! testimony regarding confinement in a ghetto).)

76. Forcible deportations have been documented also. (See Interviews by Helsinki Watch, *War Crimes in Bosnia-Herzegovina* 49, 49 (1992) (persona! testimony describing the forcible

deportation of Bosnian citizens).) Forcible deportations also constitute evidence of genocide under Article II (c). Fifty Muslims claimed to have been deported from their homes in the Zvornik and Bijeljina municipalities in Bosnia by Serbs, and forcibly deported to the city of Subotica on the Hungarian and Serbian border. They alleged that Serbs were committing these acts for the express purpose of allowing Serbian refugees from Janja to occupy their homes (*Id.*, p. 49). These acts by Serbian forces have the effect of depriving Bosnian citizens of the right to live in their own country and in their own homes. The most damning commentary was made by United Nations High Commissioner Sadako Ogata, who stated that creating Bosnian refugees "seems not to be just the result, but the goal of the fighting . . ." (quoted from an article written by Ms Ogata in the German Newspaper *Die Zeit* and transcribed by Blaine Harden, "UN Pleads for Help for Bosnian Refugees", *The Washington Post*, 23 July 1992). These acts constitute a clear effort by the Serbs to destroy the Bosnian people of Zvornik and Bijeljina and are thus genocidal under the terms of the Convention.

77. Similar to the forcible deportation claim is that of forcible displacement. In effect, former Yugoslavian forces or their surrogates, who force Bosnians to "scatter to the four winds", are depriving the Bosnians of their right to live as Bosnians and thus are guilty of genocidal practices. Mortar attacks are common against non-Serbian areas, even those which have no Bosnian military forces in the area. (Interviews by Helsinki Watch, *War Crimes in Bosnia-Herzegovina* 50, 50-52 (1992) (personal testimony of forcible displacement of Bosnian citizens).) Under the terms of Article II (c), this effort to destroy the Bosnians by forcing them to leave their homes and their country is genocide.

78. Another aspect of former Yugoslavian genocide has been the indiscriminate use of force against non-Serbs in Bosnia. (Helsinki Watch, *War Crimes in Bosnia-Herzegovina* 71, 71-76 (1992) (lists instances of indiscriminate use of force against Bosnian citizens).) UNHCR stated that Sarajevo was being systematically destroyed by Serbian fire. Other sources noted that villages were being attacked for the sole purpose of driving its inhabitants away. (See Laura Silber and Judy Dempsey, "EC Withdraws Its Monitors from Bosnian Capital", *The Financial Times*, 13 May 1992.) For the same reasons that forcible displacement and forcible deportation constitute genocide, the indiscriminate use of force on Bosnian villages represents an effort to destroy them as a People and constitutes genocide.

79. The Bosnian Government has actual recordings of former Yugoslavian staff officers plotting to destroy Sarajevo on 27 May 1992. Serbian general Ratko Mladic instructed two colonel subordinates to attack residential districts of Sarajevo with heavy artillery in an effort to "bury it all". (See John F. Burns, "Taped Order Loud and Clear: 'Bury It All'", *The New York Times*, 9 June 1992.) To effectuate this policy, General Mladic ordered his troops to use the heaviest mortar shells in the entire army. This is a clear-cut example of an Article II (c) violation. It can be proved that there were deaths and serious mental and bodily harm caused to residents of Sarajevo by the subsequent artillery bombardments launched after these instructions. Thus, Mladic and his surrogates are guilty of violating Article II (a) and (b) as well.

80. Former Yugoslavian military forces or their surrogates have also violated Article II (c) by attacking and raiding international relief convoys aimed at alleviating the suffering in Bosnia. By depriving the Bosnian People of food and medicine necessary for their survival as human beings, the Serbs are in effect deliberately inflicting those conditions of life which are calculated to bring about the destruction and submission of the Bosnian People. United Nations officials have documented Serbians who have committed Article II (c) violations by

delaying, diverting, and stealing trucks which have food and medicine. ("Aid Convoys Are Suspended", *The New York Times*, 23 May 1992.). Furthermore, after several hijackings, the United Nations was forced to suspend relief convoys to Bosnia, causing additional grief and suffering.

81. As to medical materials, Serbs have been documented as wilfully withholding medicine and other medical necessities as bargaining chips. (David Brauchli, "Wounded by Shrapnel in Sarajevo, A Photographer's Story", *The Associated Press*, 25 May 1992.) This crime follows the same logic as the hijacked food convoys and constitutes Article II (c) genocide.

82. Thus the People and State of Bosnia and Herzegovina can establish the fact that Yugoslavia (Serbia and Montenegro) and its surrogates and agents have attempted to destroy the Muslims and Croats in Bosnia and Herzegovina by deliberately inflicting on these groups conditions of life calculated to bring about their physical destruction in whole or in part. These acts constitute genocide within the meaning of Convention Article II (c).

82A. According to the Amnesty International Report, "A Wound to the Soul", between 50 and 70 civilians, mainly Muslims from Bosanski Petrovac, and 22 soldiers captured by Serbian forces after the fall of Kulen Vakuf were held in barracks at Kozile. (Amnesty International Report, "Bosnia-Herzegovina — A Wound to the Soul". January 1993 p. 10.)

(a) "Prisoners at Kozile were held in six rooms, each about three by four meters in floor area and holding between ten and twenty detainees each. Almost all natural light was blocked out by wooden boards nailed over the windows. The prisoners were given three meals a day, of similar quality to that received by the soldiers guarding them but of smaller quantity. A few of the prisoners had beds, some of the others had pieces of foam rubber, a few centimeters thick, to sleep on and most had blankets . . . On one occasion a doctor or nurse visited and left some medicine for those suffering from diarrhea."

(b) "What prisoners most feared were the regular beatings which usually occurred at night, often after the soldiers had apparently been drinking heavily. 'The most terrible thing was waiting for your name to be called out', recalled one former prisoner. 'The front door had an old lock with a nail. Whenever we heard the terrible sound of that lock we knew someone would be called out and we feared it would be us.' The selected prisoner was usually taken to another building about 15 meters away from which the other prisoners could hear screams of pain. One or more guards would kick the prisoner, punch him, and beat him with wooden truncheons. The victim was returned to the cell usually after a period of between thirty minutes and two hours, usually extensively bruised. While some prisoners appeared to have been beaten only once or not at all, others — especially Muslims considered to be wealthy or well educated — were allegedly severely beaten on at least seven or eight occasions. On at least one occasion a prisoner was made to beat another prisoner with a wooden club. Some victims were reportedly placed in solitary confinement after being beaten for anything from one hour to several days."

(c) "One 23-year-old Muslim decorator, was arrested on 30 June 1992 and taken to Kozile after being held for two days at the police station in Bosanski Petrovac. On one occasion at about midnight, another Muslim prisoner in the same room named HK, aged about 35, was taken outside and beaten for about half an hour. Twelve guard dogs started barking as they beat him. In the decorator's words: 'It was as if the forest were crying.' HK was then made to crawl back into the room on all fours, barking like a dog . . . His drenched clothes showed that

he had been dunked in the trough of water outside. As the other prisoners were removing his clothes HK was called out again and after about fifteen minutes he was again made to crawl back on all fours . . ."

(d) "When asked whether they could see HK's injuries the next morning, the decorator replied, 'Yes, because he slept with us in the room. All his clothes were off so one could see everything. His back was black and blue everywhere. One couldn't find a place big enough to stick in a needle that wasn't bruised.' "

(e) "HK had been beaten or kicked over all his body with the exception of his head. After three days he could walk with the assistance of his fellow detainees, but could not walk unaided for at least another two days."

(f) "One prisoner, ZR, aged about 35, was beaten about the head. Another prisoner who saw him two days later said, '[ZR] looked as if he had been stung all over by bees. You could not see any white in his eyes — they were all bloodshot. His cheeks were bruised. His lips were badly swollen.' "

(g) "On 6 August 1992 between 10 and 20 civilian detainees were transferred from Kozile to Kamenica, also described as barracks for workers, about 15 kilometers from Drinic. On 21 August the remaining civilians in Kozile were released. Kamenica camp reportedly held about 70 detainees, mainly Muslims but also some Croats and Serbs. The Serbs were reportedly soldiers who had deserted from the front or had committed thefts. All Muslim and Croat prisoners were held in one room about 10 meters by 15 meters. Basic conditions were better here than at Kozile. The food improved and a doctor visited three or four times over a three month period. Detainees slept on a thin piece of tarpaulin and each prisoner had a blanket. Prisoners worked in the camp constructing fences, painting and cleaning the grounds."

(h) "However, it seems that after the civilian population of Bosanski Petrovac negotiated their departure on 24 September, the detainees in Kamenica started to be ill-treated. One 23-year-old male Muslim was tortured in late September three days after a visit by the International Committee of the Red Cross (ICRC). An officer in charge of the guards called him for interrogation and asked him what he had told the ICRC delegation. He answered that he had only handed over a message for a relative, because his interview had then been cut short as he had been called to work and he had not had time to tell anything more. After the answer he was hit on the back with a truncheon by another guard before the officer in charge sent him back to the sleeping room. Returning to his room he was intercepted by a group of six Serbian prisoners who then beat him with truncheons for several minutes before one of the guards who was looking on intervened. Fifteen minutes later he was again called from the sleeping room: 'They took me to the other side of the school. There were eight of their [Serbian] guards and prisoners. One drove me forward with a rifle in my back. I went there and they started to beat me. They beat me for between 35 and 40 minutes. They said to me, Don't cry out or it will be the worst for you. They also questioned me, Did you say [to the ICRC] that Bosanski Petrovac had been evacuated by force?'"

(i) "He was beaten about the shoulders, arms, back, legs and groin with ordinary police truncheons, although one of his tormentors wielded something which he described as being like a baseball bat or a riot-control baton — in his own words: 'When it hit you it was like an electric shock going through the body.' The following is his description of the pain and being returned to the sleeping area: 'At first I felt all the blows [during the beating], but when I

entered the sleeping area I just wanted to lie clown. I didn't feel pain, but there was no way I could lift my arms since I couldn't feel them. That night I couldn't sleep. After one or two hours I felt the pain. I could not get up, move or turn, I couldn't do anything. In the morning after dawn they [his fellow prisoners] took the clothes off my upper body. When I was undressed my arms looked as if they had been inflated with a pump for car tires.

(j) "The victim stated that he could not stand for four or five days and that he had serious pains for a whole month. He still complained of pain in his groin and right arm in late November." (Id., pp. 10-13.)

82B. These accounts detail acts that clearly constitute genocide. The Serbians targeted members of a distinct group, i.e. Bosnian Muslims, killed, caused serious bodily and mental harm to members of that group, and deliberately inflicted on that group conditions of life calculated to bring about its physical destruction in whole or in part. The fact that these acts occurred during wartime does not shield the Serbians from prosecution. There is no excuse for these atrocities. The Serbians are guilty of genocide.

*Imposing measures intended to prevent births within the group*

83. This prohibited conduct consists of forcible and calculated measures taken by an actor with the intention of preventing the birth of children and thus the continuation of the national, ethnical, racial, or religious group. Most of the evidence of acts by Yugoslavia (Serbia and Montenegro) and its surrogates and agents that would fall under this section of the Genocide Convention have already been documented above. See especially the documentation of the rapes of Bosnian women to produce Serbian or "Chetnik" babies, and the condition of the Serb-run concentration camps and sexual torture above. All crimes charged in these paragraphs are also Article II (d) crimes and therefore constitute genocide.

