

# BOMBS FOR PEACE

NATO'S HUMANITARIAN WAR  
ON YUGOSLAVIA



GEORGE SZAMUELY

AMSTERDAM UNIVERSITY PRESS

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To the Memory of My Father  
Tibor Szamuely  
1925-1972



# TABLE OF CONTENTS

Acknowledgements	11
------------------	----

Introduction	13
--------------	----

<b>1 Yugoslavia: Destroying States for Fun and for Profit</b>	<b>43</b>
---	-----------

Origins of the Crisis	43
Targeting the Yugoslav federal government	49
Playing to the western audience	51
Slovenia and Croatia make their move	53
Ineffectuality runs rampant	61
The United States intervenes	62
The Mesić issue	68
The 'hour of Europe'	71
Meeting at Brioni	76
Inventing a new doctrine	80
Bosnia heads toward the precipice	82
Sabotaging the SFRY presidency	86
Pressure for recognition	91
The Carrington Plan	92
The non-arbitration commission	99
The Badinter maneuvers	102
Badinter v. Bosnia	110
The E.C. recognitions	112
Sabotaging a last-ditch peace effort	116
Enter Cyrus Vance	121

<b>2 In Search of the Good War</b>	
------------------------------------	--

<b>Bosnia: April 1992 to May 1993</b>	<b>125</b>
The Greater Serbia thesis	126
Reversing cause and effect	130
The media mobilize	134

- Celebrating the victim 140
- The Izetbegović myth 145
- Demonizing the JNA 149
- Assigning blame for the carnage 154
- Meting out punishment 158
- The London Conference 162
- The U.N.-NATO partnership 169
- Exit Carrington, enter Owen 173
- The Karadjordjevo Conspiracy 182
- New opportunity for NATO 188

### **3 Peacemaking v. Humanitarianism**

**Bosnia and Croatia: June 1993 to December 1995 191**

- Bombing threats renewed 193
- To ensure failure 196
- The demise of Owen-Stoltenberg 202
- The Muslim-Croat alliance 206
- The Contact Group 208
- The Contact Group plan 210
- Isolating Bosnia's Serbs 214
- The end of the ceasefire 218
- Rapid reaction 223
- Hijacking the U.N. 225
- Operation Deliberate Force 230
- Dayton 238
- Realpolitik in Croatia 241
- Finishing off the Vance Plan 242
- Operation Flash 248
- Operation Storm 253
- The Babić maneuver 261

### **4 Humanitarianism Fulfilled**

- Bosnia's Unsafe Areas 275**
- The origins of the Srebrenica crisis 278
- The demilitarization agreement 284
- Extending the "safe areas" 289
- UNPROFOR's quagmire 294
- The Goražde crisis 296
- Bihać 301

	The safe areas and the end of the ceasefire	305
	Srebrenica endgame	308
	The genocide that wasn't	314
	The Srebrenica narrative enshrined	323
<b>5</b>	<b>Kosovo: The Denial of Sovereignty</b>	<b>329</b>
	Bosnia redux	331
	Overturning Westphalia	333
	Serbia and Kosovo	340
	Serbia and Albania	344
	Return of the Contact Group	347
	The ICTY joins the fray	353
	Belgrade in the crosshairs	356
	Alliance with the KLA	361
	The Milošević-Holbrooke agreement	369
<b>6</b>	<b>Kosovo: The set-up</b>	<b>381</b>
	Enter Mr. Walker	382
	The Naumann-Clark Mission	385
	The return of the KLA	388
	War fever and the ICTY	391
	Fraudulent evenhandedness	395
	Račak and Walker	403
	The Račak case	409
	The Rambouillet set-up	418
	The U.S. blueprint	423
	The Serbs try to use guile	426
	Yugoslavia's choice: NATO or bombs	428
<b>7</b>	<b>Kosovo: Standing up to the Yugoslav Goliath</b>	<b>445</b>
	NATO's propaganda blitz	446
	Massaging the numbers	452
	NATO's miscalculations	456
	NATO's explanatory model	462
	No claim too absurd	463
	NATO's 50th birthday bash	467
	Operation Horseshoe	471
	Scaling genocide down	482
	The Appendix B disclosure	485

The go-betweens	491
Plaudits and recriminations	499

## **Conclusions**

Ensuring Success by Lowering Standards	505
--	-----

Notes	533
-------	-----

Select Bibliography	577
---------------------	-----

Index	583
-------	-----

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# INTRODUCTION

I know how difficult this is, and what I am about to say may sound melodramatic, but history could well hang in the balance tonight. I truly believe that you may never take any decision as public officials more important than this one. Give us bombs for peace. Give us a resumption of the bombing by morning.<sup>1</sup>

On March 19, 2011, Great Britain, France and the United States began bombing Libya. The action had become necessary, the NATO powers claimed, because Libya was on the brink of a humanitarian catastrophe. The government of Colonel Muammar Qaddafi was about to crush armed rebel forces based in the town of Benghazi and heavy casualties were expected. As justification, the Western powers cited U.N. Security Council Resolution 1973. Adopted a few hours before the start of the bombing, the resolution called on U.N. member states “to take all necessary measures ... to protect civilians and civilian populated areas under threat of attack.” The resolution didn’t actually say that such “measures” would include bombing, but there was never any doubt that this was how the Western powers would interpret their mandate.

Governments that a few years earlier had invaded Iraq in defiance of a U.N. refusal to authorize such an action now espoused humanitarianism and solemn compliance with U.N. resolutions. We had to act, President Obama explained in a televised address to the nation on March 28. If we had “waited one more day, Benghazi ... could suffer a massacre that would have reverberated across the region and stained the conscience of the world.” The bombing mission had been undertaken solely in order to save lives. Regime change was most definitely not on the agenda:

If we tried to overthrow Qaddafi by force, our coalition would splinter. We would likely have to put U.S. troops on the ground to accomplish that mission, or risk killing many civilians from the air ... To be blunt, we went down that road in Iraq. Thanks to the extraordinary sacrifices of our troops and the determination of our diplomats, we are hopeful about Iraq’s future. But

regime change there took eight years, thousands of American and Iraqi lives, and nearly a trillion dollars. That is not something we can afford to repeat in Libya.<sup>2</sup>

There was something more than a little disingenuous about these protestations. What was so urgent about Libya? The Libyan government was using force to put down an armed insurrection. At that very moment, governments in Bahrain and Yemen were doing exactly the same thing and doing so moreover with U.S. support and assistance. The evidence that a massacre was impending in Benghazi was questionable, to say the least. Excessive bloodletting had not been the dominant characteristic of the conflict in Libya. It wasn't at all clear that atrocities taking place in Libya were any worse than those in Bahrain or Yemen. But then Bahrain is the headquarters of the U.S. Fifth Fleet; Libya is not.

Furthermore, unlike the regime of Bahrain, "a friend and an ally and has been for many years" (to quote Secretary of State Hillary Clinton), the regime of Colonel Qaddafi had been out of favor with Western governments for most of its 40-odd-year rule. (His dalliance as an ally of the West in the war on terror proved to be short-lived.) Libya is oil-rich, sparsely populated and has no nuclear weapons. Oil reserves in Libya are the largest in Africa and the ninth largest in the world. Imported oil from Libyan accounted for 22% of Italy's and 16% of France's crude consumption. The happy marriage of humanitarianism and material interests was expressed with remarkable bluntness by the U.S. ambassador to Libya. On the day the U.S. embassy reopened in Tripoli, Ambassador Gene A. Cretz declared that, "We know that oil is the jewel in the crown of Libyan natural resources ... If we can get American companies here on a fairly big scale, which we will try to do everything we can to do that, then this will redound to improve the situation in the United States with respect to our own jobs."<sup>3</sup> In other words, Libya was a juicy target.

While Obama was assuring the world that overthrowing Qaddafi was out of the question, key European powers were busily recognizing the Benghazi rebels as the legitimate rulers of Libya. France, the most enthusiastic proponent of the bombing, had extended recognition on March 10. Italy followed on April 4, Spain on June 8, Germany on June 13. Since the rebels' self-styled government, the National Transitional Council, controlled neither Libya's territory nor its population, these maneuvers on the part of Western governments should have persuaded anyone but the most willfully blind that regime change had been the goal all along.

Within a week, NATO took over the bombing campaign, and, with characteristic unctuousness, lavished on it the mellifluous-sounding name Operation Unified Protector. While the government in Tripoli and the rebels in Benghazi were locked in a military stalemate, NATO happily acted as the rebels' air force, striking government targets on a daily basis. Long after any conceivable threat to the residents of Benghazi had disappeared, NATO governments justified their refusal to call a halt to the bombing by invoking the continuing threat Qaddafi supposedly posed to Libya's civilians. Even when, in late August, the tide of battle finally turned the rebels' way and Qaddafi was forced to flee Tripoli, NATO didn't let up on its bombing. While Qaddafi's forces were holed up in his hometown of Sirte, NATO spokesmen went on repeating with robot-like lack of inflexion that the bombing had to go on because Libya's civilians were still in danger from the devastating might of Qaddafi's bedraggled forces. Yet the only civilians in danger were the residents of Sirte. On September 22, for example, Lieutenant-General Charles Bouchard, commander of Operation Unified Protector, warned during a press briefing that there could be no question of ending the bombing:

[W]e continue to see threats from the regime. Their forces are still dangerous, orders continue to be given and violence against the population continues ... NATO shielded the civilian population against a military that is immoral, unethical and continues its illegal action against their own people.<sup>4</sup>

Even after Qaddafi's capture and murder, both facilitated by NATO, the bombing went on. NATO needed to go on killing Libyans in order to protect them.

NATO had interpreted Resolution 1973 in an egregiously self-serving way. While the resolution had indeed called for the protection of civilians, this went together with a demand for "immediate establishment of a cease-fire and a complete end to violence." There was also a call for renewed "efforts to find a solution to the crisis which responds to the legitimate demands of the Libyan people." These requests were non-starters, however, for NATO had made it clear that there would be no let-up in the bombing as long as Qaddafi remained in power. This didn't stop NATO from ceaselessly insisting that it wasn't in the regime-change business. "Our duty and our mandate ... is to protect civilians," wrote British Prime Minister David Cameron, French President Nicolas Sarkozy and Obama in a joint statement published in *The Times* of London, the *International Herald Tribune* and *Le Figaro*. "It is not to remove Qaddafi by force." However, they quickly added, "it is impossible to imagine a future for Libya with Qaddafi in power."<sup>5</sup>

As the three leaders explained, NATO, by serving as the Libyan rebels' air force, was protecting civilians. Why? Because Qaddafi's forces posed a threat to civilians and the rebels did not. The claim flew in the face of the findings of independent observers such as Amnesty International, according to whom:

Members and supporters of the opposition, loosely structured under the leadership of the National Transitional Council (NTC), based throughout the conflict in Benghazi, have also committed human rights abuses, in some cases amounting to war crimes, albeit on a smaller scale. In the immediate aftermath of taking control in eastern Libya, angry groups of supporters of the "17 February Revolution" shot, hanged and otherwise killed through lynching dozens of captured soldiers and suspected foreign "mercenaries" – and did so with total impunity. Such attacks subsequently decreased, although Sub-Saharan African nationals continued to be attacked on what have proved to be largely unfounded suspicions that they were foreign "mercenaries" hired by Colonel al-Qaddafi.<sup>6</sup>

Yet, as NATO would have it, by keeping the war in Libyan going, it was furthering the cause of peace. Why? Because there could be no peace while Qaddafi remained in power. (This was obviously true since NATO had already promised that it wouldn't stop bombing until he was gone.) These dizzying "War is Peace" slogans are now such a staple of NATO propaganda that no one even bothers to comment on them. "[B]ecause he [Qaddafi] has lost the consent of his people, any deal that leaves him in power would lead to further chaos and lawlessness," the three leaders wrote in their statement.

We know from bitter experience what that would mean. Neither Europe, the region, or the world can afford a new safe haven for extremists. There is a pathway to peace that promises new hope for the people of Libya – a future without Qaddafi. However, so long as Qaddafi is in power, NATO must maintain its operations so that civilians remain protected and the pressure on the regime builds. Then a genuine transition from dictatorship to an inclusive constitutional process can really begin, led by a new generation of leaders. In order for that transition to succeed, Qaddafi must go and go for good.

There had to be peace but the war would go on until Qaddafi surrendered power to NATO's clients. NATO was not pursuing regime change but would continue bombing until Qaddafi was gone. Libyans would decide their own

form of government but only as long as their decision resulted in a government that met with NATO's approval.

NATO's effort to undermine the legitimacy of the Libyan government was much facilitated by the work of the International Criminal Court (ICC), which got in on the act at a very early stage. U.N. Security Council Resolution 1970, adopted on February 26, had requested the ICC prosecutor to investigate Libya. On March 3, the prosecutor, Luis Moreno-Ocampo, announced that he had accepted the U.N. mandate and would open an investigation. Barely two months later, on May 4, Moreno-Ocampo told the world that he was ready to submit a request for arrest warrants against three unnamed individuals. On May 16, to no one's surprise, Moreno-Ocampo disclosed the identity of the three individuals: Qaddafi himself; his son, Saif al-Islam; and his brother-in-law, Libya's intelligence chief, Abdullah al-Senussi. The three had committed crimes against humanity, the prosecutor said:

[Qaddafi,] personally, ordered attacks on unarmed Libyan civilians. His forces attacked Libyan civilians in their homes and in the public space, repressed demonstrations with live ammunition, used heavy artillery against participants in funeral processions, and placed snipers to kill those leaving mosques after the prayers.

The human rights lobby rejoiced. The arrest warrants were critical to achieving justice, Human Rights Watch said. They were "a warning bell to others that serious crimes will not go unpunished," said Richard Dicker, international justice director at Human Rights Watch. "It's a message to those responsible for grave abuses that they will be held to account for their actions ... Seeking an arrest warrant for Muammar Gaddafi for crimes in Libya shows that no one is above the law. It is the prosecutor's job to follow the evidence wherever it leads, even to a head of state." As usual, there was little serious expectation that NATO would come under the prosecutor's purview.

The ICC's actions were odd. Libya was not party to the Rome Statute and was thus not subject to ICC jurisdiction. Moreover, according to Article 16 of the statute, "No investigation or prosecution may be commenced or proceeded with under this Statute for a period of 12 months after the Security Council ... has requested the Court to that effect." But then bizarre, self-serving interpretations of international statutes had also become the norm for NATO. The same Resolution 1970 that had requested investigation of Libya had also stipulated that the ICC would have no jurisdiction over any non-Libyan nationals engaged in military action against Libya. "Nationals,

current or former officials or personnel” from any state other than Libya would be “subject to the exclusive jurisdiction of that State for all alleged acts or omissions arising out of or related to operations” authorized by the U.N. Security Council. In other words, immunity for NATO; arrest warrants for Qaddafi. This, too, was par for the course. In February 2006, Moreno-Ocampo had determined that there was no basis for opening an ICC investigation into possible war crimes committed in Iraq by the Coalition of the Willing. Their alleged crimes – unlike those of Qaddafi – didn’t reach the “threshold of gravity” that was required to trigger an investigation, he explained.<sup>7</sup>

More troublingly, Moreno-Ocampo gave credence to the most ludicrous and the most glaringly propagandistic pronouncements of NATO officials. He claimed that he had “information to confirm that it was a policy in Libya to rape those who were against the Government,” he said. “We are getting some information that [Libyan leader Muammar al-] Qadhafi decided to [use] rape. Rape is a new aspect of the repression.” Moreno-Ocampo even accepted as confirmed the notoriously discredited Viagra story, which Susan Rice, U.S. permanent representative to the U.N., had circulated: “We are finding some elements confirming this issue of acquisition of Viagra-type of medicaments to show a policy. They were buying containers with products to enhance the possibility to rape, and we are getting the information in detail confirming the policy.”<sup>8</sup> By demonizing an adversary of NATO in this way, the ICC was essentially letting it be known that NATO had a blank check to do to Qaddafi whatever it saw fit.

NATO pounced on the ICC arrest warrants to insist it would not end the bombing until Qaddafi surrendered power and handed himself over to the ICC. NATO’s demand ensured that there would be no let-up to the bombing, to the fighting and thus to the casualties to civilians, over whose fate NATO was supposedly so perturbed. As the International Crisis Group pointed out in its report on Libya, to insist that Qaddafi surrender

as the *precondition* for any negotiation, including that of a ceasefire, is to render a ceasefire all but impossible and so to maximise the prospect of continued armed conflict. To insist that he both leave the country *and* face trial in the International Criminal Court is virtually to ensure that he will stay in Libya to the bitter end and go down fighting ... Only an immediate ceasefire is consistent with the purpose originally claimed for NATO’s intervention, that of protecting civilians. The argument that Qaddafi has failed to deliver a ceasefire ignores the fact that Security Council Resolution 1973 did not place responsi-

bility for achieving a ceasefire exclusively on one side and that no ceasefire can be sustained unless it is observed by both sides.<sup>9</sup>

Eventually, NATO's lurid atrocity claims turned out to have been made up out of whole cloth. There was no evidence that Qaddafi had used "aircraft or heavy anti-aircraft machine guns ... against crowds. Spent cartridges picked up after protesters were shot at came from Kalashnikovs or similar calibre weapons." Donatella Rovera, a senior crisis response adviser for Amnesty International, reported that the organization had "not found any evidence or a single victim of rape or a doctor who knew about somebody being raped." Rovera also dismissed the Viagra story. She said that "rebels dealing with the foreign media in Benghazi started showing journalists packets of Viagra, claiming they came from burned-out tanks, though it is unclear why the packets were not charred."<sup>10</sup>

No sooner was the campaign to oust Qaddafi over and done with than the Obama administration turned its attention to Syria. Another humanitarian crisis was emerging, the solution to which was military action and regime change. Once again, U.S. and European officials who shrugged and continue to shrug their shoulders over daily killings in Iraq and Afghanistan purported to be aghast at the horrors taking place in Syria. Once again, only government forces were to blame for the atrocities. Once again, there was a dire threat to civilians. Once again, the only way to stop the killings was to engage in more killings. The human rights advocates quickly took up the cry for military action in Syria. One of its leading lights, Anne-Marie Slaughter, argued that:

Foreign military intervention in Syria offers the best hope for curtailing a long, bloody and destabilizing civil war. The mantra of those opposed to intervention is "Syria is not Libya." In fact, Syria is far more strategically located than Libya, and a lengthy civil war there would be much more dangerous to our interests. America has a major stake in helping Syria's neighbors stop the killing.<sup>11</sup>

With standard disingenuousness, she claimed that the goal of military intervention would be the protection of civilians, not regime change. Military action was needed to establish "no-kill zones," within which the so-called Free Syrian Army would operate. NATO would provide assistance to this army but only as long as its protégés did not go on the offensive. The moment they did so, this assistance would be withdrawn. The key condition for NATO aid is that

it be used defensively – only to stop attacks by the Syrian military or to clear out government forces that dare to attack the no-kill zones. Although keeping intervention limited is always hard, international assistance could be curtailed if the Free Syrian Army took the offensive. The absolute priority within no-kill zones would be public safety and humanitarian aid; revenge attacks would not be tolerated.