***G. United Nations General Assembly Resolution 47/121 of 18 December 1992***

84. Finally, as recently as 18 December 1992, the United Nations General Assembly adopted resolution 47/121 on *The situation in Bosnia and Herzegovina* by a recorded vote of 102-0-57. Therein, the General Assembly made a large number of factual determinations that are directly relevant to this dispute between Bosnia and Herzegovina and Yugoslavia (Serbia and Montenegro). The precise text of resolution 47/121 reads as follows:

*"47/ 121. The situation in Bosnia and Herzegovina*

Date: 18 December 1992

Meeting: 91

Vote: 102-0-57 (recorded)

Draft: A/47/L.47/Rev.1

*The General Assembly,*

Having considered the item entitled 'The situation in Bosnia and Herzegovina',

*Taking note* of the report of the Secretary-General [A/47/747.],

*Reaffirming* its resolution 46/242 of 25 August 1992,

*Recalling* all the resolutions adopted by the Security Council regarding the Republic of Bosnia and Herzegovina, and other parts of the former Yugoslavia,

*Appreciating* all the ongoing international efforts to restore peace in the Republic of Bosnia and Herzegovina, particularly those being pursued by the United Nations, the European Community, the International Conference on the Former Yugoslavia, the Conference on Security and Cooperation in Europe and the Organization of the Islamic Conference,

*Commending* the untiring efforts and bravery of the United Nations Protection Force in securing relief operations in the Republic of Bosnia and Herzegovina, as well as the efforts of the Office of the United Nations High Commissioner for Refugees and other relief and humanitarian agencies, and expressing its condemnation of the recent attacks on the United Nations Protection Force in Sarajevo by Serbian forces resulting in loss of life and injuries to some of its personnel,

*Taking note* of the report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the territory of the former Yugoslavia dated 6 November 1992 [A/47/635-S/24766, annex.], in which he stated, *inter alia*, that 'ethnic cleansing' did not appear to be the consequence of the war. but rather its goal,

*Taking note also* of the report of the Special Rapporteur dated 17 November 1992 [A/47/666-S/24809. annex.], in which he stated, *inter alia*, that another factor which had contributed to the intensity of 'ethnic cleansing' in areas under Serbian control was the marked imbalance between the weaponry in the hands of the Serbian and the Muslim population of Bosnia and Herzegovina,

Gravely concerned about the deterioration of the situation in the Republic of Bosnia and Herzegovina owing to intensified aggressive acts by the Serbian and Montenegrin forces to acquire more territories by force, characterized by a consistent pattern of gross and systematic violations of human rights, a burgeoning refugee population resulting from mass expulsions of defenceless civilians from their homes and the existence in Serbian and Montenegrin controlled areas of concentration camps and detention centres, in pursuit of the abhorrent policy of 'ethnic cleansing', which is a form of genocide,

Strongly condemning Serbia and Montenegro and their surrogates in the Republic of Bosnia and Herzegovina for their continued non-compliance with all relevant United Nations resolutions,

Deeply regretting that the sanctions imposed by the Security Council have not had the desired effect of halting the aggressive acts by Serbian and Montenegrin irregular forces and the direct and indirect support of the Yugoslav People's Army for the aggressive acts in the Republic of Bosnia and Herzegovina,

Recalling that the Government of the Republic of Bosnia and Herzegovina has accepted the constitutional principles proposed by the Co-Chairman of the International Conference on the Former Yugoslavia,

Convinced that the situation in the Republic of Bosnia and Herzegovina warrants the implementation of decisive actions under Chapter VII of the Charter of the United Nations to oblige Serbia and Montenegro and their surrogates in the Republic of Bosnia and Herzegovina to comply with the relevant Security Council resolutions,

Reaffirming the principle of inadmissibility of the acquisition of territory by force and the right of all Bosnian refugees to return to their homes in conditions of safety and honour,

Reaffirming also that the Republic of Bosnia and Herzegovina has the inherent right to individual or collective self-defence in accordance with Chapter VII, Article 51, of the Charter of the United Nations, until the Security Council has taken the measures necessary to maintain international peace and security,

Determined to restore peace in the Republic of Bosnia and Herzegovina as well as to preserve its unity, sovereignty, political independence and territorial integrity,

1. *Reaffirms* its support for the Government and people of the Republic of Bosnia and Herzegovina in their just struggle to safeguard their sovereignty political independence, territorial integrity and unity;
2. *Strongly condemns* Serbia, Montenegro and Serbian forces in the Republic of Bosnia and Herzegovina for violation of the sovereignty, territorial integrity and political independence of the Republic of Bosnia and Herzegovina, and their non-compliance with existing resolutions of the Security Council and the General Assembly, as well as the London Peace Accords of 25 August 1992;
3. *Demands* that Serbia and Montenegro and Serbian forces in the Republic of Bosnia and Herzegovina immediately cease their aggressive acts and hostility and comply fully and unconditionally with the relevant resolutions of the Security Council, in particular resolutions 752 (1992) of 15 May 1992, 757 (1992) of 30 May 1992, 770 (1992) and 771 (1992) of 13 August 1992, 781 (1992) of 9 October 1992, and 787 (1992) of 16 November 1992, General Assembly resolution 46/242 and the London Peace Accords of 25 August 1992;
4. *Demands* that, in accordance with Security Council resolution 752 (1992), all elements of the Yugoslav People's Army still in the territory of the Republic of Bosnia and Herzegovina must be withdrawn immediately, or be subject to the authority of the Government of the Republic of Bosnia and Herzegovina, or be disbanded and disarmed with their weapons placed under effective United Nations control;
5. *Demands also* that, in accordance with Security Council resolution 752 (1992), all elements of the Croatian Army that may be in the Republic of Bosnia and Herzegovina and that are already not operating in accord with the authority of the Government of the Republic of Bosnia and Herzegovina must be withdrawn immediately, or be subject to the authority of the Government of the Republic of Bosnia and Herzegovina, or be disbanded and disarmed with their weapons placed under effective United Nations control;
6. *Supports* the consideration by the Security Council of the immediate enforcement of resolution 781 (1992) banning all military flights over the Republic of Bosnia and Herzegovina:

7. *Urges* the Security Council, within its responsibility to maintain international peace and security, to again call upon the Serbian and Montenegrin forces to comply with all relevant resolutions and to bring to an end the aggressive acts against the Republic of Bosnia and Herzegovina, to implement and enforce all existing resolutions with respect to the Republic of Bosnia and Herzegovina and the former Yugoslavia and, specifically, further to consider measures, including the following, on an urgent basis' but no later than 15 January 1993:

(a) In the event that Serbian and Montenegrin forces fail to comply fully with all relevant resolutions of the Security Council, under the provisions of Chapter VII of the Charter, to authorize Member States, in cooperation with the Government of the Republic of Bosnia and Herzegovina, to use all necessary means to uphold and restore the sovereignty, political independence, territorial integrity and unity of the Republic of Bosnia and Herzegovina;

(b) To exempt the Republic of Bosnia and Herzegovina from the arms embargo as imposed on the former Yugoslavia under Security Council resolution 713 (1991);

8. *Also urges* the Security Council to consider taking measures to open more airports/airfields for international humanitarian relief flights, to pursue emergency airdrops as a stop-gap measure and to study the possibility of and the requirements for the promotion of safe areas for humanitarian purposes;

9. *Further urges* the Security Council to consider what resources may be required to improve the implementation of all relevant resolutions, and calls upon Member States to notify the Secretary-General regarding the availability of personnel and *matériel* to assist and facilitate in this effort;

10. *Urges* the Security Council to consider recommending the establishment of an ad hoc international war crimes tribunal to try and punish those who have committed war crimes in the Republic of Bosnia and Herzegovina when sufficient information has been provided by the Commission of Experts established by Security Council resolution 780 (1992);

11. *Requests* the Co-Chairmen of the International Conference on the former Yugoslavia to conclude expeditiously the work of the Working Group on the Republic of Bosnia and Herzegovina, to report on the reasons for the lack of progress and to submit proposals to overcome obstacles in the fulfilment of their mandate by 18 January 1993;

12. *Requests* the Secretary-General to report to the General Assembly by 18 January 1993 on the implementation of the present resolution;

13. *Decides* to remain seized of the matter and to continue the consideration of this item."

85. Bosnia and Herzegovina hereby affirms, repeats, and incorporates by reference each and every factual determination made by the General Assembly in resolution 47/121 (18 December 1992) in this Application and in its accompanying Request for an Indication of Provisional Measures of Protection of today's date. When considered in their entirety, the numerous factual determinations made by the General Assembly in resolution 47/121 fully support and substantiate this Application and our accompanying Request for provisional measures. Bosnia and Herzegovina respectfully asks the Court to take judicial notice of all the factual determinations made by the General Assembly in resolution 47/121 for the purpose of these proceedings and in support of our Request for provisional measures as well.

## ***H. Conclusion***

86. The Republic of Bosnia and Herzegovina wishes to conclude this "Statement of Facts" by reciting a relevant portion from a plea for help made by the Bishop and Priests of Banja Luka Diocese as recently as 17 February 1993:

"3. We have all sensed a clear peace-loving attitude within majority of the faithful of our diocese, and a sincere willingness for a life of equality with others in harmony, peace and respect. Despite this, the priests, religious priests, religious sisters and especially our faithful have felt the heavy burden caused by suppression of our basic human rights. For example:

- the right to the unviolated life with freedom of speech, thought and movement
- the right to equality and democracy, the right to employment,
- the right to a home
- the ability to satisfy basic needs, especially health care.

We should like to make known the most grievous instances . . .

- the killing and massacring of innocent civilians; elderly women, children and men,
- the taking to prison camps of hundreds of our faithful and five priests one of whom died as a result of torture. Two other totally innocent Priests were murdered after having to endure great torture,
- great psychological and physical torture of religious sisters and the forceful expulsion from their convents
- the raping of women and girls
- the unjustified sacrilegious acts culminating in destruction within 83% of our churches and 33% of other church buildings
- the constant burning and demolish(ing) of residential and public buildings(s) belonging to our faithful,
- the dramatic expulsion of tens of thousands of our faithful (some of our parishes have now been totally emptied of Catholic populace),
- the on-going planned ethnic cleansing (almost 50% of our faithful have been forced to live [sic: leave] their life-long homes),
- the sacking of vast number from their employment causing total existential damage for the majority of our people, especially those living in urban areas
- the forceful mobilization of our people to fight against their own and other nationals
- the forceful exclusion of our people from the political decision-making of their country including matters of their faith,
- the inability for adult man to move freely
- lack of health care due to inability to pay doctor's bills, and other medical services including medicines and exclusion from hospital care, the stopping of urgent humanitarian aid deliveries by Banja Luka Caritas, thus endangering the lives of 1,000 families who depend exclusively on Caritas' assistance in providing food, medicines, etc...." (See Bishop's Chancellory—Banja Luka, *A Dramatic Cry for Help by the Bishop and Priests of the Banja Luka Diocese*, Prot. No. 564a/93, Banja Luka, 17 February 1993.)

87. The Republic of Bosnia and Herzegovina respectfully asks the Court to take judicial notice of this *Cry for Help* by the Bishop and Priests of the Banja Luka Diocese.

***Specific Factual Allegations Relating to the Conduct of the Former Yugoslavia and/or Yugoslavia (Serbia and Montenegro)***

87A. The following events are categorized chronologically. All cites refer to the same-day edition of the *New York Times* unless otherwise noted.

***March 1992***

2 March 1992: Bosnia and Herzegovina held a referendum approving independence and sovereignty on 1 March. (*New York Times*, p. 2.)

3 March 1992: Rebel Serbian forces begin attacks on the Republic of Bosnia and Herzegovina, disrupting travel into and out of Bosnia. (*Id.*, p. 9.)

28 March 1992: Leaders of Bosnia and Herzegovina appealed to the United Nations to deploy peacekeeping forces in the Republic with the hopes of stopping or slowing Serbian attacks. (*Id.*, p. 4.)

***April 1992***

7 April 1992: The European Community recognized the independence of Bosnia and Herzegovina on 6 April. Serbian forces bombarded the historic Muslim quarter of Sarajevo. (*Id.*, p. 3.)

8 April 1992: The United States recognized the independence of Bosnia-Herzegovina on 7 April. (*Id.*, p. 10.)

22 April 1992: Serbian guerrilla units intensify attacks on Sarajevo. Unlike other shellings to this point, there is a possibility that the former Yugoslav Army did not participate. (*Id.*, p. 10.)

***May 1992***

13 May 1992: The European Community and the United States removed their ambassadors from Belgrade. (*Id.*, p. 10.)

17 May 1992: United Nations Peacekeeping Forces, originally placed to supervise a cease-fire between Serbia and Croatia, withdraw from Bosnia to Belgrade and Zagreb due to mortar and artillery attacks erupting around them. Only 120 troops remained in Sarajevo to help with food convoys and to seek a lasting cease-fire in Bosnia (*Id.*, p. 10.)

21 May 1992: Serbian forces held 5,000 hostages fleeing the war in Bosnia until the Government of Bosnia lifted blockades of the Yugoslav (Serbia and Montenegro) Army barracks. (*Id.* p. 14.)

22 May 1992: 5,000 hostages held by Serbian forces were released after the Bosnian Government agreed to lift the blockade against Yugoslav (Serbia and Montenegro) Army barracks, and to supply the barracks with food and other supplies. (*Id.*, p. 13.)

30 May 1992: Serbian forces unleashed a new attack on Sarajevo, the most severe attack on the Bosnian capital to date. (*Id.*, p. 1.)

31 May 1992: The United Nations Security Council voted 13-0 to impose economic sanctions against the Yugoslav (Serbia and Montenegro) Government in an effort to force Belgrade to bring peace to Bosnia and Herzegovina. (*Id.*, p. 1.)

### ***June 1992***

7 June 1992: Serbian forces attacked Sarajevo with the most sustained bombardment from artillery, mortar and rocket batteries since the siege of the Bosnian capital began. (*Id.*, p. 16.)

11 June 1992: A United Nations convoy was attacked on the outskirts of Sarajevo by Serbian guerrilla forces. The team was heading to Sarajevo in the hopes of opening the airport. (*Id.*, p. 6.)

20 June 1992: Serbian fighters attacked the nearby suburb of Dobrinja with artillery, tanks and infantry. This attack dimmed hopes of opening the airport for airlifts for relief supplies. (*Id.*, p. 5.)

21 June 1992: Statements are issued by survivors of a bus of refugees held hostage by Serbian forces outside of Sarajevo. Serbian gunmen opened fire on the bus with a bazooka and automatic weapons. As the dead and wounded lay in the bus, the attackers tossed hand grenades in the bus. Statements also issued by survivors of rape and torture at the hands of Serbian attackers. (*Id.*, p. 1.)

27 June 1992: Sarajevo airport truce is shattered when Serbian forces used tanks and artillery to attack civilian buildings in an airport suburb. United Nations Security Council issues an ultimatum to Serbian forces to halt attacks and put their heavy guns under the United Nations control. (*Id.*, p. 1.)

28 June 1992: Despite an ultimatum from the United Nations Security Council, Serbian forces continued to shell Sarajevo with artillery fire. (*Id.*, p. 1.)

30 June 1992: United Nations troops took control of Sarajevo airport and relief supplies began to arrive for the first time in 12 weeks. The United Nations planned to send 850 peacekeeping troops. (*Id.*, p. 1.)

### ***July 1992***

12 July 1992: Serbian forces attack Bosnian city of Gostivar, a city with a population of 50,000 persons. (*Id.*, p. 1.)

14 July 1992: Serbian nationalist forces continued their siege on Sarajevo by dynamiting four power-transmission lines that served the city, knocking out electricity to the 400,000 persons that remain in the city and idling the pumps that provide the residents with running water. (*Id.*, p. 1.)

21 July 1992: Due to continued Serbian attacks in Sarajevo, an EC brokered treaty failed and the Sarajevo airport is closed. (*Id.*, p. 1.)

29 July 1992: Reports published of Serbian forces force thousands of Muslims in western Bosnia to flee. Refugees described terror tactics and of being forced to sign away their property. (*Id.*, p. 4.)

### ***August 1992***

3 August 1992: A bus carrying children from Bosnia to safety in Germany was attacked by Serbian artillery fire. A 14-month-old boy and a 3-year-old girl were killed. (*Id.*, p. 1.)

4 August 1992: Initial reports begin to surface about the Serbian concentration camps. Survivors give detailed and consistent accounts of torture, rape and killings of Bosnian prisoners. (*Id.*, p. 1.)

5 August 1992: A Sarajevo family burying a young girl killed during a Serbian attack is attacked by Serbian sniper fire in the Sarajevo cemetery. (*Id.*, p. 1.)

6 August 1992: Serbian forces pound Sarajevo with a massive artillery barrage into heavily populated civilian districts. Many independent and consistent reports from survivors of Serbian concentration camps describe horrific treatment of prisoners; comparisons to Nazi-style death camps are drawn by historians. (*Id.*, pp. 1, 8.)

8 August 1992: Nazi-style conditions of Serbian concentration camps are confirmed in part by British video of emaciated Bosnian prisoners in a Serbian camp. This video is broadcast throughout Europe and the United States. (*Id.*, p. 1.)

9 August 1992: Serbian forces surround the north-west corner of Bosnia, cutting off 300,000 Bosnians from food deliveries and escape routes. (*Id.*, p. 10.)

21 August 1992: Bosnian Serbs declare the formation of a new Republic (the Serbian Republic of Bosnia-Herzegovina) from territory seized from Bosnia. (International recognition does not follow.) (*Id.*, p. 1.)

22 August 1992: Radovan Karadzic, leader of the Serbian forces in Bosnia, pledged to close Serbian prison camps, return property his army had seized by force, and allow relief convoys free access to Sarajevo and other encircled towns. (Laser, Karadzic would be shown to have failed to meet these promises.) (*Id.*, p. 3.)

25 August 1992: Fighting in Sarajevo intensified as Serbian forces shelled the centre of the city and hit the Holiday Inn. The intensity of the attack forced suspension of relief flights. (*Id.*, p. 8.)

26 August 1992: As peace talks convened in London, Serbian forces continued pounding Sarajevo with artillery fire, setting afire the city's main library. Serbian forces also continued their attack on Mostar, and Serbian planes bombed Novi Travnik. (*Id.*, p. 8.)

27 August 1992: Serbs launch an artillery attack in Sarajevo, striking Muslim medieval buildings and the main library. (*Id.*, p. 10.)

29 August 1992: Serbian leader Radovan Karadzic promised to halt sieges on four major Bosnian cities during the London peace talks. However, only hours after the conclusion of

these talks, Sarajevo was bombed by fierce mortar and artillery barrages. At least 10 persons were killed, and Sarajevo's main hospital said it had treated 60 wounded people in a four-hour period. (*Id.*, p. 5.)

29 August 1992: New reports by survivors of Serbian concentration camps describe the death and torture Bosnian prisoners face at the hands of their Serbian captors. (*Id.*, p. 1.)

30 August 1992: Bosnian Serb leader Radovan Karadzic announces the lifting of the siege of the Bosnian town of Goradze, but the Bosnian Government stated the fighting there continued. (*Id.*, p. 18.)

31 August 1992: 15 Bosnians were killed and about 100 were wounded in a crowded Sarajevo market when an artillery shell launched by Serbian forces exploded in the middle of the market. (*Id.*, p. 6.)

### ***September 1992***

1 September 1992: A grenade was thrown into a cemetery during a Bosnian soldier's funeral, killing one person and wounding three. (*Id.*, p. 3.)

4 September 1992: A United Nations plane carrying relief supplies to Sarajevo was shot down. President Bush of the United States criticized Serbian-run camps, saying that prisoners face malnutrition, starvation, sexual abuse, beatings and executions. (*Id.*, p. 1.)

9 September 1992: Serbian forces have returned to the siege of Goradze. Serbian militias under the command of Dusko Kornjaca began the assault which, by Kornjaca's own estimation, killed 50,000 men. (*Id.*, p. 1.)

9 September 1992: Bosnian forces attempt to break out of the Serbian stranglehold on Sarajevo. (This attack would fail to break the siege.) (*Id.*, p. 10.)

11 September 1992: A report from the Bush Administration states Serbian forces in Bosnia have been shadowing United Nations relief flights to Sarajevo as cover for air strikes against Bosnians. (*Id.*, p. 10.)

13 September 1992: Serbs in areas of Bosnia and Herzegovina continued heavy shelling despite the fact that these weapons were to be turned over to United Nations supervision. (*Id.*, p. 2.)

15 September 1992: Despite the presence of United Nations observers monitoring Serbian artillery positions in Sarajevo, Serbian forces began a new wave of shelling. (*Id.*, p. 3.)

23 September 1992: A Bosnian Muslim details an account of how more than 200 civilians were massacred by Serbian forces after they were to be released from a Serbian concentration camp near Travnik; the prisoners were shot in the head and thrown into a ravine. (*Id.*, p. 14.)

26 September 1992: The mass killings of 200 Bosnians near Travnik are confirmed by EC representative, Lord Owen, and United Nations envoy, Cyrus Vance. Also confirmed is a new wave of ethnic cleansing by the Serbians in the town of Banja Luka. (*Id.*, p. 2.)

26 September 1992: United States officials report that as many as 3,000 Muslim aryan, women and children were killed in May and June at Serbian-run concentration camps near the Bosnian town of Brcko. A spokesman for the United States State Department stated that the report included accounts of "willful killing, torture of prisoners, abuse of civilians in detention centres, deliberate attacks on non-combatants, wanton devastation and destruction of property, and others including mass, forcible expulsion and deportation of civilians". (*Id.*, p. 1.)

27 September 1992: Attacks on Sarajevo intensify to become the worst week of shelling since April. 925 civilians were struck by sniper fire, 129 of them died. Sarajevo remained without electricity and running water. (*Id.*, p. 12.)

27 September 1992: Bosnian Government declares that 11,000 persons are "known" to have died as a result of the Serbian invasion, with another 56,000 missing. Sarajevo. (*Id.*, p. 12.)

### ***October 1992***

2 October 1992: Over 500 residents of the city of Grbavica, a suburb of Sarajevo, were forced to leave their homes and belongings behind after their town was seized by Serbian forces. This was considered to be compelling evidence that the Serbs are renegeing on their promise to end "ethnic cleansing". (*Id.*, p. 1.)

3 October 1992: At least 150 Muslim women and teenage girls were in advanced stages of pregnancy after being raped by Serbian nationalist fighters. They also said that they were imprisoned for months afterward in an attempt to keep them from having abortions. (*Id.*, p. 5.)

6 October 1992: Serbian forces intensified their shelling of Sarajevo again, attacking several high-rise apartment buildings. Several of these buildings were set on fire causing the residents to throw their belongings over the balconies in an effort to save their property. (*Id.*, p. 10.)

8 October 1992: Serbian attackers unleashed an artillery attack in the town of Hrasno. The Serbs used incendiary shells to turn the neighbourhood into an inferno. (*Id.*, p. 14.)

9 October 1992: Serbian forces resumed their offence in northern Bosnia after consolidating their substantial earlier victories. (*Id.*, p. 32.)

10 October 1992: A Serbian mortar shell exploded in a courtyard full of children. 3 were killed, 10 were wounded. Several of the children had limbs amputated. (*Id.*, p. 10.)

11 October 1992: Less than 24 hours after the United Nations imposed a ban on military flights, Serbian fighter planes attacked the Bosnian town of Gradacac. At least 19 persons were killed, 34 were wounded. Other Bosnian towns in northern Bosnia near Brcko were also hit. (*Id.*, p. 10.)

11 October 1992: Croatians are forced to flee after the Serbs conquer the Bosnian town of Bosanki Brod. (*Id.*, p. 1.)

19 October 1992: Sarajevo states that Serbian shelling has destroyed the city's only flour mill, causing potential starvation for a people whose primary food is pasta and bread. (*Id.*, p. 5.)