The idea that NATO would withhold support the moment its protégés appeared to be getting the upper hand was laughable. However, humanitarian interventionists such as Slaughter acquire their credibility through their single-minded insistence that their only concern is the protection of civilians. It is left to their favored policymakers to call for regime change. Of course, some humanitarian interventionists don't even bother to conceal that the goal of military action is regime change. Louise Arbour, the former chief prosecutor at the International Criminal Tribunal for the Former Yugoslavia (ICTY), demanded to know:

If a state launches a massive criminal enterprise against its people, why ... “all necessary measures” fall short of disabling those responsible, including by forcibly removing them from power? ... [Why] should a military intervention to protect Syrian civilians refrain from toppling the regime? Assuming that military action came to be seen as a viable option – which I doubt, in light of its likely adverse consequences for Syria and the region – why should it not be designed to remove Bashar al-Assad's regime? After all, how else could it credibly purport to protect Syria's people from him?<sup>12</sup>

Let chaos and devastation reign – all in the name of protecting “Syria's people.” This has become the credo of the humanitarians within the Obama administration. Starting in October 2011, Secretary of State Hillary Clinton and future National Security Adviser Susan Rice again and again went before the United Nations to demand the adoption of a resolution calling for action against Syria and the departure of President Bashar al-Assad. Unable to win U.N. Security Council approval for such a resolution, the United States and key NATO powers went the clandestine route. In June 2012, the *New York Times* reported:

A small number of C.I.A. officers are operating secretly in southern Turkey, helping allies decide which Syrian opposition fighters across the border will receive arms to fight the Syrian government ... The weapons, including auto-

matic rifles, rocket-propelled grenades, ammunition and some antitank weapons, are being funneled mostly across the Turkish border by way of a shadowy network of intermediaries including Syria's Muslim Brotherhood and paid for by Turkey, Saudi Arabia and Qatar ... The C.I.A. officers have been in southern Turkey for several weeks, in part to help keep weapons out of the hands of fighters allied with Al Qaeda or other terrorist groups, one senior American official said. The Obama administration has said it is not providing arms to the rebels, but it has also acknowledged that Syria's neighbors would do so.<sup>13</sup>

The United States was helping to ensure the flow of money and arms to the rebels, thereby fueling war, increasing killings and empowering the very groups that it had spent the previous decade fighting. The expectation that the United States would be able to “keep weapons out of the hands of fighters allied with Al Qaeda or other terrorist groups” – the most ruthless and effective fighters, in other words – defied history, not to mention common sense. U.S. strategy was cynical and familiar enough. Washington knew perfectly well that, just as the rebels in Libya could not win without NATO's bombing campaign, Syria's insurgents had no prospect of winning without foreign military intervention. The calculation appeared to be that at some point the humanitarian crisis in Syria would prove so dire that public revulsion would lead to the sanctioning of yet another NATO military intervention.

It hadn't taken long, then, for the United States and NATO to recover from the Iraq debacle. Barack Obama, who owed his 2008 electoral victory to his early opposition to the invasion of Iraq, had now become as enthusiastic an advocate of regime change as his predecessor. Back in 2008, it seemed as if the West's policymaking elite had lost its enthusiasm for waging wars on global delinquents du jour. It should have been clear even then that the moment wouldn't last for long. While innumerable reasons were proffered to explain the failure of President George W. Bush's war – too many neo-conservatives, too few troops; faulty intelligence; excessive preoccupation with weapons of mass destruction; too many concerns about oil, too few about human rights – one article of faith withstood challenge: the West has a right to intervene in the internal affairs of any country and by any means necessary, most certainly including military force – with or without the sanction of the United Nations – to secure an outcome that is self-evidently in the best interests of mankind.

This doctrine goes by a number of different, invariably flattering, names: “liberal interventionism,” “humanitarian interventionism,” or, more recently, the “responsibility to protect.” Coming from the mouths of its most enthusiastic proponents – former French Foreign Minister Bernard Kouchner or

former British Prime Minister Tony Blair or former U.N. Secretary-General Kofi Annan – these self-laudatory terms refer to Western military interventions in conflicts, whether internal or external, in which, allegedly, no crassly material Western interests are at stake.

The U.S. government has naturally eagerly embraced a doctrine that offers yet another rationale for intervening in the affairs of other countries. In its May 2010 National Security Strategy statement, the Obama administration touted its commitment to the notion of “Responsibility to Protect.” Responsibility for the prevention of genocide or mass atrocities, the statement said, “passes to the broader international community when sovereign governments themselves commit genocide or mass atrocities, or when they prove unable or unwilling to take necessary action to prevent or respond to such crimes inside their borders.”<sup>14</sup> The United States, the administration promised, would be “proactively engaged in a strategic effort to prevent mass atrocities and genocide. In the event that prevention fails, the United States will work . . . to mobilize diplomatic, humanitarian, financial, and – in certain instances – military means to prevent and respond to genocide and mass atrocities.”

In April 2012, Obama announced that henceforth the U.S. government would make the prevention of mass atrocities – by others, of course – a foreign policy priority. To give institutional expression to this aspiration, he announced the creation of an Atrocities Prevention Board, the task of which would be to ensure that the U.S. government “has the structures, the mechanisms” in place “to better prevent and respond to mass atrocities.” U.S. intelligence agencies would prepare National Intelligence Estimates on the risk of mass atrocities and genocide. The Treasury would staunch “the flow of money to abusive regimes.” And the U.S. military would “take additional steps to incorporate the prevention of atrocities into its doctrine and its planning.”<sup>15</sup> To no one’s surprise, Obama appointed his special adviser, Samantha Power, to chair the Atrocities Prevention Board. Power, Pulitzer-Prize winning author of *A Problem From Hell* and *Chasing the Flame: Sergio Vieira de Mello and the Fight to Save the World*, had been a fervent advocate of bombing Libya. In June 2013, Obama promoted Power to the post of U.S. permanent representative to the U.N., replacing Susan Rice who now became his national security adviser.

The doctrine of humanitarian intervention has a number of key ingredients. There is, first, the jettisoning of state sovereignty, that “essential building block of the nation-state era and of the United Nations itself,” in the words of U.N. Secretary-General Ban Ki-moon. Old-fashioned state sovereignty is out. As the humanitarian interventionists would have it, sovereignty is all too often a shield providing impunity for political leaders who are bent on mass violence, ethnic cleansing, and genocide.

“Strictly traditional notions of sovereignty can no longer do justice to the aspirations of peoples everywhere to attain their fundamental freedoms,” former U.N. Secretary-General Kofi Annan told the General Assembly in 1999. The International Commission on Intervention and State Sovereignty (ICISS), a leading advocate of humanitarian intervention, declared in 2001 that, “Where a population is suffering serious harm, as a result of internal war, insurgency, repression or state failure, and the state in question is unwilling or unable to halt or avert it, the principle of non-intervention yields to the international responsibility to protect.” The U.N. Charter, with its “strong bias against military intervention is not to be regarded as absolute when decisive action is required on human protection grounds.”

Second, there is the claim that extreme humanitarian emergencies obviate the need for U.N. Security Council authorization for the use of force. If the Security Council refuses to sign off on a military undertaking, then responsibility falls on any ad hoc group of nations to do the right thing. As Kofi Annan warned:

If the collective conscience of humanity – a conscience which abhors cruelty, renounces injustice and seeks peace for all peoples – cannot find in the United Nations its greatest tribunal, there is a grave danger that it will look elsewhere for peace and for justice. If it does not hear in our voices, and see in our actions, reflections of its own aspirations, its needs and its fears, it may soon lose faith in our ability to make a difference.<sup>16</sup>

The ICISS, which was established by the Canadian government in order to suggest ways to make Annan’s dream a reality, echoed this theme of a supposedly neglectful Security Council refusing to be moved by human suffering. It, too, repeated Annan’s warning of the Security Council’s likely fall into irrelevance should it fail to heed the conscience of humanity:

The Security Council should take into account in all its deliberations that, if it fails to discharge its responsibility to protect in conscience-shocking situations crying out for action, concerned states may not rule out other means to meet the gravity and urgency of that situation – and that the stature and credibility of the United Nations may suffer thereby.<sup>17</sup>

Third, interventions are to take place in some countries, but not in others: intervention in Libya; sympathy and understanding for Bahrain; intervention in Yugoslavia (a non-NATO member); friendly cooperation with Tur-

key (a NATO member); anguished and fashionable cries for intervention in Darfur; silence on intervention in Gaza. In addition, while human rights are supposedly universal principles, as set out in documents that all nations have adopted, the enforcement of human rights norms and the punishment of violators are to be placed in the hands of a handful of nations that exclude themselves from the category of potential miscreants.

Fourth, there is the assertion of universal jurisdiction. According to the humanitarian doctrine, political leaders, including heads of state, would no longer be able to bask in sovereign impunity. They would be made to answer for their crimes – at permanent courts, such as the International Criminal Court, or at ad hoc tribunals such as the ICTY or the International Criminal Tribunal for Rwanda. Here, too, though, a two-tiered system would be in operation. Political leaders whom the West does not favor can expect swift retribution. The ICTY indicted Slobodan Milošević, secured his arrest through the helpful offices of NATO, imprisoned and then tried him. The United States had insisted that sanctions against Yugoslavia would not be lifted unless Milošević was behind bars at the ICTY. The U.N.-created Special Court for Sierra Leone convicted former Liberian President Charles Taylor for crimes against humanity and sentenced him to 30 years. At the same time, though the ICC issued arrest warrants against Qaddafi and his family, when Libya's post-Qaddafi government announced that it would ignore the ICC's extradition request and would itself try Saif al-Islam and Abdullah al-Senussi, the ICC and the United States rushed to reassure Libya that it would be under no pressure to hand anyone over.<sup>18</sup> One hardly needs to add that no one expects the permanent members of the U.N. Security Council, any NATO member-state, or indeed any NATO-aligned state to be prosecuted anytime soon.

The humanitarian intervention doctrine came into its own during the halcyon days of 1990s. In the name of “promoting democracy,” “securing national self-determination,” “standing up to the dictators,” “defending victims,” “championing human rights,” or “preventing genocide,” the Western powers – principally, but far from exclusively, the United States – set about reorganizing the affairs of various countries, most notably those of Yugoslavia, a country that had played a highly visible part in the Cold War.

For the humanitarian interventionists who had cheered on B-2 bombers and cruise missiles in the 1990s, the most unfortunate consequence of the Iraqi fiasco was not the death and suffering inflicted on unfortunate Iraqis or even Western servicemen, but the possible collapse of the interventionist project. In 2008, Samantha Power expressed concern that “Americans will ‘overlearn’ the lessons of Iraq. The response to Iraq can’t be, ‘This is what

happens when we try to help people' ... Among the specific reasons Iraq went wrong, one of them is not that we cared for people ... Had we cared for people more, we would have been more likely to succeed."<sup>19</sup> Power had little reason to worry. Her boss resolutely refused to "overlearn the lessons of Iraq." She had little trouble persuading him to bomb Libya to show how much he "cared for people."

George W. Bush's Iraq war had gone awry, the humanitarians claimed, because it wasn't conceived as a humanitarian intervention. Bemoaning the end of the Blair era, *The Observer's* Andrew Rawnsley lamented that

Iraq has wreaked terrible damage on the cause of liberal interventionism, for which Blair became such a compelling and passionate advocate during the Kosovo conflict. In the Balkans, he found a moral purpose for his premiership that he then amplified as a vision of a world in which states would not be free to slaughter their own citizens with impunity. In the killing grounds of Iraq, that ideal lies bleeding to death.<sup>20</sup>

*New York Times* columnist Roger Cohen rushed to separate the good, liberal kind of interventionism from the bad, Bush-Cheney kind. American force, he wrote, was

deployed too late but deployed nonetheless, to end to the mass murder of Muslims in Bosnia by a repressive Serbian regime. It was American power again, used in Kosovo without the backing of a United Nations resolution, that brought to justice the regime's loathsome dictator, Slobodan Milošević. Have we liberal interventionists of the Balkans, members of the rapidly emptying school of 'liberal hawks,' been too quick to abandon our principles out of fear of alignment with the neo-cons? Or perhaps, more inexcusably, have we fallen short merely because of a failure of the imagination, an inability to conceive of and work for a better Middle East, as if Arabs and freedom were somehow incompatible? I think so.<sup>21</sup>

The same point was made somewhat less emotionally by the late Professor Tony Judt of New York University:

The case for liberal interventionism ... had nothing whatever to do with the Iraq war. Those of us who pressed for American-led military action in Bosnia and Kosovo did so for several reasons: because of the refusal of others (the European Union and United Nations) to engage effectively; because there was

a demonstrable and immediate threat to rights and lives; and because it was clear we could be effective in this way and in no other. None of these considerations applied in Iraq, which is why I and many others opposed the war. However, it is true that United States military intervention in urgent cases will be much harder to justify and explain in future. But that, of course, is a consequence of the Iraq debacle.<sup>22</sup>

Note the peculiarity of these claims. First, war is justifiable only if its purpose is to secure a disinterested, humanitarian outcome. Second, war – and its attendant killings, refugees, destruction, physical, moral, and societal collapse, not to mention its inevitable unforeseen consequences – is a jolly useful method to secure benign outcomes. The notion of a humanitarian war may seem like an oxymoron, but to the liberal interventionists it's a happy combination of testosterone and tenderness.

Thus, while liberal interventionists were ready to write Iraq off as an embarrassing fiasco, they nonetheless insisted with considerable passion that the NATO interventions in Bosnia and Kosovo in the 1990s were shining exemplars of the successful use of force to achieve noble, humanitarian ends. "Unlike Iraq, the Kosovo invasion has gone down in history as a success," announced vehement Iraq war critic Julian Borger. Kosovo's unilateral declaration of independence in 2008 was "a triumph of liberal interventionism," rhapsodized *The Independent on Sunday*.

The origin of the contemporary humanitarian intervention doctrine can be traced to the sudden collapse of the Soviet Union. The West took this unexpected windfall as vindication of the values it supposedly espouses. Such values therefore needed to be pursued more fervently than ever – abroad, naturally, not at home. The world had to be re-ordered according to Western precepts. The Soviet Union was gone and so was a cardinal principle of international law, enshrined in the U.N. Charter, namely, that nations forswear interference in the domestic affairs of other nations.

The end of the Cold War thus gave the West, particularly the United States, the opportunity it had long been seeking. It could finally end the indignity of having to subordinate itself to the United Nations as the world's ostensibly most senior international policymaking body. During the early days of the Cold War, while they enjoyed an overwhelming majority in the Security Council and even in the General Assembly, the Western powers were perfectly satisfied with the U.N. During the Cuban Missile Crisis in 1962, the United States was more than happy to use the platform of the United Nations to mobilize world opinion against the Soviet Union. However, with the

emergence of new states in Africa and Asia following the dissolution of the Western empires and with China's taking over Taiwan's seat on the Security Council, the built-in pro-Western majority at the U.N. disappeared. From that moment on, the Western powers were determined to marginalize the U.N. as much as they could.

Under the new post-Cold War dispensation, if the U.N. supports Western policy, the West would take that support and put it in the bank. If the U.N. refuses to support it, the West would ignore the U.N. and invoke as legitimating authority an alternative, ad hoc association of its own.

Thus the new, curious correlation: the humanitarian intervention doctrine is to be accompanied by demotion of the United Nations. Happily, at the start of the 1990s, an alternative grouping of nations was already in existence: the recently triumphant NATO, comprising at that time 16 nations with militaries integrated into a system under U.S. command. NATO could now safely be expanded into a much larger organization. Extending invitations to former Warsaw Pact countries to join NATO seemed unexceptionable enough. It was all part of the expansion of the sphere of the democracies. Transforming NATO from an essentially defensive alliance into a war-making coalition would, however, prove to be a very big deal and would take years to achieve.

There was, first of all, the problem of the North Atlantic Treaty of 1949. Article 1 repeated almost word for word articles 2(3) and 2(4) of the U.N. Charter:

The Parties undertake ... to settle any international dispute in which they may be involved by peaceful means in such a manner that international peace and security and justice are not endangered, and to refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes of the United Nations.

During its 40-year existence, NATO had not been involved in a single military action. NATO had eschewed every Cold War U.S. engagement. No NATO power (not even Great Britain) had joined the United States in Vietnam. NATO refused to support the U.S. military airlift for Israel during the 1973 war. NATO did not support U.S. policy in Central America during the 1980s. NATO refused to support the 1986 bombing of Libya. NATO didn't even follow the Americans in helping to arm and fund the mujahedin in Afghanistan.

An event of some magnitude would therefore be needed to transform NATO into the kind of military organization that the United States envisaged. NATO had to be shown to be essential: it had to undertake some kind of mili-

tary action. The action would have to take place outside NATO's sphere since no NATO member state would tolerate intervention in its own internal affairs. Above all, the right enemy was needed: somebody weak and without powerful friends. The breakup of Yugoslavia was to be that event and the Serbs the right enemy.

From 1992 on, NATO, under constant U.S. prodding, seized on the crisis in Yugoslavia to transform itself from a defensive alliance into a global superpower, a coalition of powers that would purport to use force to secure peace and stability, a protagonist in other people's conflicts yet also a referee. NATO could nonetheless not admit publicly that it had now become a war-making machine. So it came up with an ingenious formula. Backing one nation against another, airlifting arms to one while imposing sanctions against another, the NATO powers triggered and fueled wars, all the while insisting that their motives were humanitarian and that their only goal was peace. Each intervention, though, not surprisingly, served only to prolong conflicts, to heighten mutual enmity and therefore to fuel louder and more insistent demands for more, and more violent, NATO interventions.

Humanitarian intervention was to become NATO's credo. As the humanitarian interventionists had it, the wars in the Balkans were a morality tale, pitting unconditional good against unmitigated evil, angelic victims – Bosnian Muslims, Kosovo Albanians and, to a lesser extent, Croats – against villainous Serbs. On one side were the Serbs, led by Serbian President Slobodan Milošević, the latest – but by no means last – incarnation of Hitler. On the other side were their victims, the non-Serbs of Yugoslavia, desperately seeking to be free of Serbian rule in general, and of Milošević's rule in particular.

According to the widely accepted narrative, which has been lovingly told and re-told with as little variation as Scripture, the wars in Yugoslavia were started by the Serbs, a self-pitying, chauvinist people who had sought to destroy Yugoslavia and to turn it into a mono-ethnic Greater Serbia.

Afraid of domination by the Serbs, the republics of Yugoslavia made a desperate bid for independence. In response, the Serbs invaded: first Slovenia, then Croatia, then Bosnia. Not only were the Serbs uniquely morally reprobate, but they were better armed than anyone else because the Serb-dominated Yugoslav national army lent its support to the Serbs. As Milošević's killers went on a rampage, the West stood by helplessly and, most immorally, even sought to keep Yugoslavia intact. Belatedly, the West understood that the republics' longing for independence could not be crushed and extended international recognition to them. Milošević, however, continued to pursue his dream of a Greater Serbia by using Serb proxies to carve out ethnically

pure Serb territories out of the newly independent republics with a view to annexing them to Serbia.

Well-meaning and indecisive as ever, the West stood by for years unwilling or unable to intervene to halt the Serb rampage. After the Srebrenica massacre, however, Serb crimes could no longer be tolerated and the United States finally stepped in and unleashed a ferocious bombing campaign to bring the Serbs to heel.

It was this firm United States action that made peace in Bosnia possible. But there was still no lasting peace because the vile Serbs were not done yet. Frustrated in their plans to create a Serb-dominated Yugoslavia and then a Greater Serbia, the Serbs decided to rid their country – which, other than tiny Montenegro, was all that was left of Yugoslavia – of its Albanian population in Kosovo. Here, too, the Serbs failed, as a newly self-confident West, no longer content to sit on the sideline, acted in time and, through a vigorous bombing campaign, averted the certain genocide that awaited the Albanians.

Happily averted also was the nightmare that had haunted liberals throughout the 1990s, namely, that Serb leaders would walk away from their crimes unpunished. Thanks to the passion for justice of the United States, the ICTY came into being to ensure that henceforth political leaders, even heads of state, would no longer be able to claim that sovereign immunity shielded them from answering for their crimes.

No matter how often this story gets repeated and how firmly entrenched it is as authoritative history, every detail of it is false, as I intend to show in this book. In fact, the account was cobbled together in order to justify the West's reckless and irresponsible policies that served first to trigger and then to fuel the wars that unnecessarily went on for years. Despite the constant refrain of benevolent intent, throughout their interventions in Yugoslavia, Western policymakers did very little to advance the values on behalf of which they professed to be making their heroic exertions.

Moreover, given the starting point in 1990 (a single, civilized, multinational Yugoslavia) and the endpoint (seven small, weak, ethnically pure or ethnically separated states, locked in mutual suspicion and recrimination, trading accusations of genocide and filing lawsuits against one another in the International Court of Justice), humanitarian intervention has been nothing short of disastrous for those vaunted Western values.

The world outside Europe and the United States was distinctly underwhelmed by the new humanitarian intervention doctrine. Non-Westerners saw it as a fraud, a smokescreen to confuse the public, a *mélange* of wild exaggerations and deceptions to justify intervention in the affairs of small,

weak states or in complicated conflicts on behalf of certain protagonists and against others. Sierra Leone wasn't expected to intervene in the internal affairs of the United States; however, the prospect of the United States intervening in the internal affairs of Sierra Leone was very real.

There was, of course, nothing terribly new about the new humanitarian intervention. Great Powers have been invoking the plight of the oppressed to justify wars since time immemorial. The Hearst press in the United States ran lurid and entirely fabricated stories about the supposed horrors of life in Cuba under Spanish rule. The goal was to incite the United States to attack Spain, which it duly did. One of the most eloquent exponents of the doctrine of humanitarian intervention in recent times was Adolf Hitler. Hitler made a specialty of justifying aggression by invoking the alleged horrors being visited on minorities. For example, speaking on October 6, 1939, just one month after his attack on Poland, Hitler claimed that

minorities living in that country had to suffer what amounted to a reign of terror. I do not consider it my task to speak of the lot of the Ukrainians, or White Russian population, whose interests now lie in the hands of Russia. However, I do feel it my duty to speak of the lot of those helpless thousands of Germans who carried on the tradition of those who first brought culture to that country centuries ago and whom the Poles now began to oppress and drive out. Since March 1939, they had been victims of truly satanic terrorization. How many of them had been abducted and where they are cannot be stated even today. Villages with hundreds of German inhabitants are now left without men because they all have been killed. In others women were violated and murdered, girls and children outraged and killed ... It was quite comprehensible that such a state of mind interpreted German longsuffering as a weakness, that is, that every concession on Germany's part was regarded as proof of the possibility of some further aggressive steps ... The warning to suspend or at least to take steps against the unceasing cases of murder, ill treatment and torture of German nationals in Poland had the effect of increasing these atrocities and of calling for more bloodthirsty harangues and provocative speeches from the Polish local administrative officials and military authorities ... What the Poles had erroneously interpreted as weakness was in reality our sense of responsibility and my firm determination to come to an understanding if that at all was possible. Since they believed that this patience and longsuffering was a sign of weakness which would allow them to do anything, no other course remained than to show them their mistake by striking back with the weapons which they themselves had used for years.

In fact, invocation of high moral purpose and selflessness is the norm for Great Powers. The last thing they would want to admit is that they were picking on weaker opponents for sordid material gain or because they were, well, weaker. Interventions serve the interests of Great Powers and, within them, certain individuals and groups of individuals. Just as we don't unquestioningly accept people's own evaluations of themselves, so interventionists' claims about their pristine humanitarian motives should be treated with skepticism. This is especially necessary given the undeniable human suffering such interventions cause.

This was a point made by U.N. General Assembly President Miguel D'Escoto during a July 23, 2009 U.N. discussion on the "responsibility to protect." The legacy of colonialism, he explained, gives "developing countries strong reasons to fear that laudable motives can end up being misused ... to justify arbitrary and selective interventions against the weakest States." He mentioned Iraq as an example of the kind of abuse that the responsibility to protect would be susceptible to were some states granted the right "to resort to the use of force against other states."<sup>23</sup> The General Assembly's endorsement of the responsibility to protect, he lamented, will only generate new "coalitions of the willing," "crusades such as the intervention in Iraq led by self-appointed saviours who arrogated to themselves the right to intervene with impunity in the name of overcoming nation-state impunity." A handful of states, he went on, "sometimes only one state, apply rules or benefit from treaties that carry the sanctions of law, but to which they are not subject."

Crucially, the advocates of humanitarian intervention invariably fail to address its most objectionable aspect. There already exists an international mechanism to intervene, if necessary, in the internal affairs of a U.N. member state. Chapter VII of the U.N. Charter grants the Security Council wide powers to interpret what constitutes a threat to international security and to take enforcement action to address it. What is alarming about the new humanitarian intervention is the assertion by a small group of powerful nations of a right to use force on behalf of a soi-disant "international community" with or *without* U.N. Security Council authorization. Here, too, the Great Powers were proposing nothing new. Dismissing the Security Council on the grounds that its cumbersome procedures stood in the way of resolute action had been a popular standby on more than a few occasions. The Anglo-French invasion of Egypt in 1956 was not authorized, and had no prospect of being authorized, by the Security Council. Justifying the decision to go ahead with the invasion anyway, British Prime Minister Anthony Eden asked rhetorically: "Should we have put the matter to the Security Council and left it at

that? Should we have been content to wait and see if they would act? How long would this have taken?”<sup>24</sup>

This is why the purported beneficiaries of humanitarian intervention seem so unenthusiastic about it. During the 1999 bombing campaign, NATO spokesmen took to the airwaves to issue lofty pronouncements on the Western powers’ sacred duty to protect Muslims from persecution. Yet the Movement of Non-Aligned Countries, many of whose members are Muslims, called for “an immediate cessation of all hostilities” and “the urgent resumption of diplomatic efforts, under the auspices of the United Nations.”<sup>25</sup> This was the last thing NATO wanted to hear and of course ignored the advice.

In April 2000, while NATO leaders were still basking in the afterglow of the Kosovo bombing campaign, the Group of 77, meeting at the South Summit in Havana, issued a declaration that drew a clear distinction between military intervention and humanitarian assistance:

We stress the need to maintain a clear distinction between humanitarian assistance and other activities of the United Nations. We reject the so-called “right” of humanitarian intervention, which has no legal basis in the United Nations Charter or in the general principles of international law ... Furthermore, we stress that humanitarian assistance should be conducted in full respect of the sovereignty, territorial integrity, and political independence of host countries, and should be initiated in response to a request or with the approval of these States.<sup>26</sup>

The 2005 World Summit Outcome declaration also emphasized this point. This needs to be remembered since it is often alleged that the 2005 summit endorsed the principle of responsibility to protect. The declaration accepted that “Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity.” But the right to interfere in the internal affairs of other states was to be circumscribed. The international community would only be permitted to help states exercise their responsibility and “support the United Nations in establishing an early warning capability.” The responsibility to protect, U.N. Secretary-General Ban explained, is primarily “a matter of State responsibility, because prevention begins at home and the protection of populations is a defining attribute of sovereignty and statehood in the twenty-first century ... [T]he international community can at best play a supplemental role.”<sup>27</sup>

To be sure, the 2005 summit concluded that collective action might be possible “should peaceful means be inadequate and national authorities are

manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity.” However, such action would have to be authorized by the U.N. Security Council, as prescribed by Chapter VII of the U.N. Charter.<sup>28</sup>

The importance of non-interference was reiterated in May 2006 in Putrajaya, Malaysia at the ministerial meeting of the coordinating bureau of the Non-Aligned Movement. The ministers insisted that the responsibility to protect populations had to bear in mind the “principles of the U.N. Charter and international law, including respect for the sovereignty and territorial integrity of States and non-interference in their internal affairs.” Any peace-keeping operation, therefore, had to be based on “the consent of the parties, the non-use of force except in self-defense and impartiality.” And the ministers firmly rejected a “so-called ‘right’ of humanitarian intervention, which has no basis either in the U.N. Charter or in international law.”<sup>29</sup>

The U.N. secretary-general’s subsequent report on the implementation of the responsibility to protect also emphasized the unalterable requirement to seek Security Council authorization before any measures at all are taken against other states:

If the international community acts early enough, the choice need not be a stark one between doing nothing or using force. A reasoned, calibrated and timely response could involve any of the broad range of tools available to the United Nations and its partners. These would include pacific measures under Chapter VI of the Charter, coercive ones under Chapter VII and/or collaboration with regional and subregional arrangements under Chapter VIII. The process of determining the best course of action, as well as of implementing it, must fully respect the provisions, principles and purposes of the Charter. In accordance with the Charter, measures under Chapter VII must be authorized by the Security Council.<sup>30</sup>

Of course, as always, pious declarations from a U.N. secretary-general about the need to seek Security Council authorization should not be taken too seriously. Time and again in recent years, the United States and its followers have sidestepped the Security Council whenever they sought to resort to force. Each time they did so, the Security Council, and the secretary-general, soon came around and issued a post facto endorsement. In August 1995, for example, NATO launched a massive bombing campaign against the Bosnian Serbs without authorization from the Security Council or Secretary-General Boutros Boutros-Ghali. In no time at all, NATO’s departure from Charter

orthodoxy was forgiven and forgotten. This set the stage for the 1999 bombing of Yugoslavia. Though not authorized by the Security Council, NATO's attack on a sovereign state was nonetheless endorsed by Secretary-General Kofi Annan. This forgiving attitude set the stage for the invasions of Iraq and Afghanistan, neither one of which was ever authorized by the Security Council.

Through his speeches and actions, Secretary-General Ban has clearly shown that he intends to go far beyond what the 2005 summit had agreed on. In his 2009 implementation report, Ban referred to "collective enforcement measures" such as "sanctions or coercive military action." If states commit egregious crimes, "collective international military assistance may be the surest way to support the State in meeting its obligations relating to the responsibility to protect." Early, "targeted and restrained use of international military assets and armed forces may be able to save lives and bring a measure of stability so that diplomacy, domestic political processes, healing and reconciliation can have time and space to operate," he wrote.<sup>31</sup>

Ban's soothing platitudes about the "targeted" and "restrained" use of force along with his peppy calls for "diplomacy," "healing" and "reconciliation," though fully in accord with contemporary NATO speechifying, are unlikely to mollify the victims of selfless armed intervention. The purported beneficiaries' last line of defense against being set upon by the "international community" is the Security Council. Of the five veto-wielding permanent members, three are members of NATO. The two that aren't could therefore be relied on to thwart armed humanitarian expeditions. Consequently, Ban, like other humanitarian interventionists, had to come up with some legal expedient that could justify ignoring the wishes of the Security Council.

When a state "fails to respond to less coercive measures," Ban wrote,

it is, in effect, challenging the international community to live up to its own responsibilities ... Such collective measures could be authorized by the Security Council under Articles 41 or 42 of the Charter, by the General Assembly under the "Uniting for peace" procedure ... or by regional or subregional arrangements under Article 53, with the prior authorization of the Security Council.

Ban's logic is worth noting. A violation of international law had occurred. Therefore, the proper authorities are obligated to enforce the law. Should they fail to do so, other entities must assume responsibility for punishing delinquents. This was a very interesting formulation. There had been nothing about this in the 2005 World Summit Outcome declaration.

In fact, Ban's ideas come from the strongly pro-interventionist 2001 ICISS report. The ICISS had gone even further. Its report insisted that absence of Security Council authorization for the use of force should not be the end of the matter. If the Security Council fails to take action, the ICISS asserted, the General Assembly would have to do something under the "Uniting for Peace" procedure. (The 1950 U.S.-led action in Korea had been authorized through this procedure.) If the General Assembly also fails to act, according to the ICISS, there would be no alternative but "action within area of jurisdiction by regional or sub-regional organizations under Chapter VIII of the Charter, subject to their seeking subsequent authorization from the Security Council."

Few can be in any doubt as to which "regional or sub-regional organizations" Ban or the ICISS have in mind. They obviously aren't referring to the Organization of American States, which, in its charter, could scarcely be less ambiguous on the issue of foreign intervention. Article 19 states: "No State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. The foregoing principle prohibits not only armed force but also any other form of interference or attempted threat against the personality of the State or against its political, economic, and cultural elements."

What's revealing is the invocation by the ICISS of "subsequent authorization." Recent experience clearly suggests that such authorization would be nothing more than a formality. That a U.N. secretary-general should make speeches or write reports that sound as if they had been drafted at NATO's press office is a reflection of how much the U.N. has fatefully compromised its independence and neutrality.

The NATO-U.N. partnership was forged in the Balkans, a surprising development perhaps, given that NATO's humanitarian intervention in Yugoslavia had been made possible only through its deliberate sidelining of the United Nations. The military missions NATO urged and eventually undertook were frequently opposed by the U.N. peacekeeping forces on the ground. While NATO officialdom resorted to propaganda and overwrought, one-sided depictions of the conflicts in Yugoslavia, U.N. observers offered measured analyses that assigned responsibility for the conflict and its attendant atrocities to all sides. The reports, speeches and books of U.N. commanders such as generals Philippe Morillon, Satish Nambiar, Michael Rose, and Lewis MacKenzie repeatedly expressed exasperation at the U.S.-NATO insistence on demonizing Serbs and sanctifying everyone else.

The generals understood something beyond the grasp of the humanitarian interventionists. Humanitarian crises are the consequence of war, not

the cause of it. In Bosnia, there was no ethnic cleansing before the war broke out; there were no war crimes before war broke out, there were no refugees before war broke out. Consequently, it was the war that had to be ended first. Once that goal was accomplished, then there would be time to address humanitarian crises. That would be the appropriate time to reverse ethnic cleansing, to ensure that refugees return home. Fueling a war, or “leveling the playing field,” to use the Clinton administration’s catchphrase, could not possibly help solve humanitarian crises. Bosnia’s most important requirement was political compromise. Yet the humanitarian interventionists rejected any compromise on the grounds that this would reward ethnic cleaning. They insisted that the humanitarian crises had to be addressed first. They demanded that ethnic cleansing be reversed, that war criminals be indicted, that international tribunals be established, that “safe areas” be set up. After that, there would be time for peace. The champions of the “no peace without justice” doctrine made sure that there was neither peace nor justice.

NATO is a military alliance comprising a handful of states in the Western hemisphere; the United Nations is supposed to be what its name implies. Yet, throughout much of the 1990s, NATO managed to persuade the Western public that it was acting as the enforcement arm of the U.N. The U.N. went along with this pretense. Despite the occasional protest, Boutros-Ghali signed off on the U.N.-NATO partnership in Bosnia. Boutros-Ghali’s clash with NATO wasn’t over any inappropriate use of force. Boutros-Ghali’s problems arose from his insistence that, as the U.N.’s civilian chief, he was effectively the commander-in-chief of the U.N. peacekeeping forces in Bosnia and Croatia. Therefore, he should have the final say on whether NATO should bomb or not. This was not at all to Washington’s liking. When, in the summer of 1995, Boutros-Ghali made one last attempt to reassert the primacy of the United Nations over NATO, he was unceremoniously shown the door. NATO – or rather the Clinton administration – announced that it was taking decision-making out of the secretary-general’s hands.

A little more than a year later, Boutros-Ghali was gone, fired by the United States. His replacement was a complaisant Ghanaian, Kofi Annan, who had already proved himself to be someone highly attuned to Washington’s requirements. He had facilitated the massive NATO bombing of August 1995 by temporarily taking over from Boutros-Ghali and instructing the “U.N.’s civilian officials and military commanders to relinquish for a limited period of time their authority to veto air strikes in Bosnia.”<sup>32</sup> As secretary-general, Annan made all the right noises. State frontiers, he declared in 1998, a few months before NATO’s attack on Yugoslavia, “should no longer be seen as a

watertight protection for war criminals or mass murderers.” When the bombing started in March 1999, Annan issued not one word of criticism of NATO’s conduct, not even of its refusal to seek Security Council authorization. He even expressed appropriately NATO-style disdain for the Security Council. “Unless it [the Security Council] is able to assert itself collectively when the cause is just and when the means are available,” he declared, “its credibility in the eyes of the world may well suffer. If States bent on criminal behaviour know that frontiers are not the absolute defence and if they know that the Security Council will take action to halt crimes against humanity, they will not embark on such a course of action in expectation of sovereign impunity.”<sup>33</sup>

In 2000, Annan issued his Millennium Report in which he dismissed concerns that humanitarian intervention might “become a cover for gratuitous interference in the internal affairs of sovereign states” or that secessionists might deliberately “provoke governments into committing gross violations of human rights in order to trigger external interventions that would aid their cause.” There was no need to be too exercised over such matters. They paled into insignificance next to the unspeakable horrors that were the daily lot of millions. “How should we respond to a Rwanda, to a Srebrenica – to gross and systematic violations of human rights that offend every precept of our common humanity?” he asked. No legal principle “can ever shield crimes against humanity,” he declared. Sounding very much like Blair, he explained that “Where such crimes occur and peaceful attempts to halt them have been exhausted, the Security Council has a moral duty to act on behalf of the international community. The fact that we cannot protect people everywhere is no reason for doing nothing when we can. Armed intervention must always remain the option of last resort, but in the face of mass murder it is an option that cannot be relinquished.”<sup>34</sup>

In the end, Annan, too, proved to be insufficiently compliant. His undoing was Iraq. Though generally supportive of the Bush/Blair-led invasion of 2003, he nonetheless disclosed in a BBC interview in September 2004 that he believed the attack to be “not in conformity with the U.N. Charter, from our point of view.” From the “Charter point of view it was illegal.”