20 October 1992: 2,500 Bosnian Muslims were expelled from their homes by Serbs near Kotor Varos. (*Id.*, p. 10.)

22 October 1992: Serbs begin a massive shelling project against Sarajevo in the hopes of having that city capitulate without a struggle. Serbs by this date are now in occupation of at least two-thirds of the territory of Bosnia. Serbs are receiving logistical support from Yugoslavia (Serbia and Montenegro). (*Id.*, p. 1.)

25 October 1992: Serbs begin stepping up attacks on several strategic Bosnian cities. (*Id.*, p. 12.)

29 October 1992: Bosnia suffers its worst defeat yet at the hands of the Serbs, as the strategically located city of Jajce falls to a Serbian offensive. A line of refugees from the city extends 30 miles. (*Id.*, p. 3.)

### ***November 1992***

1 November 1992: Thousands of exhausted soldiers and civilians arrive in Travnik, in Bosnia-Herzegovina, after the military defeat for the Bosnian forces in Jajce. (*Id.*, p. 14.)

3 November 1992: As a result of the Serbian capture of Jajce, 35,000 Muslims become refugees in Vitez. United Nations officials now estimate 1.5 million people in Bosnia have become homeless, not including those trapped by the Serbian siege of their communities. (*Id.*, p. 3.)

6 November 1992: United Nations declares since 22 October Serbian forces have flown 18-20 unauthorized flights over Bosnia (as prohibited by Security Council resolution). (*Id.*, p. 8.)

6 November 1992: Fighting breaks out between Serbs and Muslims near the Sarajevo airport. An American relief plane is hit. (*Id.*)

10 November 1992: Bosnian Serb leader Radovan Karadzic demands partition of Bosnia along ethnic lines, or threatens to intensify the fighting. (*Id.*, p. 8.)

14 November 1992: Bosnian Foreign Minister, Haris Silajdzic, states 100,000 people, mainly Muslims, have been killed as a result of Serbian aggression. (*Id.*, p. 5.)

20 November 1992: French troops protecting a Bosnian relief convoy are attacked by Serbian forces. (*Id.*, p. 1.)

21 November 1992: Serbs begin heavy shelling against the Bosnian town of Travnik. Travnik is key to the Bosnian defence, as it controls one of the key access roads into Sarajevo. Reports are sent to Bosnia of 6,000 men to defend the city. (*Id.*, p. 3.)

22 November 1992: Travnik in Bosnia under attack by Serbian forces in an effort to open another road to Sarajevo. (*Id.*, p. 8.)

24 November 1992: Heavy shelling by Serbian forces in Sarajevo is reported. In addition, Serbs step up attack on the Bosnian city of Travnik, whose population is predominately Muslim and Croatian. (*Id.*, p. 3.)

27 November 1992: Special report published regarding Borislav Herak, a Serbian auxiliary soldier facing the death penalty for genocide. During an interview, Herak described crimes against Bosnian Muslims committed by Serbian forces. (*Id.*, p. 1.)

29 November 1992: Serbs finally release United Nations relief convoy after preventing its entrance into Bosnia for 3 days. (*Id.*, p. 14.)

30 November 1992: Croatian and Serbian forces clash in Bosnia and Herzegovina hours before cease-fire was scheduled to take place. (*Id.*, p. 3.)

### ***December 1992***

1 December 1992: Serbs and Croats fought pitched battles across Bosnia-Herzegovina, one person is killed in Sarajevo. (*Id.*, p. 8.)

2 December 1992: United Nations halts humanitarian flights to Sarajevo after United States military aircraft is hit by small arms fire in defiance of supposed cease-fire. (*Id.*, p. 7.)

2 December 1992: United Nations Human Rights Commission in Geneva condemns Bosnian Serbs as primarily responsible for atrocities committed during the invasion of Bosnia. (*Id.*)

6 December 1992: Serbian forces resumed the shelling of the centre of Sarajevo and stepped up an armoured attack on a nearby suburb. (*Id.*, p. 18.)

6 December 1992: In Otes, a suburb 6 miles from Sarajevo, Serbian forces fight Bosnian forces for control of key approaches to the Sarajevo airport. (*Id.*)

7 December 1992: United Nations forces are prevented from reaching Otes and giving relief to civilians by Serbs, who have overrun most of Otes. Serbs shut down Sarajevo's telephone, water, and electricity systems. (*Id.*, p. 6.)

9 December 1992: Serbs begin heavy shelling of Sarajevo's historic centre. Heavy civilian casualties were reported. (*Id.*, p. 19.)

9 December 1992: Serbs use tanks to seize airport road and block any relief aid to civilians trapped inside Sarajevo. Serbs fire on French United Nations troops, forcing French United Nations troops to leave the airport garrison. (*Id.*, p. 3.)

27 December 1992: A Serbian tank gunner was interviewed, and described the ninth month of the siege of Sarajevo. He described how he had been ordered to fire on the apartment building where his parents lived. Serbian soldiers confirmed civilian areas were targeted. (*Id.*, p. 4.)

### ***January 1993***

9 January 1993: European Community investigators estimated 20,000 Muslim women had been raped by Serbs as a part of the Serbian invasion of Bosnia. European Community leaders condemned the violence as "systematic". (*Id.*, p. 1.)

20 January 1993: The final global human rights report submitted by the Bush Administration stated that Serbian forces in Bosnia and Herzegovina were conducting a campaign of "cruelty, brutality and killing" unrivalled since Nazi times. (*Id.*, p. 8.)

24 January 1993: American intelligence reports that at least 135 of the concentration camps established by the Serbs at the outbreak of the war still remain, despite Serbian promises to shut them down. (Reference 22 August 1992 and Radovan Karadzic's promise to shut down the camps.) (*Id.*, p. 1.)

28 January 1993: Sarajevo came under fresh Serbian bombardment, killing at least 10 and wounding 70. In addition, Muslims at Trebinje were terrorized by Serbian forces. (*Id.*, p. 6.)

### ***February 1993***

7 February 1993: 4000 Bosnians were forced out of their homes in the Bosnian town of Trebinje at gun point by Serbs. Serbian military forces reportedly settled other Serbian nationals in the homes. (*Id.*, p. 18.)

8 February 1993: Serbs renewed their campaign of "ethnic cleansing" after a United Nations proposal was delivered on partitioning Bosnia into provinces. Bosnian refugees were forced to flee from Cerska, Kamenica, and other besieged Bosnian villages above the Drina River town of Zvornik in eastern Bosnia. The Serbs continued their campaign of heavy artillery bombardment. (*Id.*, p. 10.)

17 February 1993: A United Nations relief convoy destined for the besieged city of Cerska was stopped by Serbian forces. (*Id.*, p. 8.)

25 February 1993: Nobel Peace Prize winner Elie Wiesel stated that he had been "betrayed" by the Serbs regarding some prisoners interviewed in the concentration camp of Manjanca. Wiesel noted that prisoners which he had interviewed were later singled out and punished by the Serbian commanders of the camps. (*Id.*, p. 19.)

26 February 1993: Serbian forces allowed a relief convoy it had delayed for 12 days to reach Goradze, an isolated Muslim town in eastern Bosnia. (*Id.*, p. 1.)

### ***March 1993***

3 March 1993: Serbian forces began a dawn attack on the Bosnian enclave of Cerska. Most Bosnian resistance ended early amid the artillery shelling. This attack followed the pattern of "ethnic cleansing" practised by the Serbs. The attack began with a vicious shelling barrage, and then terror tactics against local Muslim population in order to turn the survivors into refugees. (*Id.*, p. 1.)

4 March 1993: Serbian forces continued the attack on the Bosnian enclave of Cerska. Bosnian resistance crumbled and Muslim civilians were shelled by Serbs. (*Id.*, p. 1.)

5 March 1993: The Bosnian enclave at Cerska was defeated by the Serbian attack. Some 1,500 Muslims were wounded. Refugees fled to the Muslim enclave of Srebrenica, Bosnia. (*Id.*, p. 8.)

7 March 1993: The week-long destruction by Serbs of the Bosnian enclave of Cerska was recounted. The attack by the Serbs appeared to be in response to the American relief airdrop. Cerska was the first city to receive American airdropped food and supplies. (*Id.*, p. 3.)

13 March 1993: Serbian shells killed 20 Muslim women and children in Vitez, Bosnia, when these people crowded around two British armoured personnel carriers in the tropes of gaining safe passage out of the city. (*Id.*, p. 4.)

14 March 1993: Serbian soldier Borislav Herak confessed to crimes committed in "ethnic cleansing" operations. Herak named Vojislav Seselj and Miro Vukovic as politicians and commanders who "played a major role" in the operations. (*Id.*, p. 10.)

14 March 1993: Bosnian forces began an airlift of the critically ill from besieged enclaves in Srebrenica to hospitals in Tuzla, Bosnia. General Morillon, commander of the United Nations military forces in Bosnia, demanded a halt of the Serbian offensive in Srebrenica. A World Health Organization physician reported that fighting had trapped some 60,000 people in Srebrenica and that 2,000 persons had died due to disease, hunger, and exposure. (*Id.*, p. 10.)

15 March 1993: Serbian forces backed by tanks overran the Bosnian city of Konjevic Polje, pushing Muslim civilians into the Bosnian city of Srebrenica. This account was confirmed by a United Nations British major. In addition, there were reports of Serbian shelling of the Muslim enclave. (*Id.*, p. 3.)

19 March 1993: In Cerska, Bosnia, Bosnian soldiers confirmed short-wave radio operator accounts that after overrunning the village Serbs killed several civilians. (*Id.*, p. 10.)

19 March 1993: Several persons died and several more were wounded in the Bosnian city of Srebrenica due to Serbian shelling. (*Id.*, p. 1.)

19 March 1993: Serbia forces reneged on an agreement to allow a United Nations relief convoy, and Serbs launched another intense artillery barrage against Sarajevo. (*Id.*)

21 March 1993: Serbian planes were seen bombing two Muslim villages (Gladovici and Osatica) in violation of the resolution banning flights over Bosnia. (*Id.*, p. 6.)

*Evidence and statements implicating the Belgrade Government in Yugoslavia (Serbia and Montenegro) of genocide*

87B. The following statements and evidence implicates the Belgrade Government in Yugoslavia (Serbia and Montenegro) as a party to the acts of genocide committed by Serbs in the Republic of Bosnia and Herzegovina. All cites refer to the same-day edition of the *New York Times* unless otherwise noted.

***April 1992***

4 April 1992: Serbian irregular soldiers backed by the Yugoslav Army attacked Muslim and Croatian forces in Bosanski Brod and Kupres. Diplomats called the attacks a clear attempt to block European Community recognition of Bosnia-Herzegovina's independence. (*New York Times*, p. 3.)

5 April 1992: Serbian irregular soldiers and the Yugoslav Army continued

their attack against the Bosnian towns of Bosanski Brod and Kupres. President Alija Izetbegovic was forced to announce the mobilization of National Guard and police reserve units. (*Id.*, p. 3.)

7 April 1992: Sarajevo was attacked by heavy automatic weapons fire and grenade explosions after Bosnian President Izetbegovic refused to rescind an order to mobilize National Guard forces. (*Id.*, p. 3.)

8 April 1992: The Serbian-led Yugoslav Army ordered air strikes on the predominantly Croat towns of Siroki Brijeg and Citluk in Bosnia and Herzegovina. (*Id.*, p. 10.)

9 April 1992: Serb units approaching from Serbia itself attacked Visegrad and Zvornik. Gun battles also reported in Mostar, Derventa and Foca. Yugoslav Army warplanes bombed the towns of Siroki Brijeg and Citluk for the second straight day. (*Id.*, p. 9.)

10 April 1992: As Yugoslav Army tanks stood idly by, a Serb-backed guerrilla force captured the Bosnian town of Zvornik. (*Id.*, p. 14.)

12 April 1992: The Yugoslav Army carved out new territory in Bosnia and Herzegovina. The army units invaded the town of Modrica before dawn. (*Id.*, p. 16.)