It was curtains for Annan. He was soon gone, replaced by Ban Ki-moon, a former foreign minister of South Korea, a firm U.S. ally, and hence someone who could be expected to be a reliable servant of the United States. Upon taking over in January 2007, Ban went to great lengths to reassure Washington that the United Nations would act as its global partner and that it shared its outlook on world affairs. One of his first acts as secretary-general was to pay a visit to President George W. Bush. Following the White House meeting, Ban

announced that the U.S. and the U.N. were both in the business of “promoting human rights, democracy and freedom and peace and security, as well as mutual prosperity.” Ban then flew to Brussels to meet NATO Secretary General Jaap de Hoop Scheffer. There he declared himself to be “very much assured and encouraged by what NATO has been contributing to peace and security around the world.” The United Nations and NATO “have the same goals [and] are committed to work very closely together in the future.” Significantly, he added, “There is the need for a close relationship between the United Nations and NATO, more and more you see NATO forces operating under an U.N. umbrella.”

The NATO-U.N. partnership was sealed in New York in September 2008. Ban and De Hoop Scheffer met to sign a Joint Declaration on U.N./NATO Secretariat Cooperation. “Our shared experiences,” the agreement declared, “have demonstrated the value of effective and efficient coordination between our Organizations. We have developed operational cooperation, for example, in peacekeeping in the Balkans and Afghanistan, where U.N.-authorized NATO-led operations work alongside U.N. peace operations ... Further cooperation will significantly contribute to addressing the threats and challenges to which the international community is called upon to respond.” NATO and the United Nations would establish “a framework for consultation and dialogue and cooperation, including ... exchanges and dialogue at senior and working levels on political and operational issues.” NATO and the U.N. would provide “assistance to regional and sub-regional organizations, as requested and as appropriate.”

This NATO-U.N. pact is extraordinary for a number of reasons. First, neither the U.N. Security Council nor the U.N. General Assembly was ever consulted on the advisability of such an agreement. Second, it is almost certainly in violation of the U.N. Charter. The U.N. doesn’t forge alliances with regional pacts. Regional pacts can undertake missions on behalf of the U.N., but only if they were previously authorized to do so by the Security Council. NATO is a nuclear-armed military alliance of some European and American powers, in potential conflict with some powers and in actual conflict with others, including some that are on the Security Council. The United Nations is supposed to be something else entirely.

Given NATO’s refusal to seek Security Council authorization before launching its March 1999 bombing of Yugoslavia, given the absence of U.N. authorization for the attacks on Afghanistan and Iraq, the NATO-U.N. accord essentially turns the U.N. into an adjunct of NATO. The U.N. is there either to sign off on NATO missions or to be ignored if it refuses to do so. The accord also turns the International Criminal Court into what everyone had always

suspected it would become: yet another institutional mechanism to be used against NATO's opponents. If NATO and the U.N. are institutionally bound together, is it conceivable that the U.N. would ever sanction the prosecution of any NATO state official for any crimes?

Actually, long before the 2008 Ban-De Hoop Scheffer pact, the NATO-U.N. partnership had been given institutional expression in the form of a supposed court of law – the International Criminal Tribunal for the Former Yugoslavia (ICTY). This body, pompously modeled on the Nuremberg Tribunal, was created by the U.N. Security Council on the basis of powers granted to it by Chapter VII. Very few countries were involved in its creation, certainly not any of Yugoslavia's combatants. The ICTY set up shop at The Hague for no particular reason other than that it was the home of the venerable International Court of Justice with which it could therefore be, helpfully, confused.

Significantly, the ICTY opened shop long before the Yugoslav wars ended. The NATO powers that created it and determined its policies and personnel had a strong interest in the outcome of those wars. The activities of the ICTY were from the beginning an adjunct to the activities of the NATO powers that were busily financing, supporting, and arming one side against the other. ICTY indictments were always meant to affect situations on the ground. In July 1995, the ICTY indicted the two leaders of the Bosnian Serbs, Radovan Karadžić and Ratko Mladić. The indictments, coming during the period leading up to the Dayton negotiations, served to ensure their absence from the talks. Krajina Serb President Milan Martić was indicted a few days before Croatia launched Operation Storm, which led to the takeover of Krajina. Milošević's indictment, issued during the NATO bombing of Yugoslavia, served to shore up flagging public support for the campaign. In none of these cases did the ICTY have the slightest evidence on the basis of which it could issue its indictments. After the wars ended, the ICTY's budget grew spectacularly as it indicted and tried pretty much the entire Serb military and political leadership of Yugoslavia – seven Serb presidents no less. The indictments and judgments now served to shape the politics of the Balkans, again very much in accordance with the requirements of NATO.

The ICTY's mission has been to conceal NATO's political agenda behind the comforting slogan of "No peace without justice." Rather than foster reconciliation, the ICTY has pursued a one-sided, vindictive approach, using legal obfuscation to promote NATO-sanctioned political outcomes. If, as is likely, Radovan Karadžić and Ratko Mladić are convicted of genocide, these verdicts will undoubtedly serve to undermine the political standing of the Bosnian Serb Republic and of Serbia, outcomes that NATO would find very satisfactory.

The International Criminal Court is well on its way to becoming the ICTY, writ large. The ICTY's rulings, though poorly argued, illogical, and intellectually threadbare, will undoubtedly serve as the body of humanitarian law that the International Criminal Court will apply. The victims of the ICC are also apparent. They belong to the ranks of countries that have long been subject to Western attack and exploitation.

As D'Escoto pointed out, "No system of justice can be legitimate that, by design, allows principles of justice to be applied differentially." The United States has refused to ratify the ICC, but is all for using it against adversaries such as Qaddafi. The permanent members of the Security Council can veto any investigation into any possible wrongdoing on their part. "The Security Council," D'Escoto said, "should not have recourse to the International Criminal Court ... until all U.N. member states are party, or at least until all Security Council members, are party to its convention." The ICC is up and running and eagerly serving as an adjunct to NATO. Its investigations, indictments and trials are part of NATO's propaganda armory.

The seamless transition from Bush to Obama demonstrates that, despite the wailing of the anti-Bush humanitarians, the invasion of Iraq was very much in the spirit of humanitarian intervention. People today often forget that in the months leading up to the 2003 invasion, much of the anti-Saddam campaign focused precisely on Saddam's human rights record. Without the NATO bombings of the lands that used to be Yugoslavia in the 1990s, the U.S.-led attack on Iraq would not have taken place. It was made possible by the Clinton/Blair dismissal as trite or irrelevant such traditional concerns as respect for territorial integrity, sovereign equality, and the authority of the United Nations. George Bush's quip – "International law? Let me call my lawyer." – could as easily have been uttered by Clinton. Like Bush, Clinton and Blair got around the United Nations by citing the supposed selfishness of other Security Council members. Clinton and Blair complained about Russia; Bush complained about Germany, Russia, and France; Obama would complain about Russia and China. In reality, the U.S. problem, both in Iraq and Yugoslavia, was that in 2003, much as in 1999 and 2012, the United Nations and other international bodies disagreed strongly with the Anglo-American assessment of what was taking place and what needed to be done about it.

The differences between Obama's war on Libya in 2011, the Bush/Blair war on Iraq in 2003, the Bush/Blair war on Afghanistan in 2001, and the Clinton/Blair war on Yugoslavia in 1999 are more apparent than real. The plaintive cry for humanitarian intervention in Kosovo went together with more hard-headed invocations of dire strategic consequences that would surely transpire

in the event of NATO's failure to bomb. Massive refugee flows, terrorism, drug trafficking, growing Islamic extremism, and all manner of other contributions to global instability would overwhelm Europe unless the West took resolute, preventive action. Anyone could see that NATO intervention would make these alleged impending catastrophes more, rather than less, likely. Yet this obvious insight was suppressed in the frantic rush to conjure up justifications for NATO action.

According to Washington's world outlook, nothing succeeds like success. For all the invocations of high moral purpose, the standard according to which the humanitarian interventionists judge their military undertakings is spectacularly low. Apparently, any military campaign that doesn't end in total calamity is considered a success. Today, Washington has even convinced itself that history will deem the invasion of Iraq a success.<sup>35</sup> The governmental and societal collapse in Libya is also bizarrely deemed a success.

The 1999 bombing is looked back on as NATO's shining hour. It constitutes the founding myth of the new NATO. Though it led to a massive refugee flight, the first bombing of a European country since Hitler, extensive casualties, and a serious confrontation with Russia, it is considered a success. However, the only positive outcome of the bombing was that it didn't end in catastrophe. For this, NATO should thank the Russians and Milošević. It may not always be so lucky. Had NATO gone ahead and launched its threatened ground invasion of Yugoslavia, an extraordinary disaster would have ensued: massive loss of life, armed confrontation with Russia, and a prolonged guerrilla war in Europe. It would have been a suitable ending to a humanitarian endeavor.



## YUGOSLAVIA: DESTROYING STATES FOR FUN AND FOR PROFIT

The disastrous consequences of the West's intervention in Yugoslavia stemmed from its willful misunderstanding of the nature of the country's crisis.

The wars in Yugoslavia were triggered by the insistence of first, Croatia and Slovenia, then Bosnia, then Kosovo to seek independence without bothering to go through the formality of negotiating the terms of their exit. Since there was no way that six-nation, six-republic Yugoslavia could break up without war, and therefore without the atrocities that are inseparable from war, responsibility for the subsequent humanitarian crises rested with those who insisted on secession at all costs, and those who, willfully and recklessly, served as the secessionists' enablers. War was inevitable once the European Union and the United States accepted – or more accurately, encouraged – the dissolution of Yugoslavia in the face of fierce opposition from at least 40% of its population – the Serbs – and probably from a substantial majority of Yugoslavs.

### ORIGINS OF THE CRISIS

The origins of the crisis in the Balkans in the late 1980s lie further back than the secessions of 1991: not in the alleged aspiration of Serbia's leaders to create a Greater Serbia, but in the massive economic crisis triggered by the inability of the Socialist Federal Republic of Yugoslavia (SFRY) to repay an international debt it had run up in the 1970s. To avoid defaulting, the SFRY was forced to accept the stewardship of the International Monetary Fund. The IMF's familiar deflationary remedies had the familiar disastrous effects: cuts in wages, cuts in payroll, cuts in social benefits, shutdowns of supposedly uneconomic factories, and cuts in imports. Living standards plummeted. Resentful at having to shoulder a growing economic burden, the more prosperous regions of Yugoslavia responded much as the more prosperous regions of Italy did in the early 1990s and the Flemish regions of Belgium a little later: they decided they wanted out.

Interestingly, the most forceful opposition to such separatist movements came initially from the International Monetary Fund. As Susan Woodward put it in *Balkan Tragedy*:

Despite years of pushing decentralization in Yugoslavia, the IMF advisers and economic liberals now attributed the lack of monetary discipline to excessive decentralization of the banking and foreign exchange systems. In their view, the central bank had long ago lost the capacity to discipline its member banks and control the money supply. The dispersed authority over money, credit, and foreign exchange made it impossible to have any effective monetary and effective exchange rate policy, let alone effective industrial and foreign trade policy. Global integration now required a unified domestic market, which meant reintegration of the segmented economies of the republics, and the free movement of labor, capital, and goods across local and republican borders.<sup>1</sup>

The IMF is the global agency tasked with debt collection on behalf of creditor nations. Disdainful of Yugoslavia's self-management-style socialism, the IMF focused its criticism on the "virtual stalemate in federal decision-making due to republican and provincial autonomy." To repay its debts, Yugoslavia would have to undertake drastic changes: no more decentralization, no more self-management and no more political consensus among the republics. Federal institutions and the central bank would have to make decisions on the basis of majority voting, not consensus.

The IMF's re-centralization program provoked strong resistance, the fiercest coming from those, Woodward said, "who stood to lose economic power and privilege. Wealthier republican and provincial governments felt their control over the flow of labor, capital, and goods in and out of their territories threatened by instruments for internal marketization." As the Soviet bloc was collapsing during the late 1980s, Western commentators presented the attendant political struggles as clashes pitting reformers against conservatives or liberals against nationalists. But these simple-minded categories, inadequate as they were to explain what was going on in the Soviet Union, were absurdly inappropriate when applied to Yugoslavia. In Yugoslavia, unlike in the Soviet Union, "it was not the central government or the poorer areas that had political and economic privileges to protect, but rather the republican politicians, especially those in the wealthier and more western regions. Those whose views might seem more liberal and Western were, in fact, the most conservative about change, the most antireform, and the most nationalistic."

The most vehement opponents of reform were Western favorites Slovenia and Croatia. As Diana Johnstone described it, “Rather than fostering democratic free enterprise, the IMF reforms encouraged clannishness, nepotism and unfair mutual recriminations between social groups – which in multinational Yugoslavia meant national groups ... One of the reactions of Yugoslavs to the economic stress of the 1980s was to blame other national groups – and in particular, to blame the Serbs, by reviving the old belief that Serbs ran the government.”<sup>2</sup>

The IMF not only urged limits on independent decision-making by Yugoslavia’s republics. It also wanted Serbia to put its house in order and address the problem of its two autonomous provinces. Serbia, unlike any other republic in the SFRY, comprised three separate political entities: Serbia proper and two autonomous provinces – Kosovo and Metohija and Vojvodina. All three had seats on the federal presidency. Kosovo and Vojvodina had been listed as autonomous provinces of Serbia in the 1946, 1963, and 1974 constitutions. The scope of Kosovo’s autonomy increased substantially after 1974, not so much because of any change in its constitutional status but because of the policy of decentralization encouraged by Tito. The same decentralizing constitution that had helped loosen the republics’ ties to the SFRY had also encouraged Serbia’s provinces effectively to govern themselves.

The growing autonomy of the provinces was to prove a real problem for Serbia because, as Woodward explained, it was increasingly “deprived of resources that had previously been channeled through Belgrade ... The governments of Vojvodina and Kosovo could veto any policy from Belgrade that applied to the entire territory, while Serbia proper had no equivalent power over decisions within the two provinces.” The IMF wanted reduced autonomy in the provinces and less independence in the republics.

The status of Kosovo and Vojvodina was not unlike that of Northern Ireland in the United Kingdom between 1921 and 1972. While Northern Ireland MPs in Westminster could vote on every issue pertaining to U.K. matters and could even determine whether a Conservative or a Labor government would be formed in London, Westminster had no comparable say in the affairs of Northern Ireland. Kosovo representatives would sit in the Serbian assembly, in the Yugoslav federal assembly, and in the Yugoslav presidency, but Serbs from Serbia proper did not sit in the Kosovo assembly. Worse, the decisions of the courts in Kosovo were not reviewable by the courts of Serbia. While Serbia could not change its constitution without the approval of the assemblies of the autonomous provinces, the Serbian assembly’s approval was not needed for changes to the constitutions of the provinces.

Moreover, during the 1980s, Serbs living in Kosovo continually complained of persecution and discrimination. In November 1987, long before ideological and moralistic posturing took over all discussion of Yugoslavia, a *New York Times* report described in detail the hardships the Serbs in Kosovo faced:

Ethnic Albanians in the Government have manipulated public funds and regulations to take over land belonging to Serbs ... Slavic Orthodox churches have been attacked, and flags have been torn down. Wells have been poisoned and crops burned. Slavic boys have been knifed, and some young ethnic Albanians have been told by their elders to rape Serbian girls ... As Slavs flee the protracted violence, Kosovo is becoming what ethnic Albanian nationalists have been demanding for years, and especially strongly since the bloody rioting by ethnic Albanians in Pristina in 1981 – an “ethnically pure” Albanian region, a “Republic of Kosovo” in all but name.<sup>3</sup>

Furthermore, the *Times* reporter pointed out that “Ethnic Albanians already control almost every phase of life in the autonomous province of Kosovo, including the police, judiciary, civil service, schools and factories. Non-Albanian visitors almost immediately feel the independence – and suspicion – of the ethnic Albanian authorities.” This account diverges starkly from subsequent oft-told tales of the horrors and indignities the Kosovo Albanians had had to endure in Yugoslavia.

Inevitably, just as London eventually grew tired of the peculiar Northern Ireland arrangement and, in 1972, brought it to an end, so Serbia was bound to seek resolution of the Kosovo problem and to bring its constitutional arrangement into conformity with that of the other republics.

The issue grew in salience as the Kosovo Albanian representatives as well as the Vojvodina representatives were among the fiercest of opponents of the reform programs of the late 1980s. Kosovo, which, as Woodward points out, had been “the recipient of the greatest amount of federal funds,” was not surprisingly the most loath to contemplate the shutting down of uneconomic plants and smokestack industries. “By granting effective veto power to Serbia’s autonomous provinces,” Johnstone writes, “the 1974 Constitution made it impossible for Serbia to carry out serious reform. Kosovo’s local leaders, predominantly Albanian, were most reluctant to accept reforms.” Through their voting, they had made reform in Serbia impossible.

Serbia’s reduction of the autonomy of its provinces in the late 1980s was an integral part of the IMF-sanctioned reformist, centralizing agenda. Rein-

tegration of Kosovo into Serbia paralleled the IMF-urged reintegration of the economies of the individual republics into the economy of Yugoslavia.

In changing its constitution in 1989, Serbia acted in accordance with the federal constitution of Yugoslavia. The other five republics all duly approved Serbia's move. Moreover, Serbia's constitutional amendments were in line with amendments to the Yugoslav federal constitution that were enacted in 1988.

However, the Serbs did not abolish the Kosovo assembly; nor did they dictate the manner in which a government of Kosovo would be formed, nor its composition. The Serbs did not reduce Kosovo's representation in Serbia's parliament or in any of the federal institutions. The new, 1990 Serbian constitution continued to refer to the "Autonomous Province of Vojvodina and the Autonomous Province of Kosovo and Metohija." Something did change, however, something that was bound to provoke the fury of Kosovo's Albanian population. Serbia's reassertion of sovereignty halted the province's gradual slide toward republican status or independence. Without doubt, this was a blow to Albanian national aspirations. But there had been no loss of autonomy. And there was no ban on the use of the Albanian language. In fact, the 1989 constitutional amendments changed very little. They made explicit what had been implicit in previous constitutions: republican institutions would take precedence over provincial institutions.

That Kosovo had slipped away from Serbia's control in the decades leading up to 1989 was due more to the indifference of Yugoslav and Serbian Communist leaders than to anything sanctioned by the 1974 constitution. Subsequent mythology had it that the 1974 constitution made Kosovo a republic in all but name. This is not true. Article 228, for example, stated that, "Provincial laws and other regulations ... must be in harmony with a republican law." Article 229 said that if a provincial law was not in accord with a republican law, "republican law shall apply pending a decision by the Constitutional Court of Serbia." Article 230 allowed the government of Serbia to ask Serbia's constitutional court to "suspend the implementation of a regulation or other enactment of the executive council of the assembly of an autonomous province or a provincial administrative organ which is not in accordance with" either the constitution of Serbia or a republican law.