14 April 1992: At the National Press Club, Dr. Haris Silajdzic, Foreign Minister of Bosnia and Herzegovina, pleaded for assistance. He stated:

"Fresh [Serbian] irregular forces are being brought into Bosnia and Herzegovina from Serbia, Montenegro and the Croatian town of Knin on Yugoslavian People's Army truck and helicopters." (*Legislate Transcript ID: 821134.*)

15 April 1992: In an interview on CNN's "International Hour" Dr. Haris Silajdzic, the Foreign Minister of Bosnia and Herzegovina, re-emphasized that Serbian irregular forces were being brought into Bosnia by the Yugoslavian People's Army. Silajdzic also noted later in the interview that the Serbs were equipped by the Yugoslav Army.

15 April 1992: Serbian and Yugoslav Army forces broke an EC-brokered peace agreement. Serbian and army units overran several regions populated by Muslim Slavs. These Bosnian towns include Foca, Mostar, and Goražde. (*New York Times*, p. 6.)

19 April 1992: Serbian guerrillas pounded central Sarajevo with mortar shells as an American official arrived with humanitarian aid for Bosnia. (*Id.*, p. 1.)

20 April 1992: Yugoslav Army bombarded Mostar. Shells fell for at least three hours in heavily populated neighbourhoods and set fire to several apartments. (*Id.*, p. 3.)

21 April 1992: At a White House Background Briefing, a Senior Administration Official noted that the Yugoslavian National Army was causing problems in Bosnia which made establishing a relationship with Belgrade difficult. (*Legislate Transcript ID: 821477.*)

22 April 1992: Yugoslav Army jet fighters attacked the Bosnian towns of Siroki Brijuni, Citluk, Grude and Capliina. (*New York Times*, p. 10.)

23 April 1992: Backed by the Yugoslav Army, Serbian forces stepped up their attacks on Sarajevo as well as on other smaller Bosnian cities. (*Id.*, p. 10.)

23 April 1992: During an interview on PBS "MacNeil-Lehrer", United States Assistant Secretary of State Lawrence Eagleburger called the conduct of the Serbian Government and the Yugoslavian National Army as "outrageous" and blamed them for the deteriorating situation in Bosnia. Eagleburger noted that the Yugoslavian National Army and the Serbian irregulars were more "active" than the other forces in the region.

30 April 1992: Across Bosnia, there was fighting in at least five different towns across the Republic's northern, eastern, and southern regions as well as a battle in the centre of Sarajevo. These attacks by Serbian forces and units of the Yugoslav Army featured artillery, mortar and rifle fire. Yugoslav Army units also continued to pour artillery, mortar and rocket fire into the Bosnian town of Mostar. (*New York Times*, p. 13.)

### ***May 1992***

3 May 1992: The heaviest attack to date in Sarajevo erupted when Serbian guerrillas and Yugoslav Army forces shelled the city's Muslim quarter with artillery and machine-gun fire. The attack began soon after 1 p.m. and continued into the night. (*Id.*, p. 1.)

6 May 1992: Yugoslav Army jets rocketed several targets in Sarajevo, and Serbian guerrilla forces continued attacks on the city. (*Id.*, p. 16.)

13 May 1992: In an effort to ward off international sanctions, Yugoslavia (Serbia and Montenegro) announced that it was relinquishing control over Yugoslav Army units in Bosnia and Herzegovina. (*Id.*, p. 1507.)

19 May 1992: In a news conference, Dr. Haris Silajdzic, Foreign Minister of Bosnia-Herzegovina, stated that the war in Bosnia was not between Serbs, Muslims, or Croats, but was instead one of aggression by Yugoslavia (Serbia and Montenegro) against Bosnia-Herzegovina. (*LegislateTranscript* ID: 831298.)

26 May 1992: In a State Department Daily Briefing, Richard Boucher stated that the United States did not believe the disavowal by the Yugoslavian (Serbia and Montenegro) Government in Belgrade. Boucher placed responsibility for the war in Bosnia on the Yugoslavian Army and the Serbian Government. (*Legislate Transcript* ID: 831755.)

28 May 1992: The United States Ambassador to Yugoslavia (Serbia and Montenegro), Warren Zimmerman, when interviewed on NBC's "Today", stated that the United States saw the conflict not as an ethnic war but rather "as a war of aggression that's waged by Serbia and the Serbian president, Milosevic, against an independent republic". (*Legislate Transcript* ID: 831904.)

### ***June 1992***

3 June 1992: When asked at a State Department Regular Briefing whether the United States was "certain" Serbian leadership was in control of irregular Serbian groups inside Bosnia, United States State Department spokesman Richard Boucher stated that the Government of Belgrade, rather than withdrawing the Yugoslav Army turned it over to the extremists" Bosnian Serb leaders. He went on to say:

"The reality on the "round in Bosnia is that this Is an independent state that is being ravaged by Serbian armed forces, both army units and irregulars, which were unleashed by Belgrade, which are inspired, equipped, and continue to be supported by Belgrade." (*Legislate Transcript ID: 840231.*)

9 June 1992: Bosnian Government releases transcript of recording of Serbian military leaders, several of whom were officers of the Yugoslav Army, in which the commanding general ordered that all of the Bosnian residential districts should be shelled. His exact command was "Burn it all." (*New York Times*, p. 10.)

11 June 1992: Ralph Johnson, Deputy Secretary of State, during a Senate Subcommittee Hearing on European Affairs noted:

"Ostensibly, the [Yugoslavian] Army has been withdrawn, but they have remained behind in some cases — many cases — with equipment and have remained under the command of General Vlastic. Now he, as far as we can see, is appointed and paid by Belgrade.

So, whether or not Belgrade has tactical control over the individual units, as far as we're concerned is really not particularly relevant. The issue is that Belgrade does have, in our view, enough influence that it can have a material effect on the fighting being clone by these irregulars and that Belgrade needs to be held accountable for the fact that it set this process in motion . . .

We think that Mr. Milosevic does control the Yugoslav Army . . . we believe the evidence is very, very persuasive . . ." (*Legislate Transcript ID: 840866.*)

23 June 1992: Thomas Niles, Assistant Secretary of State, testifying at a House Europe and Middle East Subcommittee Hearing, in response to a question from Representative Solarz, stated:

"I would say the continuing shelling of the city of Sarajevo by the Serbian forces . . . are certainly subject to a very heavy influence, if not control, from Belgrade."

Niles also noted that he believed the President of Yugoslavia (Serbia and Montenegro), Slobodan Milosevic, was "deeply involved in what's going on in Bosnia-Herzegovina". (*Legislate Transcript ID: 841690.*)

26 June 1992: In a meeting with Britain's Lord Carrington, Serbian President Slobodan Milosevic refused to recognize the independent Republic of Bosnia and Herzegovina saying that its statue must be determined by the leaders of federal Yugoslavia. However, after the independence of four of the old Yugoslavia's republics over the last year, only Serbia and Montenegro remain in the federation. (*New York Times*, p. 8.)

**July 1992**

10 July 1992: At a CSCE Conference, Secretary of State James Baker made reference to large amounts of heavy weaponry which had been transported into Bosnia from Serbia for use by the Serbian forces in Bosnia. (*Legislate* Transcript ID: 850551.)

11 July 1992: Secretary of State James Baker told Milan Panic that the United States held the Serbian Government in Belgrade responsible "for the humanitarian nightmare" caused by the Serbian invasion of Bosnia. (*The Houston Chronicle*, p. 1, "Bush Urges Yugoslavian to End Ethnic Bloodshed".)

### ***August 1992***

4 August 1992: Thomas Niles, Assistant Secretary of State, testifying at the House Europe and Middle East Subcommittee Hearing told Representatives that the town of Vucovar was destroyed by forces "controlled by the government of Serbia". Later, Niles mentioned that the Serbian forces in Bosnia were "organized . . . conducted by the government in Belgrade, the Serbian government, attacking essentially unarmed people in Bosnia-Herzegovina". (*Legislate* Transcript ID: 860166.)

6 August 1992: A list of 105 Serbian concentration camps was made public. Ninety-four of them were in Bosnia and Herzegovina, 11 of them were in Serbia. (*New York Times*, p. 1.)

9 August 1992: On an interview during ABC's "This Week with David Brinkley" Brent Scowcroft, the United States National Security Advisor, stated that the Serbs had the "monopoly on heavy arms" in the conflict, and this was due because the arms were handed over to them by the Yugoslav Army. (*Legislate* Transcript ID: 860443.)

12 August 1992: *Morning Edition*, interview with William Taylor, Vice-President of International Security Programs at the Center for Strategic and International Studies.

"The solutions to [the problems in Bosnia] are . . . in Belgrade where Slobodan Milosevic, the president, and his high military command reside. They are the ones who either have control of Serbian regular military forces and Serbian militia forces . . . all of whom are committing these atrocities and killing a lot of people in Bosnia . . . There's one proposition which no one argues and that is that Milosevic and the high command do have control over the Yugoslavian National Army. That's about 30 divisions. In our estimates at CSIS — and we've been tracking for months — there are still seven regular divisions in and around Bosnia. Serbia controls these forces, no question about it . . ."

### ***September 1992***

11 September 1992: At a State Department Daily Briefing, United States State Department spokesman Richard Boucher stated that the "Belgrade authorities were continuing to supply arms, ammunition, fuel, spare parts, and a variety of other things to the Bosnian Serbs". As such, Boucher declared that Belgrade "bears a certain responsibility".

28 September 1992: A report in the *New York Times* stated that Serbia is being used as a source of military weapons and troops which are used to fight in Bosnia. (*New York Times*, p. 5.)

### ***March 1993***

18 March 1993: The UP reported that Yugoslavia (Serbia and Montenegro) violated the no-fly zone over Bosnia and conducted military air strikes against besieged cities in eastern Bosnia.

## ***II. Jurisdiction of the Court***

88. Article 36 (1) of the Statute of the Court provides that the Court's jurisdiction "comprises . . . all matters specially provided for . . . in treaties and conventions in force". As Members of the United Nations Organization, the Republic of Bosnia and Herzegovina and Yugoslavia (Serbia and Montenegro) are parties to the Statute, which forms an integral part of the Charter. These issues will be more fully addressed below.

89. The Republic of Bosnia and Herzegovina and Yugoslavia (Serbia and Montenegro) are also Parties to the Genocide Convention, which has been continuously in force with respect to both Contracting Parties throughout the period of time relevant to this case.

90. Article IX of the Genocide Convention provides as follows:

"Disputes between the Contracting Parties relating to the interpretation, application or fulfilment of the present Convention, including those relating to the responsibility of a State for genocide or for any of the other acts enumerated in article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute."

91. On 29 December 1992, His Excellency Muhamed Sacirbey, Ambassador and Permanent Representative of the Republic of Bosnia and Herzegovina to the United Nations, transmitted a letter to the Secretary-General of the United Nations, His Excellency Dr. Boutros Boutros-Ghali, that enclosed the original of a Notice of Succession with respect to the Genocide Convention, dated 17 December 1992, which was executed by His Excellency Dr. Haris Silajdzic, Minister for Foreign Affairs of the Republic of Bosnia and Herzegovina. The United Nations Secretary-General is the depository for the Genocide Convention. In this Notice of Succession, H.E. Dr. Silajdzic declared

". . . that the Government of the Republic of Bosnia and Herzegovina, having considered the Convention on the Prevention and Punishment of the Crime of Genocide, of December 9, 1948, to which the former Socialist Federal Republic of Yugoslavia was a party, wishes to succeed to the same and undertakes faithfully to perform and carry out all the stipulations therein contained with effect from March 6, 1992, the date on which the Republic of Bosnia and Herzegovina became independent".

92. This effective date for the Notice of Succession is in accordance with the normal rules of customary international law relating to State succession with respect to treaties. These rules have been codified in Articles 17, 22, 23 and 34, among others, of the Vienna Convention on Succession of States in Respect of Treaties of 23 August 1978. The former Yugoslavia signed this Vienna Convention on 6 February 1979, and deposited an instrument of ratification for this Vienna Convention on 28 April 1980. Therefore, Bosnia and Herzegovina has been a Party to the Genocide Convention (without any reservation) from 6 March 1992.