Furthermore, according to Article 410, once Serbia's constitutional court establishes that a provincial law is not "in conformity with a republican law applicable throughout the territory of the Republic," the provincial assembly was duty-bound to harmonize that provincial law either with Serbia's constitution or with the republican law within six months. If the provincial as-

sembly failed to meet this specific deadline, the provisions of the law “shall cease to be valid.”

Thus, the 1974 constitution did not challenge Serbia’s sovereignty over Kosovo or the precedence of republican over provincial institutions. The 1989 constitutional amendments formally changed very little in Kosovo. Amendment XXIX, for example, stipulated:

When the Assembly of the SR of Serbia establishes on the basis of the opinion of the Constitutional Court of Serbia that some provisions of the constitution of the autonomous province are in contravention of the Constitution of the SR of Serbia, it shall inform the assembly of the autonomous province about it. Unless the assembly of the autonomous province removes this contravention within one year, these provisions of the constitution of the autonomous province may not be applied.<sup>4</sup>

This wasn’t all that different from the 1974 constitution.

Moreover, Serbia’s assertion of sovereignty over Kosovo was by no means absolute. For example, Amendment XLVI said that only on the “basis of prior approval by the assemblies of the autonomous provinces” could the “Assembly of the SR Serbia ... pass laws which apply universally throughout the territory of the Republic.” Thus, if “either of the assemblies of the autonomous provinces withhold its approval, the law shall not be applied in the territory of the autonomous province in question.”

Kosovo’s Albanians responded to the amendments by boycotting not only all republican and federal political institutions but also all social and economic institutions. They set up their own education system and health service. Needless to say, the bodies were severely underfinanced and far inferior in quality to Yugoslavia’s very good health, education, and welfare system. Visiting observers in Kosovo took these threadbare services as evidence of the existence of some kind of an apartheid system in Serbia, with the Serbs playing the role of whites to the Albanians’ blacks. There was a crucial difference between Serbia and South Africa, though. Separation was a choice made by the Albanians, not the Serbs.

On July 2, 1990, the Kosovo assembly declared that Kosovo was an independent and equal unit of the Yugoslav federation. The assembly also announced that Albanians, “being the majority and one of the largest people in Yugoslavia, are to be considered, like the Serbs and other nations living in Kosovo, a nation and not a national minority.” This assertion was bound to infuriate the Serbs. The Serbs considered themselves to be one of the founding and

constituent nations of Yugoslavia. Albanians, like Hungarians or Turks, were not a nation of Yugoslavia but a national minority since their nationhood had already found expression in an existing nation-state that was not Yugoslavia.

The Albanians based their claim on demography. Albanians exceeded Montenegrins, Macedonians, perhaps even Slovenes in numbers; yet these nations all had republics of their own. Yugoslavia's constitutional court explained the difference in its dismissal of Kosovo's claim to equal status. On February 19, 1991, the court ruled that:

The Albanians in Kosovo are a nationality and cannot avail themselves of the right to self-determination and proclaim the SAP [Socialist Autonomous Province] of Kosovo a federal unit like the republics. To wit, under the constitution of the SFRY, only the peoples of Yugoslavia, and not the nationalities, have the right to self-determination.

Accepting Kosovo's proclamation would mean "altering the borders of the SR of Serbia, of which the SAP of Kosovo is a part, without its approval, which is not in accordance with the provisions of Article 5 of the Constitution of the SFRY, which establish that the territory and borders of a republic cannot be altered without its approval."<sup>5</sup> Whether one considers this ruling fair or not, it was nonetheless the decision of Yugoslavia's highest court, the membership of which was divided equally between the republics. It was not the diktat of the Serbs.

#### **TARGETING THE YUGOSLAV FEDERAL GOVERNMENT**

The problems of Kosovo, one of the poorest regions of Yugoslavia despite years of federal funding, were the opposite of those of Slovenia and Croatia. The two republics, the most prosperous regions of Yugoslavia, resented having to fund regions such as Kosovo. All three, in effect, embarked on a course of making sure that federal institutions were unable to function. "While reformers and the IMF insisted on a more effective federal government," Woodward writes, "the specific victories of the republics were draining what little power the existing federal institutions had ... In March 1987 [the Slovenes] refused to implement the wage restrictions of the federal incomes policy. In the first six months of 1986, all republics and provinces except Slovenia and Bosnia and Herzegovina failed to pay their obligatory portion of the federal budget." By the late 1980s, the IMF was "conditioning new credits on consti-

tutional change: a strengthened federal administration and a change in the voting rules in the central bank from consensus to majority.”

Rejection of the federal budgetary obligations went together with nationalist revivals in the republics. Republican political leaders mobilized popular support for their fight against the federal government by exploiting national resentments. Croatia, for example, launched a campaign to rehabilitate Archbishop Stepinac, the archbishop of Zagreb during World War II, who had been convicted of collaborating with the Fascist Ustaša regime in Croatia. Meanwhile, right-wing Fascist sympathizers and Ustaša supporters began returning to Croatia. One issue ripe for exploitation was the reluctance of young men to perform their military service in any republic but their own. Refusal to serve in the Yugoslav People’s Army (Jugoslovenska Narodna Armija – JNA) led to complaints about Serbian overrepresentation, then to the nationalist cry that this Serbian army was an occupying army.

In 1990, Yugoslavia held its first multiparty elections. Or rather, the individual republics held multiparty elections. There were no federal elections. Plucky, pro-Western, “democratic” Slovenia had prevented the holding of all-Yugoslav elections. This served to ensure that no all-Yugoslav vote would ever be held on the issue of the preservation of Yugoslavia.

Nationalist parties or parties running on nationalist platforms won in most of the republics and, within a year, Yugoslavia was no more. Triumphant in Croatia was the Croatian Democratic Union (Hrvatska Demokratska Zajednica – HDZ), the party led by Franjo Tuđman, who had been imprisoned during the 1970s for nationalist agitation and who had written a book minimizing the crimes of the Ustaša regime. In Bosnia, the three parties representing each of the three dominant ethnic or religious groups – the Muslims, the Croats, and the Serbs – triumphed.

In Serbia, however, it was the anti-nationalist reform Communists led by Slobodan Milošević who prevailed. The nationalist party led by Vojislav Šešelj was overwhelmingly defeated. The failure of the nationalists in Serbia wasn’t surprising. Serbia was the one republic that was not seeking separation but, to the contrary, the continued existence of Yugoslavia. Slovenia’s Milan Kučan and Croatia’s Tuđman were, like Milošević, former Communists, but, unlike the Serbian leader, were now running as anti-Communists. Milošević’s party, however, not only called itself socialist but proclaimed itself to be the successor party to the Serbian League of Communists. In 1987, the *New York Times* had even quoted Milošević as declaring, “We will go up against anti-Socialist forces, even if they call us Stalinists.” The horrified *Times* reporter added, “That a Yugoslav politician would invite someone to

call him a Stalinist even four decades after Tito's epochal break with Stalin, is a measure of the state into which Serbian politics have fallen."<sup>6</sup>

The West had no problems with Slovenian and Croatian ex-communists, or Bosnian Serb and Muslim non-communists, gaining popularity by embracing nationalism. What it couldn't countenance was an open socialist gaining popularity and winning elections.

### PLAYING TO THE WESTERN AUDIENCE

The fight within the SFRY over centralization and decentralization had little to do with Serbia. Croatia and Slovenia's problems were with the SFRY government of Prime Minister Ante Marković. Slavishly following IMF diktat, Marković's government was busy eliminating everything Washington found abhorrent about Yugoslav socialism – limits on foreign ownership; profit repatriation and the holding and sale of land; job security; restrictions on managers' ability to hire and fire; and government obligation to consult workers' councils on wages and economic policy. The newly elected nationalist governments quickly discovered that, in order to get a sympathetic hearing in Western capitals, their best strategy was to blame everything on the Serbs.

Germans had harbored a long-standing animus toward Serbs dating back to the pre-World War I era. The Americans were only too ready to vent their fury against any nation believed to be Communist, pro-Russian, or, as in the case of Serbia, apparently both. Furthermore, in the United States, the alluring sound of coins dropping into campaign coffers holds politicians in thrall. Ethnic Croat and Albanian groups were highly effective lobbyists. A key figure was Senate Majority Leader Bob Dole, R-Kan., Republican Party presidential nominee in 1996 and, throughout the 1990s, one of the fiercest advocates of U.S. military intervention in the Balkans. In June 1986, long before anyone in the United States had ever heard of Slobodan Milošević, Dole introduced a resolution in the Senate stating that Congress was "deeply concerned over the political and economic conditions of ethnic Albanians in Yugoslavia and over the failure of the Yugoslav Government to fully protect their political and economic rights." From the late 1980s until his retirement from the Senate, his "closest staff person, and one of his closest advisers" (in the words of the *New York Times*) was the fanatically anti-Serb Mira Baratta, a Croatian-American whose family was actively involved in Croatian émigré politics. According to the *Guardian*, "Her grandfather fought with Croatian Ustashe forces in the second world war, and her father emigrated to California, where

he ran a weekly Croat-language radio show which supported Croatian nationalism and independence.”<sup>7</sup> Apparently, her father, Petar Radielovic, did a little more than that. He was also “a leading backer of Croatian nationalist causes in the U.S. and a public defender of alleged Croatian war criminals.”<sup>8</sup> Subsequently a vice president of Freedom House, a think tank with close ties to the U.S. government, Baratta was appointed deputy assistant secretary of defense for Eurasia in the administration of George W. Bush.

Moreover, following the fall of the Soviet satellite states in Eastern Europe, the Communist regime in Yugoslavia, hitherto the object of Western flattery, took on the appearance of a potential threat. Here was a Communist government, the survival of which could not be ascribed to the threat of Soviet invasion. To the contrary, not only had Yugoslavia defied Stalin when he was at the height of his reputation, it had developed its own distinct brand of Communism, characterized by decentralization, multi-nationalism, and workers’ control. In addition, Yugoslavia had been one of the founders and leaders of the Non-Aligned Movement – a continual source of annoyance to the United States during the Cold War. The fall of the Berlin Wall thus did not necessarily mean the end of Yugoslav Communism. Indeed, there was a real possibility that it might emerge as an attractive alternative to the shock therapy regime that was being put into effect in the Soviet Union and Eastern Europe.

The Marković government’s attack on Yugoslavia’s system of social protections played into the hands of the republican separatists, who now accused the federal government of inflicting hardships on their republics. “This is characteristic of the ‘globalization’ process. Outside powers dictate policies, and local authorities take the blame for the consequences,” Johnstone writes.<sup>9</sup> While Marković was energetically dismantling Yugoslav socialism, the newly elected nationalist governments in the Yugoslav republics, particularly the ones in Croatia and Slovenia, were busily planning their secession.

A sympathetic hearing in the West would be a key ingredient in their campaign. Though the would-be secessionists issued chilling warnings of a Yugoslavia supposedly under threat of Serb subjugation, it was they who were flagrantly interfering in the internal affairs of Serbia. The issue was Kosovo. In 1989, Kosovo’s coal miners went on strike. They objected to the reform socialist program of eliminating smokestack industries. Slovenia came out in support of the Kosovo miners. Since Slovenia had been the republic most vociferous in complaining about subsidizing the poorer regions of Yugoslavia, its laments about the plight of the province’s miners was naturally seen by Serbs as rank hypocrisy, a cynical maneuver to mobilize hostility toward Serbia both within Yugoslavia and abroad.

In the capitals of the West, the republican resistance to the policies of the Marković government was presented as a struggle against Serbian domination, a fight between democracy and human rights in one corner and Communism and Serbian nationalism in the other. Overnight, Ante Marković, the Croat federal prime minister – faithful executor of the IMF program and a favorite of the Bush administration – went from admired reformer to servant of Serb interests.

In October 1989, Marković went to Washington seeking \$4 billion in aid. He was to be sorely disappointed. Though U.S. policymakers lavished fulsome praise on his market reform programs, they didn't offer a penny. There wasn't even an offer to roll over Yugoslavia's debt. To the contrary: the U.S. government paid for nothing during his visit. As Warren Zimmermann, the last U.S. ambassador to Yugoslavia, put it, "In fact, the only meal for which Marković didn't have to pick up the tab was a breakfast roundtable ... It certainly showed him that Yugoslavia was not in the center of Washington's universe." On the other hand, Zimmerman went on without a trace of irony, Marković "did get a taste of the importance of the Kosovo issue for the Congress. Several members blamed his government for the iniquities of the Serbian position."<sup>10</sup>

Here was Washington at its bizarre best: market reforms were crucial, but not crucial enough for the United States to lift a finger to help. The fate of Yugoslavia – population 24 million – wasn't of any great significance because the Soviet Union no longer loomed large. On the other hand, Kosovo, a tiny, impoverished corner of Yugoslavia – population 2 million – was of immense importance.

### **SLOVENIA AND CROATIA MAKE THEIR MOVE**

In 1989, Slovenia took its first steps toward independence. The republic adopted a series of amendments to its constitution, declaring Slovenia's laws as taking precedence over the laws of the SFRY. Federal laws that were contrary to the laws and constitution of Slovenia would no longer apply in Slovenia. Furthermore, only Slovenia's authorities had the right to declare a state of emergency.

Yugoslavia's constitutional court ruled the amendments out of order. The court's ruling was unexceptionable: "[F]ederal laws and other acts cannot be conditioned by their consonance with the republican constitution and laws. According to the federal constitution, federal laws and other federal acts are

obligatory on the whole territory of the SFRY.” The territory of Slovenia constituted part of the single territory of the SFRY. In dealing with threats to the territory of the SFRY, the federal presidency could not be restricted by the need to seek prior approval from the Slovenian assembly. Thus, a state of emergency in any republic comes under the purview of the federal government. The “SFRY Presidency has the right and duty to proclaim a state of emergency on the territory of” Slovenia, the court said, because “a threat to the existence of one republic or its constitutional order ... represents a threat to the existence of the [SFRY] and its constitutional order.”

The constitutional court also warned Slovenia that matters pertaining to self-determination and secession could be addressed only by the SFRY constitution, not by the republican constitution. The right to secession could be “decided only jointly, with the consensus of all socialist republics and autonomous provinces.” This was “because the regulation of the questions and procedures in fulfilling the right to self-determination, including the right to secession, requires the regulation of questions and procedures which affect not only one people or one socialist republic but all of them together in the [SFRY] as their common state.”<sup>11</sup> Fulfillment of the “right to self-determination, including the right to secession, cannot be settled unilaterally ... but in the manner set out in the SFRY Constitution.”

The ruling could hardly be described as extraordinary. The federal government is responsible for the external borders of the common state. No state allows a province within which mines or oil wells happen to be located or that serves as a popular tourist resort simply to make its way for the exit, while keeping all of its resources and pocketing all of the revenue stemming from them. Since the entire country had invested in the development of a region now enjoying prosperity, the entire country should have some say in the distribution of its income. Anti-Communist, free-market ideologues who had eagerly embraced the cause of Croatian independence claimed that the republic’s prosperity was due to the Croats’ innate entrepreneurial talents, proving that they were far more Western-leaning than their fellow Yugoslavs and thus deserving of the embrace of the freedom-loving nations. The reality was very different. Yugoslavia’s Communist government had invested heavily in the development of the republic’s tourist industry – a crucial source of foreign currency. Many parts of Yugoslavia had had to go without funds for years so that Croatia’s Adriatic coast could become a popular European tourist destination.

Fairness wasn’t the only issue. While Washington obsessed about Milošević’s supposed nationalism, Croatia’s move to restore the symbols of the

wartime Ustaša state scarcely elicited a murmur. The appalling record of the Independent State of Croatia (Nezavisna Država Hrvatska or NDH) is well known. The Ustaše, headed by Ante Pavelić, were appointed by the German Nazis to run the puppet wartime state. As their first order of business, the Ustaše resolved to deal with Croatia's Serbs once and for all. The plan was simple enough: a third of the Serbs were to be exterminated, a third deported, and a third converted to Catholicism. According to one standard history of Yugoslavia, the Ustaša regime "declared that one of its chief objectives was to 'purify' Croatia of alien elements, especially the Serbs ... The process of extermination, which was later judged at Nuremburg to have amounted to genocide, started at once in the areas of Croatia where Serbs were concentrated ... The exact number of Serbs who were killed in the NDH is not known. Serbian estimates put it at 750,000; German, at 350,000."<sup>12</sup> Ustaša policy toward the Jews and gypsies was no less savage. But the behavior of the Ustaše was so appalling that even the SS was shocked. According to a 1942 German security police report, "the *ustaša* units have carried out their atrocities not only against Orthodox males of a military age, but in particular in the most bestial fashion, against unarmed old men, women and children ... innumerable Orthodox have fled to rump Serbia, and their reports have roused the Serbian population to great indignation." Yet in 1990, Franjo Tuđman, the presidential candidate of the Croatian Democratic Union, felt no compunction about defending the wartime state. The NDH, he said, "was not simply a Quisling creation and a fascist crime, it was also an expression of the historical aspirations of the Croatian people."<sup>13</sup>

Upon coming to power, the Croatian nationalists set about rewriting Croatia's constitution to reflect their state's projected mono-ethnic character. In contrast, the allegedly rabidly nationalist Serbs sought to preserve multiethnic Yugoslavia. For example, Croatia's 1990 constitution stated that Croatia was to be a "national state of the Croatian people and a state of members of other nations and minorities who are its citizens: Serbs, Muslims, Slovenes, Czechs, Slovaks, Italians, Hungarians, Jews and others, who are guaranteed equality with citizens of Croatian nationality." By contrast, Serbia's 1990 constitution was a model of modern democratic, non-national, non-ethnic statehood: "The Republic of Serbia is a democratic State of all citizens living within it, founded upon the freedoms and rights of man and citizen, the rule of law, and social justice."

Croatia's new constitution differed sharply, then, from the 1963 and 1974 constitutions, which had deemed the Serbs and Croats co-equal constituent nations of Croatia. According to Article 1 of those constitutions, Croatia had

been established “in common struggle with the Serbian nation and the nationalities of Croatia and with the other nations and nationalities in Yugoslavia.”<sup>14</sup> Overnight, then, the new constitution had relegated the Serbs of Croatia from constituent nation to national minority. Not only that, Croatia began to restore the symbols of the Ustaša regime, including the red-and-white checkerboard flag. Croatia reintroduced the kuna, the currency of the Fascist Ante Pavelić regime. The language of Croatia was proclaimed to be Croatian, not Serbo-Croat. The Cyrillic alphabet was banned. Serbs were required to swear allegiance to the Croatian state. This was followed by mass firings of Serbs and armed attacks by Croatian gangs on Serbs and Serb property.