93. The former Yugoslavia signed the Genocide Convention on 11 December 1948, and deposited an instrument of ratification without reservation on 29 August 1950. Therefore, and for reasons previously explained, Bosnia and Herzegovina succeeded to the obligations of the

former Yugoslavia with respect to the Genocide Convention on 6 March 1992, and without any reservations whatsoever. Thus both the Applicant and the Respondent are, and have been, Parties to the Genocide Convention continuously at all times relevant to these proceedings.

94. Article 3 of the United Nations Charter provides that:

"The original Members of the United Nations shall be the States which, having participated in the United Nations Conference on International Organization at San Francisco . . . sign the present Charter and ratify it in accordance with Article 110."

The former Yugoslavia took part in the San Francisco Conference and therefore became an original Member of the United Nations and a Party to its Charter.

95. On 27 April 1992, a joint session of the rump Parliamentary Assembly of the former Socialist Federal Republic of Yugoslavia, the National Assembly of the Republic of Serbia and the Assembly of the Republic of Montenegro, adopted a declaration supposedly expressing the will of their citizens "to stay in the common state of Yugoslavia" and proclaiming the so-called "Federal Republic of Yugoslavia", in the following language:

"1. The Federal Republic of Yugoslavia, continuing the state, international legal and political personality of the Socialist Federal Republic of Yugoslavia, shall strictly abide by all the commitments that the SFR of Yugoslavia assumed internationally." See A/46/915, Annex II (7 May 1992).

For the sake of convenience, this so-called entity will hereinafter be referred to as "Yugoslavia (Serbia and Montenegro)".

96. This purported State "continuity" has been vigorously contested by the entire international community, and including by the United Nations Security Council in resolution 757 (1992) and resolution 777 (1992) as well as by the General Assembly in resolution 47/1 of 22 September 1992. The Republic of Bosnia and Herzegovina fully agrees with and supports these three resolutions.

97. Nevertheless, this declaration of 27 April 1992 clearly indicates that "The Federal Republic of Yugoslavia . . . shall strictly abide by all the commitments that the SFR of Yugoslavia assumed internationally."

98. This intention by Yugoslavia (Serbia and Montenegro) to honour the international treaties of the former Yugoslavia was also confirmed in an official *Note dated 27 April 1992 from the Permanent Mission of Yugoslavia to the United Nations addressed to the Secretary-General*, in the following language:

"Strictly respecting the continuity of the international personality of Yugoslavia, the Federal Republic of Yugoslavia shall continue to fulfil all the rights conferred to, and obligations assumed by, the Socialist Federal Republic of Yugoslavia in international relations, including its membership in all international organizations and participation in international treaties ratified or acceded to by Yugoslavia." (See A/46/915, Annex I (7 May 1992).)

Therefore, Yugoslavia (Serbia and Montenegro) has expressed its intention to be bound by the terms of the Genocide Convention without reservation.

99. A Letter dated 29 September 1992 from the Under-Secretary-General, the Legal Counsel, addressed to the Permanent Representatives of Bosnia and Herzegovina and Croatia to the United Nations attempted to discuss the "practical consequences" of General Assembly resolution 47/1 of 22 September 1992. In relevant part, this *Letter* stated:

"On the other hand the resolution neither terminates nor suspends Yugoslavia's *membership* in the Organization.... The resolution does not take away the right of Yugoslavia to participate in the work of organs other than Assembly bodies . . ." (See A/47/485, Annex (30 September 1992).)

100. In light of the facts described above, and as will be more fully developed in subsequent submissions, it is clear that a dispute exists between the Republic of Bosnia and Herzegovina and Yugoslavia (Serbia and Montenegro)

"relating to the interpretation, application, or fulfilment of the present [Genocide] Convention, including those relating to the responsibility of a State for genocide or any of the other acts enumerated in article III",

within the meaning of Article IX of the Genocide Convention.

101. Wherefore, Bosnia and Herzegovina submits that the Court has jurisdiction to hear its claims against Yugoslavia (Serbia and Montenegro) arising under the Genocide Convention.

### ***III. The claims of Bosnia and Herzegovina***

102. In submitting this dispute to the Court, Bosnia and Herzegovina claims as follows:

103. Article I of the Genocide Convention provides that the Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law, which they undertake to prevent and to punish. Bosnia and Herzegovina claims that Yugoslavia (Serbia and Montenegro) has breached its solemn obligations under Article I. The Respondent has planned, prepared, conspired, promoted, encouraged, aided and abetted and committed genocide against the People and State of Bosnia and Herzegovina. The Respondent has refused to prevent or to punish those who are responsible for such acts. By performing such unlawful and criminal activities, Yugoslavia (Serbia and Montenegro) has incurred an international legal responsibility and is bound to cease and desist from such activities immediately and to pay Bosnia and Herzegovina reparations for the damage and prejudice suffered.

104. Article II of the Genocide Convention defines the international crime of "genocide" as follows:

"Article 11

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

(a) Killing members of the group;

(b) Causing serious bodily or mental harm to members of the group;

(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

(d) Imposing measures intended to prevent births within the group;

(e) Forcibly transferring children of the group to another group."

For the reasons indicated in the "Statement of Facts", and as will be demonstrated in future submissions, Bosnia and Herzegovina claims that Yugoslavia (Serbia and Montenegro), its public officials, agents and surrogates have expressly violated, and are currently violating, and threaten to continue violating Article II, paragraphs (a), (b), (c) and (d), of the Genocide Convention with respect to the People and State of Bosnia and Herzegovina.

105. Article III of the Genocide Convention provides that the following acts shall likewise all be punishable: (a) genocide; (b) conspiracy to commit genocide; (c) direct and public incitement to commit genocide; (d) attempt to commit genocide; (e) complicity in genocide. As indicated in the above "Statement of Facts", as well as during the course of its subsequent submissions, Bosnia and Herzegovina claims that Yugoslavia (Serbia and Montenegro), its public officials, agents, and surrogates have committed numerous, gross, and consistent violations of Article III, paragraphs (a), (b), (c), (d) and (e), of the Genocide Convention with respect to the People and State of Bosnia and Herzegovina.

106. According to Article IV of the Genocide Convention, persons committing genocide or any of the other acts enumerated in Article III shall be punished, whether they are constitutionally responsible rulers, public officials, or private individuals. As indicated above in the "Statement of Facts", as well as during the course of its subsequent submissions, Bosnia and Herzegovina claims that "constitutionally responsible rulers" and "public officials" of Yugoslavia (Serbia and Montenegro) have personally violated Article II and Article III, paragraphs (a), (b), (c), (d) and (e), of the Genocide Convention by themselves and also by means of agents and surrogates acting under their direct control or with their co-operation, support, encouragement or approval. Yet, so far, Yugoslavia (Serbia and Montenegro) has refused to punish them in breach of its own obligations under Article III and Article IV.

107. Furthermore, Bosnia and Herzegovina also claims that certain "private individuals", acting under the control of or in co-operation with "constitutionally responsible rulers" or "public officials" of Yugoslavia (Serbia and Montenegro) have violated Article III, paragraphs (a), (b), (c), (d) and (e), of the Genocide Convention. Such behaviour and acts create personal responsibility under international law for them as well as State responsibility for Yugoslavia (Serbia and Montenegro). Yet so far Yugoslavia (Serbia and Montenegro) has refused to punish these "private individuals" and has thus violated its own obligations under Article III and Article IV of the Genocide Convention.

108. According to Article V of the Genocide Convention, the Contracting Parties undertake to enact, in accordance with their respective Constitutions the necessary legislation to give effect to the provisions of the Convention and in particular, to provide effective penalties for persons guilty of genocide or any of the other acts enumerated in Article III. So far, Yugoslavia (Serbia and Montenegro) has not provided for effective penalties for persons guilty of genocide or any of the other acts enumerated in Article III of the Genocide Convention and has thus violated its own obligations under Article V thereof.

109. Article VIII of the Genocide Convention provides that any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in Article III. The Genocide Convention expressly confers international legal competence upon all Organs of the United Nations Organization, and especially upon the International Court of Justice, to take effective action to prevent and suppress all acts of genocide and all the other acts enumerated in Article III that have been perpetrated by Yugoslavia (Serbia and Montenegro) and its agents and surrogates against the People and State of Bosnia and Herzegovina. The Applicant most respectfully claims that the Court must act immediately and effectively to do whatever it can to prevent and suppress all acts of genocide and all other genocidal acts enumerated in Article III that have been perpetrated by Yugoslavia (Serbia and Montenegro) and its agents and surrogates against the People and State of Bosnia and Herzegovina, as required by Article VIII of the Genocide Convention. In particular, Bosnia and Herzegovina most respectfully claims that Genocide Convention Article VIII requires this Court to grant its Request for the Indication of Provisional Measures of Protection of today's date. and in the manner specified therein.

110. Bosnia and Herzegovina also claims that it has the inherent right under the Genocide Convention to defend Itself and its People against the acts of genocide and the other genocidal acts enumerated in Article III currently being perpetrated upon Us by Yugoslavia (Serbia and Montenegro) and its agents and surrogates in Bosnia and elsewhere. This right of self-defence against genocide includes within itself the right to seek and receive support from other Contracting Parties to the Genocide Convention. Pursuant thereto, Bosnia and Herzegovina has the basic right under the Genocide Convention immediately to seek and receive from the other Contracting Parties military weapons, equipment, supplies, troops and financing in order to defend Itself and its People from the acts of genocide and the other genocidal acts currently being inflicted upon us by Yugoslavia (Serbia and Montenegro) and its agents and surrogates.

111. Article I of the Genocide Convention makes it quite clear that all States that are Contracting Parties have an international legal obligation "to prevent" the commission of acts of genocide against the People and State of Bosnia and Herzegovina by Yugoslavia (Serbia and Montenegro) and its agents and surrogates. This obligation includes within itself the obligation of the other Contracting Parties to provide support to Bosnia and Herzegovina, including military weapons, equipment, supplies, troops and financing as indicated. This support will lawfully enable Bosnia and Herzegovina to defend Itself and its People from the acts of genocide and other genocidal acts that are currently being perpetrated upon Us by Yugoslavia (Serbia and Montenegro) and its agents and surrogates.

112. Bosnia and Herzegovina also claims that as a Party to the Genocide Convention and as a Member of the United Nations Organization and a Party to its Charter, that It possesses the inherent right of both individual and collective self-defence recognized by Article 51 of the United Nations Charter in order to defend Itself and its People from the armed attacks, armed aggressions, and acts of genocide that have been and are currently being inflicted upon It and its People by Yugoslavia (Serbia and Montenegro) and its agents and surrogates. Article 51 of the United Nations Charter provides in relevant part as follows:

"Article 51

Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security.... "

Pursuant to United Nations Charter Article 51, Bosnia and Herzegovina has the right to seek and receive support from the other 179 Member States of the United Nations, including the right to seek and receive military weapons equipment, supplies, troops, and financing from them in order to defend Itself and its People from the armed attacks, armed aggressions and acts of genocide against Us currently being perpetrated by Yugoslavia (Serbia and Montenegro) and its agents and surrogates in gross violation of the Genocide Convention as well as of its solemn obligations found in Article 2, paragraphs 2, 3 and 4, and in Article 33, paragraph 1, of the United Nations Charter.

113. Thus, additionally, Bosnia and Herzegovina also claims that Yugoslavia (Serbia and Montenegro) by itself and by means of its agents and surrogates in Bosnia and elsewhere has wantonly violated United Nations Charter Article 2, paragraphs 1, 2, 3 and 4, and Article 33, paragraph 1, which provide as follows:

"Article 2

The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles:

- 1. The Organization is based on the principle of the sovereign equality of all its Members.
- 2. All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfil in good faith the obligations assumed by them in accordance with the present Charter.
- 3. All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.
- 4. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations.

.....