The Serbs, persecuted and exterminated by the World War II fascist Croatian regime, responded with alarm. Assurances that Serb rights in Croatia would be protected “were at odds with the nationalist and anti-Serb rhetoric frequently adopted by Tudjman and certain quarters of his party’s leadership,” according to one not especially pro-Serb author.<sup>15</sup> Indeed, Tudjman scarcely troubled to conceal his racism when he spoke about the Serbs. As he explained to an interviewer,

Croats belong to a different culture – a different civilization from the Serbs. Croats are part of Western Europe, part of the Mediterranean tradition ... The Serbs belong to the East. They are Eastern peoples, like the Turks and Albanians. They belong to the Byzantine culture ... Despite similarities in language we cannot be together.<sup>16</sup>

The West responded with indifference. While the “Never again” slogan pervades contemporary culture, its use is restricted to the Jewish Holocaust. By contrast, the murder of tens of thousands of Serbs at the hands of the Ustaša regime, or the deaths of millions of Russians in World War II, elicits little sympathetic understanding. Israel may bomb Lebanon or the West Bank; the mere mention of the Holocaust suffices to still most criticism. However, when Serbs refer to Jasenovac, to Ante Pavelić, to their fears of a repetition of the horrors of World War II, they are condemned for rehashing ancient grievances, for rabid nationalism and for indulging their victim complex.

The late Nora Beloff, a long-standing observer of Balkan politics, was one of the few who did not share the generally benevolent view of the new Croatia:

By the time I first met [Tudjman] in 1980, he was already pathologically anti-Serb. He has allowed himself to be surrounded by Ustasha sympathizers, many

of them returning from Canada and Australia. Tudjman armed his followers, and though they were unable to break into the all-Serb regions, which were ferociously defended, in areas of Croat majority they made life for the Serbs impossible. With jobs denied and homes burnt down, tens of thousands fled long before the federal army and the international community intervened. On a smaller scale, the Serbs retaliated. In Dubrovnik, one year ago, a young Croat girl running her own travel agency described the ravages of the Tudjman regime. To her horror, this little Venice was being transformed into a nationalist stronghold, and she found herself ostracized by her fellow-citizens for rejecting ethnic hatreds which she felt were ruining the country.<sup>17</sup>

Most commentators refused to see any of this. As they saw it, with the Soviet Union gone, the continued existence of Communist Yugoslavia was highly undesirable. Therefore, Western political support needed to be thrown behind those who were seeking to break up Yugoslavia, whatever their political predilections might be. During a meeting with Zimmermann and Peter Hall, Britain's ambassador to Yugoslavia, Milošević pointed out that Tudjman was arming his own party. "Nobody has done that since Hitler," Milošević said. "You Americans and British totally misunderstand the nature of Tudjman's regime, because you're obsessed with black and white distinctions between 'communists' and 'democrats.' For you Milošević is bad, and Marković and Tudjman are good."<sup>18</sup> Milošević evidently understood his interlocutors far better than they did him.

Tudjman, who had been imprisoned by Tito for nationalist activities, had his fan club in the West, one of the most vocal of whom was Margaret Thatcher, Britain's former prime minister. She saw in Tudjman the reincarnation of the spirit of Lech Wałęsa and Václav Havel. She lauded Tudjman for having "understood that there could be no future for Croatia within a Yugoslavia that had become a prison with brutal Serb jailers." Oblivious to facts, Thatcher seemed blissfully unaware that in June 1991, when Croatia seceded, the "brutal Serb jailers" included the president of Yugoslavia, Stjepan Mesić (a Croat); the prime minister, Ante Marković (a Croat); the foreign minister, Budimir Lončar (a Croat); the finance minister, Branimir Zekan (a Croat); and the defense minister, Veljko Kadijević (Croatian mother, Serbian father).

Thatcher's extraordinarily ignorant interventions in the debates over Yugoslavia (she was one of the earliest to argue that the solution to the problem of Yugoslavia entailed nothing more complicated than bombing the Serbs) not only helped substitute hysteria for analysis, but made racist hatred and, eventually, violence directed at Serbs respectable. She even wrote a blurb for a

bizarre book, *Serbia's Secret War* by Philip J. Cohen, which argued that it was Serbia, not Croatia, which was aligned with Hitler in World War II. Though Cohen's book hadn't been endorsed by a single reputable historian, Thatcher felt able to claim that it was a "useful counter to current myths about Serbia's history during the Second World War. By detailing the reality of past Serbian national socialism and anti-Semitism, [it] allows us to understand more clearly the mentality which has been at work in Belgrade, and so the roots of today's Yugoslavian tragedy."

Talk of "Serbian national socialism and anti-Semitism" was music to the ears of the Ustaše alumni gathering in Croatia. Western commentators dismissed Serb concerns by pointing to Tudjman's wartime service in the Partisans. But the significance of the activities of a 20-year-old was vastly overstated. As David Owen pointed out, Tudjman's Partisan service was long ago and far away. By 1990, Tudjman had become an ardent Croatian nationalist. In fact, his support depended "on much of Pavelić's indigenous support." Fighting Pavelić was for Tudjman

the indiscretion of youth. Far from using his Partisan past to bind up the wounds between Croats and Serbs living in Croatia, he prefers to speak with pride of having been arrested and sentenced by Tito's regime ... to play up his part in the "Croatian Spring" unrest ... His political development probably started while he was a senior figure in JNA intelligence, watching over the very Croats living in exile who later became some of his most fervent supporters.<sup>19</sup>

As Croats and Slovenes moved toward independence, held referendums, and clandestinely armed themselves, Croatia's Serbs also took up arms and held a referendum. On July 25, 1990, the Croatian Serb assembly proclaimed the Serbian nation within Croatia to be a sovereign nation. "In the process of establishing new relations in Yugoslavia," the proclamation said, "the Serbian nation in SR Croatia is fully entitled to opt for a federate or confederate system of state government, either jointly with the Croatian nation, or independently ... Nobody else has the historic right to determine the fate of the Serbian nation, which has inhabited these areas for centuries, even before the Croatian state was created."

The Serbs' declaration warned of the possible consequences of Croatia's moving toward independence. If Zagreb insisted on secession from Yugoslavia, the Serbs might "seek political autonomy." If Zagreb opted not to secede and the Yugoslav federation continued to exist, the "areas in Croatia having

a Serbian majority would need to have only the rights necessary for cultural autonomy.”<sup>20</sup> The Serbs would be content with unlimited usage of the Serbian literary language, the Cyrillic script, and municipal self-government.

The Serbs scheduled a referendum on the issue of autonomy for August 1990. Tudjman threatened to use force to suppress the referendum and announced the formation of special police detachments. Anticipating the arrival of the special police units, the Serbs put up log barricades on the approach roads leading to the Serb areas. This came to be known as the “log revolution.”

Fearing JNA intervention, Tudjman backed off and the referendum went ahead as planned. As expected, Croatia’s Serbs overwhelmingly endorsed the autonomy declaration.

The Serbs’ rejection of the authority of Zagreb is invariably ascribed to Milošević’s machinations or to the extreme nationalist propaganda emanating from Belgrade. However, Croatia’s Serbs were responding to the policies of Tudjman, Mesić, and their allies. Serb fears may or may not have been justified (subsequent events showed that there was a reasonable foundation for them), but it is disingenuous to suggest that, were it not for Belgrade, Croatia’s Serbs would have peacefully accepted becoming a national minority in Tudjman’s Croatia. The Serbs were protesting the impending loss of Yugoslav citizenship and reduction to minority status within an independent Croatia. For understandable reasons, Croatia’s supporters in the West presented this conflict as one pitting democratic Croatia against Communist Serbia.

On December 21, 1990, the Serbs in the Krajina of Croatia proclaimed the formation of the Serbian Autonomous Region of Krajina. The Serbs established two other autonomous districts: an autonomous district of Slavonia, Baranya, and Western Srem; and an autonomous district of Western Slavonia. These autonomous districts proclaimed themselves as belonging to Yugoslavia, not Serbia.

These Serb actions were entirely in accord with both international law and Yugoslav constitutional law. National self-determination inheres in nations and not in territories. Yugoslavia comprised six nations (under its original name – the Kingdom of Serbs, Croats, and Slovenes – it comprised only three) each of which was theoretically free to leave the federation. However, there could be no change to external borders without the consent of all six nations. “It is not our intention to prevent the Croats or any other nation from leaving Yugoslavia,” Milošević told Belgrade University professors on March 21, 1991, “but we are not going to allow anybody to drag the Serbs out with them against their will.”

Milošević's position was not that of the Yugoslav National Army. The JNA believed its mission to be defense of the territorial integrity of the SFRY. Milošević, however, was coming under pressure from within Serbia and from Serbs living in the other republics to do something to protect the Serbs in the face of the impending secessions. Borislav Jović, at that time Serbia's representative on the federal presidency, described the situation:

The Serbs in Croatia are exerting pressure, by way of Slobodan, for military protection. Slobodan conveys this to me. Veljko [Kadijević, Yugoslavia's defense minister] stubbornly refuses, saying that there is a danger that the military will come to be seen as "Serb," something that he cannot allow. Anyway, nothing can be done without a decision by the Presidency. Slobodan insists on a Presidency decision. I schedule one for the afternoon and ask Veljko for a report on the situation and a proposal. His proposal is "that the military be ready to take action if necessary but only after it is authorized to do so (by the Presidency)." <sup>21</sup>

Croatia and Slovenia had a clear strategy. They didn't intend to take on the JNA directly; rather, they planned to proclaim independence, follow that up with a blockade of the federal Yugoslav army barracks, and follow that up with a heart-rending appeal to the rest of the world. It was Hungary 1956 or Czechoslovakia 1968 all over again: a small, independent-minded democracy was under attack from the Red Army, or its latest manifestation, the JNA. The blockade of the JNA garrisons was no act of self-defense. To the contrary, the objective was seizure of JNA weaponry. As General Anton Tus, chief of staff of the Croatian army in 1991, was to explain later:

It was because of the timely and complete blockade that the first attempt of the [JNA] to break out of the garrisons failed ... In that way, we captured 230 tanks, more than 400 heavy artillery pieces, coastal artillery, several warships and a large amount of light weapons. In Zagreb alone, we captured 38,000 guns and 20 million rounds of ammunition, which made it possible to establish 11 Zagreb brigades, and much of this was sent to Vukovar and other crisis areas. <sup>22</sup>

A sympathetic response was virtually guaranteed. On March 13, 1991, three months before the independence declarations, the European Parliament passed a resolution stating that "the constituent republics and autonomous provinces of Yugoslavia must have the right freely to determine their own

future in a peaceful and democratic manner and on the basis of recognized international and internal borders.”<sup>23</sup> This statement, resonant with standard Western pieties, had nothing whatever to do with the reality of what was taking place in Yugoslavia. The Europeans confused Yugoslavia’s republics with its constituent nations and bestowed the mantle of freedom and democracy on nationalists who were even then illegally arming themselves. The Europeans’ intervention ensured that the federal authorities would have little stomach for halting the country’s slide toward disintegration.

### INEFFECTUALITY RUNS RAMPANT

In the meantime, Tudjman’s government continued to receive enormous quantities of arms from Germany and Austria via Hungary. Croatia “used the network of Croatian nationalists abroad to fund and organize gun-running operations. Arms were brought in by ferry, by truck, and, in countless small consignments, by private car.”<sup>24</sup>

On January 9, 1991, the federal presidency finally got fed up and issued an ultimatum to the paramilitaries to disarm within 10 days or face forcible disarmament. Croatia and Slovenia rejected the call and adopted a variety of maneuvers to avoid disarming its paramilitaries. Details of some of these contrivances emerged in the Milošević trial during the testimony of prosecution witness General Aleksandar Vasiljević, head of JNA’s counter-intelligence at the time.

Tudjman’s HDZ, he recounted, announced that members of its illegal military organization would henceforth be considered members of Croatia’s reserve police forces. In order to avoid returning weapons, Croatia’s authorities carried out a clandestine scheme. “They printed over 50,000 IDs for the reserve force of the MUP [Ministry of Interior police] and then distributed these IDs to members of the HDZ so that they could justify the fact that they had weapons in their possession.”<sup>25</sup>

Vasiljević omitted to mention the deft maneuver of Mesić, who at that time served as Croatia’s representative to the federal presidency. Following the federal presidency’s January disarmament order, Mesić

succeeded in inserting into the resolution the word “illegal.” This was the loophole by which Croatia was to avoid acting on the Federal Presidency’s order. Mesić returned to Zagreb, knowing that Croatia did not have the slightest intention of disarming the police, or the reservists ... Croatia would, instead,

embark on a ten-day game of brinkmanship with the JNA, arguing that the only “illegal” paramilitaries in Croatia were the rebel Serbs in Krajina.<sup>26</sup>

### THE UNITED STATES INTERVENES

It was at this stage that the United States made a fateful intervention in Yugoslavia’s affairs, one that would ensure breakup and war. Washington responded to the federal presidency’s order by insisting that it would not tolerate any forcible disarming of the paramilitaries. On January 17, Warren Zimmermann, the U.S. ambassador, went to see Serbia’s Borislav Jović, who at that time was president of the rotating federal presidency, and told him that “the U.S. would not accept any use of force. A democratic solution had to be found through peaceful negotiation. The Army was not to be used to round up the paramilitaries.”<sup>27</sup>

Jović, according to his own later account of the meeting, had told Zimmermann that

the very importation of arms and the creation of paramilitary formations constitute preparation for the use of force, and in an illegal way. If the United States really wants to avoid the use of force, it could insist in its contacts with the leaders of those republics that these paramilitary formations surrender their weapons, thus paving the way for a peaceful solution.

Jović pointed out that the presidency had already issued an order to disarm, which had been rejected. Zimmermann, according to Jović, responded by threatening “that if military force is used to resolve the situation in Yugoslavia, the United States will have a very hard time approving economic aid to Yugoslavia.”<sup>28</sup>

Rounding off the meeting, Zimmermann handed Jović an aide-memoire declaring:

The Serbian repression in Kosovo is a dead-end street for Serbia and for Yugoslavia ... The Serbian leadership bears the main responsibility for the diminished prospects of a peaceful, democratic solution in Kosovo, which would respect the rights of all citizens in that province. As long as Kosovo is part of Serbia, Serbia is responsible for respecting the internationally recognized human rights and basic liberties of the Albanian population. Because we support the unity of Yugoslavia, we also feel that the federal government is responsible

for satisfying the international obligations that Yugoslavia has accepted, for protecting basic human rights in Yugoslavia, including Kosovo. In the absence of dialogue and progress in the direction of a political solution for Kosovo, the United States will find it difficult to continue offering aid to Yugoslavia.

Zimmermann had now issued two ultimatums, both involving internal Yugoslav matters. According to the first ultimatum, the United States would cut off economic assistance to Yugoslavia if it resorted to force to disarm illegal paramilitaries. According to the second, the United States would cut off economic assistance if Yugoslavia failed to move toward some unspecified “political solution” in Kosovo. Though “Serbian leadership” and “Serbian repression” alone were to blame for the problems of Kosovo, the United States let it be known that it intended to punish all Yugoslavs for the alleged derelictions of the Serbs. Since no one wants to be punished for someone else’s malfeasance, Zimmermann’s threats served only to feed the appetite of those who wanted out of Yugoslavia as soon as possible.

Zimmermann wasn’t done yet. He went to see Tadjman to inform him that while the United States supported Yugoslav unity, it “wouldn’t support the preservation of unity through force.” Tadjman was delighted and told the ambassador that “he was relieved to hear” his message.<sup>29</sup> Zimmermann’s activities clearly do not fit the oft-told story of a United States supposedly working round the clock to keep Yugoslavia together.

U.S. conduct was extraordinary. Yugoslavia was not seeking to suppress dissent but to disarm illegally established paramilitaries. Would Washington have demanded that London use only non-violent means to disarm the IRA? Or that Turkey use only non-violent means against the Kurdistan Workers’ Party, the PKK? Or Colombia against the Revolutionary Armed Forces of Colombia (FARC)? Ostensibly pursuing a humanitarian agenda, Washington was denying Yugoslavia’s legitimate sovereign right to maintain its territorial integrity and thereby encouraging the secessionists.

Zimmermann’s intervention didn’t come out of the blue. The United States had been playing a disingenuous and dangerous game toward Yugoslavia for some time. While outwardly expressing its support for Yugoslav unity, Washington acted to ensure disintegration. In February 1990, for example, Deputy Secretary of State Lawrence Eagleburger visited Yugoslavia and, according to Zimmermann, “expressed the view that human rights, freedom, and a market economy would be best advanced if Yugoslavia remained united.” However, Eagleburger added: “the United States would not advocate the breakup of Yugoslavia, but – if it happened – would have no choice except to live with

it.” It is hard to believe that a seasoned diplomat such as Eagleburger would be unaware of the consequences of his words. As Zimmermann sheepishly admitted, “some Slovenes took the deputy secretary’s remark that the United States could live with the breakup of Yugoslavia as a green light to push a secession program.”<sup>30</sup> Why wouldn’t they?

In November 1990, President George H.W. Bush signed into law the Foreign Operations Appropriations Act. It included a provision known as the Nickles Amendment that barred bilateral assistance to Yugoslavia and required U.S. representatives to oppose loans to Yugoslavia by all international institutions, including the IMF and the World Bank, unless the U.S. secretary of state certified that all six of the country’s republics had held free and fair elections and that none was engaged in a pattern of gross violations of human rights. “The motive behind the Nickles Amendment originally was to find a legislative vehicle for a group of senators and representatives to penalize the government of the Serbian Republic in particular and Yugoslavia in general for the repression of ethnic Albanians in the Kosovo region of Serbia.”<sup>31</sup>

Washington’s concern for human rights did not extend to the Serbs in Croatia. As even Zimmermann conceded, “Tudjman had made not the least effort ... to assure Croatia’s Serbian citizens that they would be safe in an independent Croatia. Given the past year’s record of discrimination against Serbs in Croatia, the issue wasn’t academic, and Tudjman’s omission wasn’t an oversight.”<sup>32</sup>

In February 1991, Dole introduced the Direct Aid for Democracy Act, the goal of which was to enable the United States to bypass the Yugoslav federal government and provide direct aid to “the non-Communist republics in Yugoslavia” – deemed by Washington to be struggling for independence from “Communist-controlled central governments.” Interestingly, this was the course the very vocal U.S. human rights lobby was urging. In a November 1990 *New York Times* op-ed article titled “Why Keep Yugoslavia One Country?”, Jeri Laber, executive director of Helsinki Watch, accused Milošević of engaging “in a calculated policy of colonization that includes relocating Serbians to Kosovo.” She asked, “Why not acknowledge the [federal Yugoslav] Government’s impotence and offer aid to those republics that will protect the rights of all their citizens? We might be able to help them in a peaceful evolution to democracy.”<sup>33</sup>

That an influential human rights spokesman could describe the Yugoslav republics – which by late 1990 were veering toward war between the secessionists and those who favored unity – as human rights havens that pro-

tected “the rights of all citizens” indicated the irresponsibility and absurdity to which a narrow-minded misconception of human rights can lead. Robert M. Hayden, a law professor at the University of Pittsburgh and, unlike Laber, genuinely knowledgeable about Yugoslavia, responded with a tragically prescient letter to *The Times*: “The only political forces in Yugoslavia that favor Helsinki Watch-style human rights are among those that also favor a truly federal Yugoslavia. Those who would break up the country are strong nationalists, not likely to treat minorities within their own borders well. It seems truly bizarre that ‘human rights’ activists so cavalierly advocate policies that are likely to turn Yugoslavia into the Lebanon of Europe.”<sup>34</sup> Perhaps it wasn’t so bizarre: the human rights lobby’s concerns meshed only too well with U.S. policymakers’ requirements.