Article 33

- 1. The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice."

114. Bosnia and Herzegovina also claims that so far the Security Council and its member States have not yet taken effective measures to prevent or to punish or to suppress acts of genocide perpetrated by Yugoslavia (Serbia and Montenegro) against the People and State of Bosnia and Herzegovina as required by Articles I and VIII of the Genocide Convention. Therefore, Bosnia and Herzegovina has the right under the Genocide Convention to seek and

receive support from the Member States of the United Nations, including military weapons, equipment, supplies, troops, and financing in order to defend Itself and its People from the acts of genocide currently being inflicted upon Us by Yugoslavia (Serbia and Montenegro) and its agents and surrogates.

115. Bosnia and Herzegovina also claims that so far the United Nations Security Council has not yet taken effective measures necessary to maintain international peace and security with respect to It and its People within the meaning of United Nations Charter Article 51. Therefore, Bosnia and Herzegovina's inherent right of individual and collective self-defence against the armed attack and armed aggressions against It and its People by Yugoslavia (Serbia and Montenegro) and its agents and surrogates remains intact. Thus, Bosnia and Herzegovina has the basic right under Article 51 to seek and receive support, including military weapons, equipment, supplies, troops, and financing from all other United Nations Member States in order to defend Itself and its People from the armed attacks, armed aggressions and acts of genocide currently being perpetrated upon Us by Yugoslavia (Serbia and Montenegro) and its agents and surrogates.

116. In this regard, on 25 September 1991, the Security Council adopted resolution 713 (1991), at the express request of and with the permission by the representative of the former Yugoslavia. See UN doc. S/PV.3009, at 17 (25 September 1991). Consequently, acting pursuant to its powers under Chapter VII of the Charter, the Security Council decided to impose an arms embargo upon the former Yugoslavia. in the following language:

"6. *Decides*, under Chapter VII of the Charter of the United Nations, that all States shall, for the purposes of establishing peace and stability in Yugoslavia, immediately implement a general and complete embargo on all deliveries of weapons and military equipment to Yugoslavia until the

Security Council decides otherwise following consultation between the Secretary-General and the Government of Yugoslavia; . . ."

Indeed, the Preamble to resolution 713 (1991) made it quite clear that the Security Council premised the adoption of this resolution upon the express acquiescence of the former Yugoslavia:

"The Security Council,

Conscious of the fact that Yugoslavia has welcomed the convening of a Security Council meeting through a letter conveyed by the Permanent Representative of Yugoslavia to the President of the Security Council (S/23069),

In this regard:

"The Yugoslav communication formally stating the federal presidency's support for a meeting was elicited from the central authorities in Belgrade at the very last minute, when it appeared that some members of the Council would have otherwise raised objections under Article 2 (7)." (See Weller "The International Response to the Dissolution of the Socialist Federal Republic of Yugoslavia", 86 *American Journal of International Law* 569, at 577-578 (July 1992).)

117. During the course of the debate on the adoption of resolution 713 (1991), members of the Security Council made it quite clear that the legal validity of the resolution depended upon the consent of the former Yugoslavia to the arms embargo:

"The delegate from Belgium spoke next, introducing the joint draft resolution and placing the peacemaking efforts of the CSCE and EC firmly within the context of chapter VIII of the Charter.... Zimbabwe confirmed that, in the absence of a request from Yugoslavia, it would have been 'very concerned' about the prospect of a Council meeting and the draft resolution. The delegation from Zimbabwe still urges caution upon the Council, as 'whatever action [it] has to take must be taken properly and within the terms of the Charter and the practice of this body' [UN doc. S/PV. 3009 at 32 (1991)]. India was more explicit, expressing the view that

'a formal request by the State concerned is an essential requirement in such cases before the Council can take up the matter. At the same time, we must not forget [Article 2 (7)] of the time tested Charter of the United Nations.... Let us therefore note here today in unmistakable terms that the Council's consideration of the matter relates not to Yugoslavia's internal situation as such, but specifically to its implication for peace and security in the region.' [*Id.* at 46.]

China, too, reserved its position on the understanding that 'this discussion is being carried out in the special circumstances of the explicit agreement given by the Yugoslav Government'. The Chinese delegate reiterated and emphasized 'the consistent position of the Chinese Government that a country's internal affairs should be handled by the people in that country themselves'. [*Id.* at 59-60]" (See Weller, *op. cit.*, 86 *American Journal of International Law* 569, 578 (1992).)

118. Notice that the Security Council imposed the arms embargo upon the former Yugoslavia only; and at its express request and with its consent. Yet the Republic of Bosnia and Herzegovina had not yet come into existence as an independent State until 6 March 1992, as indicated above. Thus, the Security Council's arms embargo upon the former Yugoslavia did not and could not by its own words apply to the Republic of Bosnia and Herzegovina. Furthermore, Bosnia and Herzegovina has never consented to or acquiesced in the extension of this arms embargo to itself. To the contrary, the Republic of Bosnia and Herzegovina claims that the extension of this arms embargo from the former Yugoslavia to itself would violate its inherent right of individual and collective self-defence as recognized by customary international law and United Nations Charter Article 51.

119. The Security Council reaffirmed this arms embargo against the former Yugoslavia in paragraph 5 of resolution 724 (1991) on 15 December 1991. But for similar reasons, this arms embargo continued to apply only to the former Yugoslavia. By its own words, and for reasons already explained above, resolution 724 (1991) did not and could not apply to the Republic of Bosnia and Herzegovina.

120. Once again, the Security Council reaffirmed this arms embargo against the former Yugoslavia in paragraph 6 of resolution 727 (1992) of 8 January 1992. But for reasons already explained above, this arms embargo against the former Yugoslavia did not and could not apply to the Republic of Bosnia and Herzegovina, which did not become an independent State until 6 March 1992.

121. On 22 May 1992, the United Nations General Assembly admitted the Republic of Bosnia and Herzegovina to Membership in resolution 46/237. Immediately thereafter, the Republic of Bosnia and Herzegovina was subject to all the responsibilities, privileges, duties, and rights of the United Nations Charter. including and especially Article 51 thereof:

"Article 51

Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. . . . "

As of its date of independence as a sovereign State on 6 March 1992, and in any event certainly no later than 22 May 1992, the Republic of Bosnia and Herzegovina had, and still has, the inherent right to defend Itself, both individually and collectively, under customary international law and as incorporated into Article 51 of the United Nations Charter.

122. Therefore, all subsequent Security Council resolutions that routinely reaffirmed the arms embargo imposed upon the former Yugoslavia by paragraph 6 of resolution 713 ( 1991), paragraph 5 of resolution 724 ( 1991), and paragraph 6 of resolution 727 (1992) cannot properly be construed to apply to the Republic of Bosnia and Herzegovina. Rather, all such Security Council resolutions must be construed in a manner consistent with Article 51 of the United Nations Charter. Thereunder, the Republic of Bosnia and Herzegovina has and still has the inherent right of individual and collective self-defence, including the right immediately to seek and receive from other States military weapons, equipment, supplies, troops and financing necessary in order to defend Itself and its People from the armed attacks, armed aggressions, and acts of genocide that have been and are continuously being perpetrated upon Us by Yugoslavia (Serbia and Montenegro) and its agents and surrogates.

123. Therefore, none of these numerous Security Council resolutions imposing or routinely reaffirming an arms embargo upon the former Yugoslavia under Chapter VII of the Charter can be properly interpreted to apply to the Republic of Bosnia and Herzegovina. To do otherwise would "impair the inherent right of individual or collective self-defence" of the Republic of Bosnia and Herzegovina, and thus violate United Nations Charter Article 51, and furthermore render these Security Council resolutions *ultra vires*: "*Nothing* in the present Charter shall impair the inherent right of individual or collective self defence...." (Emphasis added.)

124. Furthermore, United Nations Charter Article 24, paragraph 2, provides:

"2. In discharging these duties [maintaining international peace and security] the Security Council shall act in accordance with the Purposes and Principles of the United Nations. The specific powers granted to the Security Council for the discharge of these duties are laid clown in Chapters VI, VII, VIII, and XII."

Therefore. even when it acts under Chapter VII of the Charter, the Security Council must "act in accordance with the Purposes and Principles of the United Nations" that are set forth in Chapter I, which consists of Articles I and 2 of the Charter.

125. Bosnia and Herzegovina claims that the arms embargo imposed upon the former Yugoslavia by the Security Council in resolution 713 (1992) and its successors legally did not

apply and could not apply to the Republic of Bosnia and Herzegovina at any time. Otherwise, the Security Council would not be acting "in accordance with the Purposes and Principles of the United Nations" and thus would be in breach of Charter Article 24 (2). Such an improper interpretation of resolution 713 (1991) and its successors would render resolution 713 (1991) *ultra vires* the Security Council under both Article 24 (2) and Article 51 of the Charter.

126. In order to avoid these results, Bosnia and Herzegovina claims that this Court must interpret Security Council resolution 713 (1991) and its successors to mean that there is not, has never been, and is still not as of today, a mandatory arms embargo applicable to Bosnia and Herzegovina under Chapter VII of the Charter. This is a straightforward question of interpreting the terms of the United Nations Charter that clearly falls within the powers, competence, and purview of the Court. Indeed, no other organ of the United Nations but this Court can clarify this matter and thus vindicate the "inherent right" of Bosnia and Herzegovina under Article 51. According to Charter Article 92, it is the Court — not the Security Council or the General Assembly — that is "the principal judicial organ of the United Nations".

127. Unless and until this Court definitively rules against its claims, Bosnia and Herzegovina remains free under Article 51 and customary international law to defend itself notwithstanding the terms of any Security Council resolutions adopted so far. Thus, Bosnia and Herzegovina has the basic right under international law to immediately seek and receive from other States military weapons, equipment, supplies, troops and financing in order to defend itself from armed attacks, armed aggressions, and acts of genocide that are currently being perpetrated upon it by Yugoslavia (Serbia and Montenegro) and its agents and surrogates, continuously from our date of independence as a sovereign State on 6 March 1992 until today and beyond.

128. In addition pursuant to the right of collective self-defence recognized by United Nations Charter Article 51 as well as to the holding of this Court in the case concerning *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America) (Merits)*, *I.C.J. Reports 1986*, the Republic of Bosnia and Herzegovina has the right to ask other States to come to its defence against the armed attacks, armed aggressions, and acts of genocide currently being perpetrated upon it and its People by Yugoslavia (Serbia and Montenegro) and its agents and surrogates. The same result would also flow from Article I of the Genocide Convention:

"The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law *which they undertake to prevent and to punish.*" (Emphasis added.)

Thus, all Parties to the Genocide Convention are obligated to prevent Respondent's acts of genocide and armed aggression even, if necessary, by means of military intervention at the request of Bosnia and Herzegovina, as indicated. Such military intervention by other States at the request of Bosnia and Herzegovina would be permitted by United Nations Charter Article 51 and the Genocide Convention, and is not and has never been expressly prohibited by the terms of any Security Council resolution.

129. This claim too is a straightforward question of Charter interpretation that clearly falls within the powers, competence, and mandate of the Court as "the principal judicial organ of the United Nations" as established by Charter Article 92. Bosnia and Herzegovina

respectfully request the Court to affirm and to clarify our right of individual and collective self-defence under Charter Article 51, customary international law, and *jus cogens* under the unique circumstances of this case involving armed attacks, armed aggression, and acts of genocide being perpetrated upon It and its People by Yugoslavia (Serbia and Montenegro) and its agents and surrogates. Time is of the essence for the People and State of Bosnia and Herzegovina!

130. Furthermore, many of the acts of genocide specified above also constitute or include within themselves war crimes under the laws of war and international humanitarian law. Bosnia and Herzegovina claims that Yugoslavia (Serbia and Montenegro) and its agents and surrogates have committed numerous violations and grave breaches of the four Geneva Conventions of 12 August 1949, their Additional Protocol I of 8 June 1977, the customary international laws of war including the Hague Regulations on Land Warfare of 1907, and fundamental principles and rules of international humanitarian law.