In April 1991, Dole submitted a resolution to the Senate that said that the criteria established in the Nickles Amendment had “not been met by the Yugoslav and Serbian governments.” Passed by a voice vote, the resolution, as usual, singled out Milošević for condemnation, calling on him “to cease all repressive policies against the Albanian population.” In May, just as the constitutional crisis in Yugoslavia was coming to a head, U.S. Secretary of State James Baker refused to issue his certification and U.S. sanctions went into effect. One month before the impending secession of Croatia and Slovenia, State Department spokeswoman Margaret Tutwiler explained that the U.S. action was triggered by “the conduct of the Serbian Republic leadership which is exercising severe repression in the Kosovo province.” Kosovo again. Tutwiler added that Serbia had “not conducted fully free and fair elections and is now acting to destabilize the Yugoslav presidency.”<sup>35</sup> According to the *Los Angeles Times*, Croatian and Slovene “officials welcomed the purported American move, seizing it as evidence that President Bush would be willing to support their quest for independence.”<sup>36</sup>

In the meantime, back in Yugoslavia, civil war was becoming increasingly inevitable as paramilitary organizations continued growing in size. The JNA urged the federal presidency to introduce a nationwide state of emergency. On March 12, during a session of the presidency held at JNA command headquarters, Veljko Kadijević, the federal defense minister, proposed raising the combat readiness of the country’s armed forces and disarming and disbanding the paramilitary organizations. The federal presidency’s January 9 order was supposed to have achieved this but had not done so. Kadijević also proposed that secessionist republics hold referendums “in which every nation is given the opportunity to directly and freely express its will, without any dictates and outvoting.” Yugoslavia, he declared, “was created in wartime amid

enormous sacrifices, and that is why none of the people who are currently in power have a right to give their consent to the breakup of Yugoslavia.”

Borislav Jović, Serbia’s representative on the presidency, agreed with Kadijević: “In the chaotic situation of political and physical violence which is in effect, I see no other force in our country other than the armed forces of the SFRY that can guarantee and ensure a peaceful and democratic course of events and a peaceful resolution of the Yugoslav crisis.” Mesić, Croatia’s representative, rejected Kadijević’s proposal. There was no crisis in Croatia, save the one created by the Serbs “in order to draw attention away from Kosovo.” Macedonia and Bosnia also rejected the introduction of a state of emergency. Kosovo’s representative was also against it. And Montenegro did not want to go beyond raising the possibility of imposing a state of emergency.

The military responded by substituting a watered-down proposal: “Preparedness measures should be undertaken in the armed forces, including the mobilization of some units.” Serbia, Montenegro, Kosovo, and Vojvodina voted in favor. Croatia, Macedonia, and Bosnia voted against. Slovenia’s representative wasn’t present. Lacking the five votes needed, the proposal failed.<sup>37</sup>

The JNA supreme command issued a statement declaring that since the SFRY presidency “did not accept the proposed essential measures for the full implementation of its own order of 9 January 1991, [the JNA] cannot bear any responsibility for the possible continuation of illegal arming of citizens or their organizing in military fashion anywhere on Yugoslav territory.”

Jović resigned from the federal presidency, citing “the prevailing balance of power on the SFRY Presidency” which was “not interested in the sovereignty, independence, and territorial integrity of the country.” Rather, it was endeavoring to tie the hands of the JNA, the one remaining institution “that could ensure the conditions for a peaceful and democratic resolution of the crisis.” The representatives of Montenegro and Vojvodina also resigned from the presidency. On March 16, Milošević delivered a televised address announcing that Yugoslavia had “entered the final phase of its agony.” By

sabotaging its own order for the disarmament of paramilitary formations, the Yugoslav Presidency has enabled the creation of republican armies which directly threaten the security of the country, all its citizens and especially the republic of Serbia and the Serb population outside the Republic of Serbia ... The Yugoslav Presidency has done everything to prevent its own orders from being implemented and to enable the secession of certain republics and parts of Yugoslavia through combined political maneuvers of obstruction and armed

incidents, rather than through peaceful means with the respect of the rights of all peoples to self-determination.

Milošević announced that “Serbia will no longer recognize any decision passed by the SFRY Presidency, because in present circumstances such a decision would be illegitimate. Personally, I will not take any part in the work of a Presidency which has opted for Yugoslavia’s disintegration ... [N]o patriot could accept the legitimacy of a collective head of state which acts against the integrity of its country and the existing Constitution.”<sup>38</sup>

In subsequent years, Milošević’s March 16 statement was to acquire a sinister significance. It was all part of his Greater Serbia design – the “finishing touches on a plan to throw the country into disarray.”<sup>39</sup> “Milošević declared ‘Yugoslavia is finished,’ and announced that Serbia no longer considered itself bound by federal bodies,” Silber and Little wrote. “In effect he was declaring Serbia’s secession from Yugoslavia.” The ICTY’s Milošević indictment reads: “In a televised address on 16 March 1991, Slobodan Milošević, in his capacity as President of the Republic of Serbia, declared that Yugoslavia was finished and that Serbia would no longer be bound by decisions of the Federal Presidency.”

And thus we arrive at the shopworn story, according to which Serbia was supposedly both the instigator of the breakup of Yugoslavia and the country’s prison warder. As is often the case, the contemporary record demonstrates the dubiousness of the story. Milošević had never said Yugoslavia was finished. To the contrary: “Yugoslavia exists and it cannot be abolished by unilateral acts and a fait accompli policy, because realistic interests, the freedoms achieved, the democratic achievements and the power of its people, guarantee its survival and successful development.” What Milošević said on March 16 was that the SFRY presidency no longer deserved the respect of Serbia, and this on account of its failure to protect the territorial integrity and sovereignty of Yugoslavia. The headline of that day’s BBC report on Milošević’s televised address had it right: Milošević “Rejects Authority of SFRY Presidency.”

Silber and Little, and the ICTY, go further. Milošević, according to them, had “ordered the mobilization of special reservists and the urgent formation of additional Serbian militia units.” He had now thrown down “the gauntlet to the Federal Army, announcing that he would form his own special forces and carry out decisions bypassing the legal federal institutions.” The ICTY echoed this in its June 2004 dismissal of the motion for Milošević’s acquittal: “On 16 March 1991, the Accused stated that in order to be powerful, the Serbs had to be united, and ordered mobilization of the reserve police to ensure

security and to defend the interests of the Republic and Serbs outside Serbia.” The “in order to be powerful” and the “Serbs had to be united” are nice literary touches, at once suggestive and vague.

The issue had been the inconclusive outcome of the March 12 session of the federal presidency. It was now clear that neither the federal presidency nor the JNA could or would do anything to prevent secessions. In such circumstances, Milošević announced, it would be up to the government of Serbia to protect Serbs who may find themselves outside the jurisdiction of Yugoslavia. What Milošević had said was:

In the present circumstance, when attempts are being made to cause disturbances in Sandžak and Kosovo and Metohija, I ordered the mobilization of the reserve security forces of the Serbian Interior Ministry and the urgent formation of additional police forces of the Republic of Serbia. I have asked the Serbian government to carry out all preparations for the formation of additional forces whose volume and strength would guarantee the protection of the interests of Serbia and the Serbian people.

*Serbia and the Serbian people*; Sandžak and Kosovo and Metohija were regions within Serbia. There is no suggestion in his address that Serbian reserve security forces were being mobilized to fight for Serbs outside of Serbia. Moreover, even if Milošević were advocating this, it would hardly be anything reprehensible. The president of Serbia was promising to defend Serbs given that the federal presidency had shown itself incapable of doing so.

Majority support within the federal presidency for a proclamation of a state of emergency had always been unlikely. Kadijević had fully expected his proposal to be rejected. In fact, the military was thoroughly relieved at not having to do anything. Afraid that Serbia's absence from the federal presidency would lead to command of the JNA falling into the hands of the secessionists, Jović rescinded his resignation and returned to the presidency.

### THE MESIĆ ISSUE

In the meantime, Europeans and Americans found a new issue over which to obsess. Croatia was scheduled to take over from Serbia the rotating federal presidency. Croatia's nominee for this position was Tudjman ally Stjepan Mesić, who had been Croatia's first prime minister following the HDZ's May 1990 electoral victory. Western dignitaries were determined to see in Mesić

a voice of moderation and reasonableness, though there was precious little evidence to support this view. According to Zimmermann, Mesić “understood the problems of Serbs in Croatia better than any other major Croatian politician. He might have been considered the best Croat any reasonable Serb could want in the Yugoslav presidency. But Milošević wasn’t a reasonable Serb, and he felt particularly threatened by moderates.”<sup>40</sup>

One measure of Mesić’s moderation and reasonableness was his frequently indulged habit of likening Milošević to Hitler. In 1991, he claimed that Milošević was like Hitler in that, “He has a big appetite for territory.” He was also like “Hitler because Hitler said he wanted to protect Germans outside Germany.”<sup>41</sup> Doubtless, Zimmermann had no problems with this kind of talk since, by and large, he agreed with it. Not surprisingly, while Zimmermann was reassured by Mesić’s moderation, the Serbs were not.

Succession at the federal presidency was usually automatic, but there was a formality of a vote to go through. Mesić’s opponents on the federal presidency believed – rightly, as it turned out (Mesić did eventually take up his post in July) – that the Croatian leader would use the federal presidency to secure Croatia’s independence. When Mesić’s term as president of the presidency ended, he returned to Croatia and on December 5 announced gleefully to the national assembly, “I have performed my task. Yugoslavia is no more.”<sup>42</sup>

When Mesić’s nomination came up for a vote, he failed to secure the required majority. In the West, Mesić’s failure was presented as one of Serbia’s denying Croatia its constitutional rights. But the objection to Mesić had nothing to do with any shortchanging of Croatia. Serbia didn’t oppose Croatia assuming the presidency, nor had Serbia objected to Mesić’s membership of the presidency. The issue was Mesić’s becoming its president. Mesić was a Tudjman ally who had made no secret of his intent to detach Croatia from Yugoslavia.

The federal presidency had voted on the matter of Mesić’s succession: Mesić had four votes (including his own); he needed five. Explaining his vote against Mesić, Montenegro’s representative to the presidency, Branko Kostić, said, “I was afraid that as president of the Presidency he would abuse his office with a view to implementing the platform of his party which sent him to the Presidency of the SFRY. This later proved to be true many times over.”<sup>43</sup>

The Croatian assembly refused to nominate anyone else for that post. Throughout May and June, the West intensified the pressure on Belgrade over the Mesić issue. On May 30, European Commission President Jacques Delors and Luxembourg’s Jacques Santer, then chairman of the European Council of Ministers, flew to Belgrade and demanded that Mesić be allowed

to take up his post. The West's obsession with the minutiae of succession within the presidency contrasted starkly with its insouciance toward the flagrant illegality of Croatia's and Slovenia's preparations for secession. When an apoplectic Zimmermann confronted Milošević demanding to know why Mesić hadn't been allowed to become president, Milošević, according to the ambassador's account, made the not unreasonable point that, "Just because there was a vote, that doesn't mean Mesić had to win it. Every country operates according to its constitution, even yours. We Yugoslavs don't need your advice on how our constitution works."<sup>44</sup>

It is important to note that by late May, Croatia had already resolved upon secession, as the West well knew. On May 30, Croatia's parliament had voted to secede from Yugoslavia unless a confederation agreement could be negotiated by June 15. Mesić's insistence on becoming head of an institution that he no longer recognized had nothing to do with a supposed concern that it function effectively. His goal was to make sure that while Croatia would act independently of the SFRY, the SFRY would be unable to act independently of Croatia. While Croatia would refuse to recognize the authority of the SFRY presidency, it would nonetheless continue to exercise influence and even control over that presidency.

Slovenia's Milan Kučan informed Santer and Delors that Slovenia would "probably have to" secede from Yugoslavia through "a unilateral act." Slovenia was forced to take this action on account of its "failure to obtain understanding from the majority of republics and the federal government." Tudjman echoed him. There was no reason to negotiate further, he told the European Community chiefs. Only two outcomes were possible for Yugoslavia: "an alliance of sovereign states or ... a democratic break-up."<sup>45</sup> Delors said nothing to dissuade Slovenia and Croatia from their secessionist course.

On June 21, four days before Croatia and Slovenia were due to declare independence, Baker made a 10-hour visit to Belgrade to deliver an unambiguous message: no force was to be used to preserve Yugoslavia. Needless to say, he demanded that Mesić be allowed to take up the post of president. For good measure, he described Milošević as the "main source of the crisis" and accused him of "stirring up ethnic tensions" and of propelling Yugoslavia toward "civil war." Baker also warned Marković that if he resorted to force his "support in the West would be threatened." The secretary went on insouciantly, "I can see no way to prevent Slovenia from taking over the border posts ... If you force the United States to choose between unity and democracy, we will always choose democracy."<sup>46</sup> Once again, the United States was vaguely in favor of preserving Yugoslav unity but opposed to doing anything to achieve this.

The U.S. position was, of course, untenable. Baker could have pointed out that neither the Slovene nor the Croatian nationalists who had won elections a year earlier had run on a platform of independence. There hadn't even been time for them to seek re-election. To be sure, referendums had taken place in Croatia and Slovenia, but the questions put to the voters were ambiguous, not to say confusing. For example, on December 23, 1990, Slovenes were asked: "Should the Republic of Slovenia become an autonomous and independent state?"<sup>47</sup> "Autonomous" and "independent" are by no means synonymous. Nor did the question make clear whether "independent" referred to being inside or outside Yugoslavia. Yet Slovenes were only given the opportunity to say yes to both or to neither. The Croatian plebiscite question was even more confusing. On May 19, 1991, Croats were asked: "Do you agree that the Republic of Croatia as a sovereign and independent state, which guarantees cultural autonomy and all civil rights to Serbs and members of other nationalities in Croatia, may enter into an alliance with other republics?"<sup>48</sup> The question was almost entirely incomprehensible. It was thus far from clear that by voting "yes" in the plebiscites Croats and Slovenes were voting to exit Yugoslavia.

Baker also seemed oblivious to the fact that four out of Yugoslavia's six republics, comprising far more than 50% of the country's population, were opposed to unilateral secessions. The Yugoslav federal government represented the interests of those republics as well as those of the minorities within Croatia and Slovenia. As Baker well knew, 600,000 Croatian Serbs, constituting some 13% of Croatia's population, had also exercised their democratic right to opt out of an independent Croatia, and that their wishes were as deserving of international recognition as those of Croats and Slovenes. Whether intended or not, Baker's message seemed to be: Yugoslav unity was a hopeless cause, everybody had to accept this immediately and not one second should be wasted on constitutional niceties.

### THE 'HOUR OF EUROPE'

On June 25, Slovenia and Croatia declared independence. Unbeknownst to the public in the West, in the days immediately prior to this, British firms had, with the approval of the British government, sold military communications equipment to Slovenia.<sup>49</sup> Radio communication played a key role in Slovenia's propaganda war against the JNA.

The Slovenes seized the border posts at Yugoslavia's frontiers with Italy, Hungary, and Austria; took down the Yugoslav flag; replaced the federal bor-

der guards with Slovene territorial forces; and placed border posts to separate it from neighboring Croatia. Marković's federal government issued a decree empowering the defense and interior ministers "to deploy the frontier units of the JNA with the aim of safeguarding the state frontiers at the border-crossings." On June 27, the SFRY presidency denounced the independence declarations as the "most direct threat to the territorial integrity of Yugoslavia, its state borders and its international legal sovereignty." The presidency expressed support for the "decisions of the Federal Executive Council to ensure immediately the implementation of federal regulations, on crossing the state border in the territory of the Republic of Slovenia, and the order to prohibit the establishment of so-called border crossings inside the territory of the SFRY." The federal government was asked to "take measures and actions that will prevent alterations to Yugoslavia, changes to its borders, and the arbitrary assumption by the republics of constitutional and legal competences of the federal organs in any area."

The JNA made a half-hearted attempt to re-take the border crossings. It ended in fiasco. JNA failure was assured the moment it balked at disarming paramilitaries in January and followed that up with the failure to impose a state of emergency in March. There had then been a possibility of preempting unilateral secessions. Back in March, a state of emergency would have been justified. Armed clashes were taking place in Croatia; the January 1991 disarmament order had not been complied with; the SFRY had filmed evidence of arms smuggling across the Hungarian border.

The JNA now was hardly in any frame of mind to take on Slovenia. Nonetheless, its listless attempt to restore the status quo ante on Slovenia's borders elicited hysteria in the West. Western media outlets echoed these loud condemnations of the Yugoslav federal authorities. They, not the secessionist republics, were to blame for everything. It was one of those "We are all Slovenians" moments: a small nation crying out for independence and getting crushed by a brutal power while the West looks on with indifference.

Hans-Dietrich Genscher, Germany's foreign minister, rushed down to Slovenia and accused the JNA of running "amok." Deputy Secretary of State Lawrence Eagleburger declared, "My sense of it is that the Army is, if not out of control, at least not under control ... There are some Serbian generals who are basically in charge, and I think they have decided they're going to put this thing to an end ... I think it's foolish, I think it's stupid, I think it's counterproductive, but I'm afraid that's where they are." Czech writer Milan Kundera announced that "Slovenia must be saved." In the *New York Times*, Michael Scammell asked, "How is it that whenever some small European na-

tion seeks to establish freedom, democracy and independence for itself, the U.S. invariably backs away from these principles and turns a blind eye to its suppression by force? So Poland in 1953 [sic], Hungary in 1956, Czechoslovakia in 1968 and Poland again in 1980 ... [N]ow it seems to be the turn of Croatia and Slovenia.”<sup>50</sup> Conservative columnist George F. Will declared that, “Yugoslavia, a manufactured rather than organic entity, is a ‘prison of nations’ (Lenin’s description of the czar’s empire) ... The Bush administration, which may not know sufficient American, let alone Balkan, history, is investing U.S. prestige in a cause that is and deserves to be doomed – an attempt to preserve the chimera of Yugoslav nationhood.”