131. In this regard, in a letter dated 29 December 1992, His Excellency Ambassador Muhamed Sacirbey transmitted a Notice of Succession with respect to the four Geneva Conventions of 1949 and their two Additional Protocols of 1977 on behalf of the Republic of Bosnia and Herzegovina, that was executed by H.E. Dr. Haris Silajdzic, the Bosnian Minister of Foreign Affairs, on 17 December 1992, without any reservations and effective as of 6 March 1992, its date of independence, to H.E. M. Johannes J. Manz, Ambassador Extraordinary and Plenipotentiary of the Permanent Observer Mission of Switzerland to the United Nations. Switzerland is the depository of the Geneva Conventions and Protocols. In a letter dated 19 January 1993, H.E. Paul Seger, Chargé d'affaires of the Swiss Permanent Mission to the United Nations, informed Mr. Zlatko Batistich of the Permanent Mission of Bosnia and Herzegovina to the United Nations, that the Bosnian instrument of succession to the four Geneva Conventions of 1949 and the two Additional Protocols of 1977 were deposited with the Swiss Government on 31 December 1992, with the effective date of succession being 6 March 1992, the date of Bosnia's independence. Therefore, for reasons previously explained above, both Bosnia and Herzegovina and Yugoslavia (Serbia and Montenegro) have continuously been Parties to the four Geneva Conventions and their two Additional Protocols at all times relevant to these proceedings.

132. Finally, many of the acts of genocide and genocidal acts specified above also constitute gross violations of the Universal Declaration of Human Rights of 10 December 1948. Bosnia and Herzegovina claim that Yugoslavia (Serbia and Montenegro) and its agents and surrogates have perpetrated a gross and consistent pattern of violations of the most fundamental human rights of Bosnian citizens. No point would be served here by reciting the 30 Articles of the Universal Declaration that have been set at naught by the Respondent with respect to the citizens of Bosnia and Herzegovina. But the Applicant would like to draw the Court's special attention to Articles 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26 and 28 thereof. Bosnia and Herzegovina claims that Yugoslavia (Serbia and Montenegro) and its agents and surrogates have sought to circumvent, negate, overturn and destroy the entirety of the Universal Declaration of Human Rights with respect to the citizens of Bosnia. Yet these fundamental human rights protected by the **Universal** Declaration are considered to be binding upon all States of the World Community as a master of customary international law and *jus cogens*, and in accordance with the requirements of United Nations Charter Article I (3), Article 55, and Article 56. Has Yugoslavia (Serbia and Montenegro) no shame?

133. Bosnia and Herzegovina also claims that Yugoslavia (Serbia and Montenegro) and its agents and surrogates in Bosnia or elsewhere, including their public officials and private individuals, are obligated under the Genocide Convention to immediately cease and desist from committing all acts of genocide and other prohibited acts specified in Articles II and III of the Genocide Convention against the People and State of Bosnia and Herzegovina. Yugoslavia (Serbia and Montenegro) is also obliged to immediately cease and desist from committing any armed attack, armed aggression or any other act of aggression as defined by the United Nations General Assembly's Definition of Aggression, by itself or by means of its agents and surrogates, against the People and State of Bosnia and Herzegovina. Yugoslavia (Serbia and Montenegro) and its agents and surrogates in Bosnia or elsewhere are also obligated immediately to cease and desist from committing any and all violations of the four Geneva Conventions of 1949 its Additional Protocol I of 1977, the Hague Regulations on Land Warfare of 1907, the Universal Declaration of Human Rights of 1948 United Nations Charter Articles I, 2, 33, 55 and 56, among others, as well as of many other international treaties and agreements and basic principles of customary international law, the laws of war, international humanitarian law, international criminal law, and principles of *jus cogens*, which are too numerous to list in this Application but will be developed in greater detail during the course of further submissions of Bosnia and Herzegovina in these proceedings.

134. Finally, Bosnia and Herzegovina claims that reparations must be paid by Yugoslavia (Serbia and Montenegro) to the Applicant for all the death, destruction, physical and mental injury, property damage and environmental harm that have been inflicted upon It and its People by the Respondent and its agents and surrogates in violation of all the sources of international law specified above and in particular for grossly violating the Genocide Convention, the United Nations Charter, the four Geneva Conventions of 1949 and their Additional Protocol I of 1977, the Hague Regulations on Land Warfare of 1907, the Universal Declaration of Human Rights of 1948, and numerous other international treaties and agreements, principles of customary international law, the laws of war, international humanitarian law, international criminal law, and *jus cogens* that will be specified in further submissions by Bosnia and Herzegovina.

#### ***IV. Judgment Requested***

135. Accordingly, while reserving the right to revise, supplement or amend this Application, and subject to the presentation to the Court of the relevant evidence and legal arguments, Bosnia and Herzegovina requests the Court to adjudge and declare as follows:

(a) that Yugoslavia (Serbia and Montenegro) has breached, and is continuing to breach, its legal obligations toward the People and State of Bosnia and Herzegovina under Articles I, II (a), II (b), II (c), II (d), III (a), III (b), III (c), III (d), III (e), IV and V of the Genocide Convention;

(b) that Yugoslavia (Serbia and Montenegro) has violated and is continuing to violate its legal obligations toward the People and State of Bosnia and Herzegovina under the four Geneva Conventions of 1949, their Additional Protocol I of 1977, the customary international laws of war including the Hague Regulations on Land Warfare of 1907, and other fundamental principles of international humanitarian law;

(c) that Yugoslavia (Serbia and Montenegro) has violated and continues to violate Articles 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26 and 28 of the

Universal Declaration of Human Rights with respect to the citizens of Bosnia and Herzegovina

(d) that Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has killed, murdered, wounded, raped, robbed, tortured, kidnapped, illegally detained, and exterminated the citizens of Bosnia and Herzegovina, and is continuing to do so

(e) that in its treatment of the citizens of Bosnia and Herzegovina, Yugoslavia (Serbia and Montenegro) has violated, and is continuing to violate, its solemn obligations under Articles I (3), 55 and 56 of the United Nations Charter

(f) that Yugoslavia (Serbia and Montenegro) has used and is continuing to use force and the threat of force against Bosnia and Herzegovina in violation of Articles 2 (1), 2 (2), 2 (3), 2 (4) and 33 (1), of the United Nations Charter;

(g) that Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has used and is using force and the threat of force against Bosnia and Herzegovina;

(h) that Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has violated and is violating the sovereignty of Bosnia and Herzegovina by:

- armed attacks against Bosnia and Herzegovina by air and land; — aerial trespass into Bosnian airspace;
- efforts by direct and indirect means to coerce and intimidate the Government of Bosnia and Herzegovina;

(i) that Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has intervened and is intervening in the internal affairs of Bosnia and Herzegovina;

(j) that Yugoslavia (Serbia and Montenegro), in recruiting, training, arming, equipping, financing, supplying and otherwise encouraging, supporting, aiding, and directing military and paramilitary actions in and against Bosnia and Herzegovina by means of its agents and surrogates, has violated and is violating its express charter and treaty obligations to Bosnia and Herzegovina and, in particular, its charter and treaty obligations under Article 2 (4), of the United Nations Charter, as well as its obligations under general and customary international law;

(k) that under the circumstances set forth above, Bosnia and Herzegovina has the sovereign right to defend itself and its people under United Nations Charter Article 51 and customary international law, including by means of immediately obtaining military weapons, equipment, supplies and troops from other States;

(l) that under the circumstances set forth above, Bosnia and Herzegovina has the sovereign right under United Nations Charter Article 51 and customary international law to request the immediate assistance of any State to come to its defence, including by military means (weapons, equipment, supplies, troops, etc.);

(m) that Security Council resolution 713 (1991), imposing a weapons embargo upon the former Yugoslavia, must be construed in a manner that shall not impair the inherent right of individual or collective self-defence of Bosnia and Herzegovina under the terms of United Nations Charter Article 51 and the rules of customary international law;

(n) that all subsequent Security Council resolutions that refer to or reaffirm resolution 713 (1991) must be construed in a manner that shall not impair the inherent right of individual or collective self-defence of Bosnia and Herzegovina under the terms of United Nations Charter Article 51 and the rules of customary international law;

(o) that Security Council resolution 713 (1991) and all subsequent Security Council resolutions referring thereto or reaffirming thereof must not be construed to impose an arms embargo upon Bosnia and Herzegovina, as required by Articles 24 (1) and 51 of the United Nations Charter and in accordance with the customary doctrine of *ultra vires*;

(p) that pursuant to the right of collective self-defence recognized by United Nations Charter Article 51, all other States parties to the Charter have the right to come to the immediate defence of Bosnia and Herzegovina — at its request — including by means of immediately providing it with weapons, military equipment and supplies, and armed forces (soldiers, sailors, airpeople, etc.);

(q) that Yugoslavia (Serbia and Montenegro) and its agents and surrogates are under an obligation to cease and desist immediately from its breaches of the foregoing legal obligations, and is under a particular duty to cease and desist immediately:

- from its systematic practice of so-called "ethnic cleansing" of the citizens and sovereign territory of Bosnia and Herzegovina;
- from the murder, summary execution, torture, rape, kidnapping, mayhem, wounding, physical and mental abuse, and detention of the citizens of Bosnia and Herzegovina;
- from the wanton devastation of villages, towns, districts, cities, and religious institutions in Bosnia and Herzegovina;
- from the bombardment of civilian population centres in Bosnia and Herzegovina, and especially its capital, Sarajevo;
- from continuing the siege of any civilian population centres in Bosnia and Herzegovina, and especially its capital, Sarajevo;
- from the starvation of the civilian population in Bosnia and Herzegovina;
- from the interruption of, interference with, or harassment of humanitarian relief supplies to the citizens of Bosnia and Herzegovina by the international community;
- from all use of force — whether direct or indirect, overt or covert — against Bosnia and Herzegovina, and from all threats of force against Bosnia and Herzegovina;
- from all violations of the sovereignty, territorial integrity or political independence of Bosnia and Herzegovina, including all intervention, direct or indirect, in the internal affairs of Bosnia and Herzegovina;
- from all support of any kind — including the provision of training, arms, ammunition, finances, supplies, assistance, direction or any other form of support — to any nation, group, organization, movement or individual engaged or planning to engage in military or paramilitary actions in or against Bosnia and Herzegovina;

(r) that Yugoslavia (Serbia and Montenegro) has an obligation to pay Bosnia and Herzegovina, in its own right and as *parens patriae* for its citizens, reparations for damages to

persons and property as well as to the Bosnian economy and environment caused by the foregoing violations of international law in a sum to be determined by the Court. Bosnia and Herzegovina reserves the right to introduce to the Court a precise evaluation of the damages caused by Yugoslavia (Serbia and Montenegro).

#### ***V. Conclusion***

136. THE PEOPLES AND THE STATES OF THE WORLD COMMUNITY MUST NOT TURN THEIR EYES AWAY IN SHAME FROM BOSNIA AND HERZEGOVINA AS HUMANKIND APPROACHES THE DAWN OF THE NEXT MILLENNIUM OF ITS PARLOUS EXISTENCE. AS BOSNIA AND HERZEGOVINA GOES, SO GOES THE ENTIRE WORLD!

137. Because of the importance and urgency of the matters raised by this suit, and in order to avoid further loss of life, as well as physical and mental harm, for hundreds of thousands of Bosnian People, and in order to prevent a human catastrophe of dimensions unprecedented since the Second World War of 1939 to 1945, pending a final determination of its claims, Bosnia and Herzegovina hereby requests that the Court immediately indicate interim measures of protection, as set forth in a separate Request filed concurrently with this Application of today's date.

138. The Government of Bosnia and Herzegovina has designated the undersigned as its Agent for the purpose of these proceedings.

Respectfully submitted by,  
*(Signed)* Francis A. BOYLE,

Professor of International Law  
Agent for the Republic of  
Bosnia and Herzegovina.