Western bluster was wildly off the mark. The JNA had acted in Slovenia in accordance with the decisions of the legally constituted government as well as the rulings of the country’s constitutional court. The SFRY and the JNA were not “Communists” or “totalitarians.” By 1991, elections had been held throughout Yugoslavia. Election results in Croatia and Slovenia had no greater standing than those in Serbia or Montenegro or Macedonia or Bosnia. An overwhelming majority within the federal presidency had supported military action to take back the border crossings.

The European Community saw this as the hour in which to shine. Warning that “\$1 billion in economic aid would be suspended if its military offensive against Slovenia and Croatia continued,” the E.C. dispatched a trio of foreign ministers to Belgrade on June 28. It was on this occasion that one of its number, Jacques Poos, Luxembourg’s foreign minister, famously declared that, “This is the hour of Europe. It is not the hour of the Americans.”<sup>51</sup> Joining Poos were Gianni de Michelis, Italy’s foreign minister, and Hans van den Broek, Holland’s foreign minister. Needless to say, one issue uppermost in the minds of the three E.C. worthies was Mesić’s taking up the post of president. Doubtless, they hoped that if Yugoslavia were dissolved under the auspices of a Mesić-controlled presidency, the Europeans would be off the hook.

Upon arriving in Belgrade, the E.C. delegation went straight to the federation palace and spent the next few hours berating Milošević about Mesić. The members of the presidency cooled their heels in another room. Finally, Milošević gave way and urged Jović to withdraw his opposition to Mesić. Jović vividly described his meeting with the E.C. trio:

I raised the question of what sort of guarantees the “trio” can offer Yugoslavia on behalf of the E.C. that Mesić will act in accordance with the country’s Constitution, since it is insisting so strongly that he be elected. All three ... lined

up to glibly express firm promises and guarantees, on behalf of the E.C., that Mesić, Croatia, and Slovenia, under their influence, will have to act in accordance and in keeping with the SFRY Constitution. It is unclear how they plan to influence Croatia and Slovenia to change their political course, to postpone and suspend the unconstitutional decisions on independence that they have already adopted, but it is not very likely that they will even do that.<sup>52</sup>

Needless to say, these E.C. commitments were to prove worthless.

The reality of what took place in Slovenia had little connection with the hyperbole. According to Silber and Little, “A force of 400 federal police and 270 federal customs officers were taken to Cerklje air force base in Slovenia and, from there, by helicopters, to the various barracks in Slovenia and Croatia, from which they were to be dispatched. Fewer than 2000 JNA troops were deployed to accompany them. It was scarcely the assembling of an invasion force.”<sup>53</sup> Federal troops were not authorized to shoot; many of them indeed lacked ammunition. Slovene territorial defense forces surrounded the JNA bases and cut off their water and electricity supplies as well as their telephone connections. “Slovenia declared war on the JNA, not the other way around. Slovene television ‘milked’ the conflict for every ounce of propaganda value.”<sup>54</sup>

The secessionists used armed force to seize the border posts from the federal army and armed paramilitaries to blockade federal army barracks. “The not very heroic Slovenian (and later Croatian) tactic was not to take on the JNA directly, but to lay siege to JNA barracks and try to starve the soldiers out,” as Zimmermann described it.<sup>55</sup> The war in Slovenia had nothing to do with the Serbs. Writing in *Foreign Affairs* in 1995, Zimmermann said:

Contrary to the general view, it was the Slovenes who started the war. Their independence declaration, which had not been preceded by even the most token effort to negotiate, effectively put under their control all the border and customs posts between Slovenia and its two neighbors, Italy and Austria. This meant that Slovenia, the only international gateway between the West and Yugoslavia, had unilaterally appropriated the right to goods destined for other republics, as well as customs revenues estimated at some 75 percent of the Yugoslav federal budget. Even an army less primitive than the JNA would have reacted.<sup>56</sup>

Though the casualty figures belied the David and Goliath fairy tale – 44 JNA soldiers killed, 187 JNA members wounded, while “[c]asualties on the Slo-

vene side were in single figures, most of them foreign lorry-drivers passing through<sup>57</sup> – the Western media and governments continued to laud the heroism of the Slovenes and to vent their fury at the JNA and, of course, at Milošević.

Interestingly, while some commentators have denounced Milošević for having started four wars in Yugoslavia, including the one in Slovenia, more sophisticated critics have lambasted Milošević for his supposed indifference to the fate of Slovenia. Silber and Little, as well as Zimmermann, claim that Serbia wanted Slovenia to leave the SFRY so that it could focus on fighting Croatia. According to Silber and Little, the Yugoslav government was

out-manoeuvred by a tacit alliance between Milošević and Kučan, by which Slovenia would be allowed to secede so that the JNA could concentrate its efforts on Croatia, and, later, Bosnia ... [The JNA generals] thought they were defending the territorial integrity of Yugoslavia. They did not know that that integrity had already been fatally betrayed, and by the very man who, publicly, continued to cast himself in the role of its principal defender.

Zimmermann made the same claim: “With Slovenia out of the game, Milošević and the JNA were now free to take on a Croatia no longer buttressed by Slovenia’s support.”<sup>58</sup> However, this theory put the cart before the horse. Tudjman had sought to persuade the world that Slovenia and Croatia faced the same problem: bellicose Communists in Belgrade. But the cases of Croatia and Slovenia were very different. Croatia’s population included a substantial Serb minority that insisted on remaining within Yugoslavia. Croatia could not seriously expect to be treated the same as nationally homogeneous Slovenia. Tudjman knew this full well. Railing at Milošević was a good way of changing the subject.

Zimmermann’s observations were right in one sense. Serbia’s acceptance of Slovenia’s unilateral secession had demonstrated that using force and refusing to negotiate were the way to go. Rewarding Slovenia by acceding to its demand for immediate independence was bound to be taken by other republics as a signal that unilateral secession pays. Serbia’s position that any nation could leave Yugoslavia just as long as it didn’t force out of Yugoslavia anyone who didn’t want to go would have unfortunate consequences. The SFRY presidency, which had supported JNA intervention in Slovenia, was unlikely to back any further interventions once Slovenia had been seen to prevail. Also, the JNA would have little stomach to defend the borders of a diminished Yugoslavia.

### MEETING AT BRIONI

The United States and Europe imposed an arms embargo on Yugoslavia. Within days, the Germans were hinting that they would recognize the independence of Croatia and Slovenia. The U.S. government dropped even its pro forma support for Yugoslav unity and announced, “We do not support the use of force to preserve Yugoslavia’s unity.” The United States “supports the territorial integrity of Yugoslavia as the Yugoslavian people themselves determine what that is through peaceful means ... [I]t is up to the Yugoslavian people themselves to determine their future, their internal, their external borders.” But since the violence was held to be largely, if not exclusively, the fault of the federal army, the United States was effectively throwing its weight behind the supposed victims of the violence: the Croatian and Slovenian secessionists.

The European Community now stepped in and dispatched a so-called troika of foreign ministers to try to negotiate a ceasefire in Slovenia. The three foreign ministers were Jacques Poos of Luxembourg, Hans van den Broek of the Netherlands, and Gianni de Michelis of Italy. Though ostensibly offering its good offices and proclaiming its neutrality, the E.C. mission arrived armed with threats – but against one side only. Unless Yugoslav federal authorities accepted E.C. policy, the E.C. would be unable to prevent member states from recognizing the independence of Croatia and Slovenia.

On July 7, on the island of Brioni, the E.C. negotiated an agreement between Slovenia and the federal authorities. The deal involved the withdrawal of the JNA and a handover of the border posts to the Slovenian police. The signatories included the leaders of Croatia, Slovenia, the SFRY, and the troika. Serbia’s leaders weren’t at Brioni. Serb interests were represented by Borislav Jović, Serbia’s man on the Yugoslav presidency. In truth, there were no negotiations at Brioni. As Bogić Bogićević, Bosnia’s man on the federal presidency, recounted, Yugoslavia’s representatives “simply did not have the chance to speak out. The Troika of European Ministers said: ‘Amendments are not allowed. Either accept it or reject it.’”<sup>59</sup>

Subsequent mythologizing had it that at Brioni the E.C. all but promised recognition of Croatian and Slovenian independence. Slovenia and Croatia, according to this story, had agreed to suspend their independence declarations but only for three months and only in return for the E.C. accepting their independence once the three months were up. As usual, the ICTY is a key purveyor of this tale. For example, its indictment of Milošević for alleged crimes in Croatia states that, “The European Community sought to mediate

in the conflict. On 8 July 1991 [sic], an agreement was reached that Croatia and Slovenia would suspend implementation of their independence for 90 days until 8 October 1991.”<sup>60</sup> The words are lifted almost entirely from Silber and Little’s book – the only historical source the Milošević prosecutors drew on (“Mr. Nice’s lodestar,” as Milošević wittily and accurately put it.<sup>61</sup>). Silber and Little write, “The agreement imposed a three-month moratorium on the *implementation* [authors’ italics] of Slovene (and Croatian) independence, but not on the declarations of independence themselves.”<sup>62</sup>

This is an outright fabrication. Croatia was barely mentioned in the Brioni Declaration. Most of it dealt with Slovenia, which is where what fighting there was had taken place. The declaration demanded that negotiations among the parties “begin urgently, no later than August 1st 1991.” These negotiations would cover “all aspects of the future of Yugoslavia without preconditions” and on the basis of the principles of the Helsinki Final Act and all the other international agreements. The federal presidency was to retain control over the federal armed forces. Most important, “all parties concerned will refrain from any unilateral action, particularly from all acts of violence.”

The declaration stipulated that Slovenian police would take control of border crossings. Customs duties would remain a source of federal revenue, though they would be collected by Slovenian customs officials. The Slovenes were to lift the blockade of JNA units and facilities; JNA units would return to their barracks; territorial defense units would be deactivated; and all facilities and equipment would be returned to the JNA. The sole reference to the three-month period concerned border security. The declaration stated that the pre-June 25 situation was to be re-established. “Within the suspension period (of three months), negotiations shall be completed in order to ensure an orderly transfer of the competencies of the [JNA] in this field.” There were to be three months of unconditional negotiations; there was no mention of implementation.

To be sure, though, the troika spoke one way in public and very differently in private. In public, the troika adhered to the official E.C. line, intoning repeatedly that there could be no recognition of Croatian and Slovenian secessions. In private, the E.C. worthies blamed the violence on the federal authorities and threatened to recognize the secessionist republics if there was any further violence. Such talk could only serve to encourage Croats and Slovenes to provoke violence. According to Borislav Jović’s account, *The Last Days of the SFRY*, Hans van den Broek told him at Brioni that

if there is a renewed outbreak of violence and unilateral military action, the Community will re-examine its position. It is certain that that would result in a serious situation, and the possibility cannot be ruled out that one country after another would come to the conclusion that the aspirations of the Republic of Croatia and the Republic of Slovenia to self-determination, such as they are, can no longer be disputed.

This was the approach that characterized all subsequent Western interventions, including the one in Kosovo. It enabled policymakers to pretend that they meant well and that their only concern was to avoid bloodshed. However, since blame for the violence inevitably attached to Belgrade, the West's ostentatious anguish only served to encourage secessionists to press ahead and use violence to secure their aims.

Belgrade was in a bind. If it used force to thwart secession, it would be attacked for standing in the way of national self-determination, and risked E.C. recognition of the rebel states. If it accepted secession, dissolution of Yugoslavia would be unstoppable. If it accepted secession but insisted on respect for the aspirations of the Serbs in Croatia and, later, in Bosnia, it would be denounced for seeking to carve out a Greater Serbia out of the wreckage of Yugoslavia.

Either way, independence for Slovenia and Croatia was guaranteed once the E.C. adopted the position that any use of force by Belgrade to stop the secessions would be met with immediate recognition of the secessions. Not surprisingly, Slovenia made no attempt to stick to the Brioni agreement. The Slovenes "took advantage of the ceasefire to strengthen their barricades. In Ljubljana, the buses and trucks that had acted as makeshift defences were replaced by tank traps made from criss-crossed iron girders, and surrounded by barbed wire. It didn't matter. The Slovenes knew that they had international public opinion on their side."<sup>63</sup>

Oddly enough, on July 18, the SFRY presidency announced the withdrawal of the JNA from Slovenia. There was no requirement for it to do so. In fact, as the presidency pointed out in its announcement, Slovenia had not fulfilled any of its commitments:

The blockade of all JNA units and facilities has not been lifted ... JNA assets and equipment that were seized have not been returned. Units of the Republic of Slovenia Territorial Defense have not been deactivated and demobilized. Recruits are not being sent to do their military service in the JNA. The basic human rights of JNA members and their families have been crudely violated.

Nonetheless, the SFRY presidency announced that JNA units in Slovenia would be relocated elsewhere in Yugoslavia. “JNA commands, units and institutions shall cease to be stationed in the territory of the Republic of Slovenia until a definitive agreement is reached on the future of Yugoslavia.” Also, within three months, JNA members “who are Slovenian shall decide whether or not to remain in the JNA.”

The JNA’s withdrawal was in effect an acceptance of Slovenia’s secession and an alteration of Yugoslavia’s international frontiers. According to Yugoslavia’s constitution, as the constitutional court had pointed out, such a decision could be made only by the SFRY Assembly, not by the presidency. Explaining the presidency’s decision, Branko Kostić, Montenegro’s representative on the presidency, told the Belgrade daily *Večernje Novosti* that JNA members stationed in Slovenia were living

in concentration camps: their power and water supply is cut off, their food supply is obstructed, you need a pass to go into and out of the barracks ... We could have eliminated this situation ... only by using armed force, or by a temporary territorial redeployment of these units from the territory of Slovenia to other areas in Yugoslavia, until the final agreement about the future system is reached.<sup>64</sup>

No one really believed that this withdrawal of the JNA was either temporary or redeployment.

Mesić was in a minority of one in the presidency in opposing the decision to withdraw from Slovenia. This wasn’t because he wanted to keep the JNA in Slovenia. He simply wanted the presidency to agree to withdraw the JNA from Croatia as well. He demanded that the presidency resolve that the JNA could be used only “at the request of the republic where the particular crisis spot is located.”<sup>65</sup> Since Croatia was at that very moment seeking to secede from Yugoslavia and was already involved in an armed conflict with the Croatian Serbs, there was little likelihood of the presidency agreeing to put the JNA at the disposal of Croatia’s government. In fact, the presidency demanded that Croatia cease blockading the JNA barracks. Croatia was told to “ensure that all armed units of the republic ... withdraw from JNA facilities and in no way hinder the actions and steps of JNA units and institutions.”

### INVENTING A NEW DOCTRINE

Sensing that Croatia and Slovenia would soon be accepted as new states, Macedonia also decided to hold a referendum. On September 8, the government asked voters: “Are you in favor of a sovereign and autonomous Macedonia with the right to join a future alliance of sovereign states of Yugoslavia?” The question was vague, ambiguous, and unexceptionable; not surprisingly, of those who voted, 95% said yes. However, Macedonia’s substantial Albanian population boycotted the referendum.

Although the secessionist republics had made no attempt to engage in serious negotiations on the future of Yugoslavia, as they were required to do under the terms of the Brioni Declaration, the federal government was blamed for the impasse. The United States stepped up its attacks on Belgrade. By September 1991, Washington had taken to referring to the actions of the JNA within the territory of Yugoslavia as “aggression.” On September 25, Baker went before the U.N. Security Council and declared:

The Yugoslav military has initiated what can only be described as outright military intervention against Croatia, while repudiating the authority of Yugoslav Government institutions which have sought to control it. It is equally clear that the Serbian leadership is actively supporting and encouraging the use of force in Croatia by Serbian militants and the Yugoslav military. The apparent objective of the Serbian leadership and the Yugoslav military working in tandem is to create a “small Yugoslavia” or “greater Serbia” which would exclude Slovenia and a rump Croatia. This new entity would be based on the kind of repression which Serbian authorities have exercised in Kosovo for several years ... The aggression within Yugoslavia, therefore, represents a direct threat to international peace and security. And the use of aggression to determine the future internal borders of Yugoslavia or of Serbia also represents a grave challenge to the values and principles which underlie the Helsinki Final Act, the Charter of Paris, and the U.N. Charter.

There was no mention here of the arms smuggling into Croatia; no mention of the arming of paramilitaries. Baker’s comments foreshadowed the West’s disastrously misconceived approach to Yugoslavia. Based on nothing more than wishful thinking, Baker absolved Washington’s golden boy, Ante Marković, of any responsibility for the deployment of the JNA, and assigned blame entirely to Serbia’s leaders. Though claiming to be even-handed, he leveled the charge of “aggression” against the JNA – the only legitimate armed force in the country.

Yet the JNA had exercised considerable restraint in not toppling the Tudjman government (something it was entitled to do given the illegality of his and Slovenia's declarations of independence), choosing instead to intercede between the combatants (the Croatian and Serbian paramilitaries). It had exercised almost unbelievable restraint in refusing to use force to break the siege of its barracks. Its troops in Croatia were going without food, water, and electricity. Baker accused the "Serbian leadership" of "encouraging the use of force," even though the Serbs were merely seeking a return to the status quo ante. He was scathing about the idea of "small Yugoslavia" or "greater Serbia" (two entirely different concepts that he treated as if they were synonymous). Most unfairly, he made this into an issue of Serbia versus every other republic. In reality, it was Croatia and Slovenia versus everyone else. In September 1991, Croatia and Slovenia were in the minority; four of Yugoslavia's six republics wanted to preserve the union.

Most ominously, Baker suggested something patently nonsensical, an idea that would prove to have tragic consequences for Yugoslavia, namely, that changing the *internal* borders of Yugoslavia without consent would violate the Helsinki Final Act, the Charter of Paris, and the U.N. Charter. It's hard to believe that Baker didn't realize the absurdity of this argument. The U.N. Charter, the Helsinki Final Act, and the Charter of Paris all unambiguously refer to the impermissibility of non-peaceful change to *international* frontiers. Changes in internal administrative boundaries fall within the domestic jurisdiction of each state. They are not covered by international treaties.

Article 2(4) of the U.N. Charter states: "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." The reference is to territorial integrity of a member state of the U.N. The issue of internal borders is addressed in Article 2(7): "Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter."

Then there's the Helsinki Final Act: "The participating States regard as inviolable all one another's frontiers as well as the frontiers of all States in Europe and therefore they will refrain now and in the future from assaulting these frontiers." Yugoslavia was, of course, one of those participating states. The 1990 Charter of Paris for a New Europe spoke of "the equal rights of peoples and their right to self-determination in conformity with the Charter of the United Nations and with the relevant norms of international law,

including those relating to territorial integrity of States.” Yugoslavia was one of the Charter of Paris signatory states that pledged “to refrain from the threat or use of force against the territorial integrity or political independence of any State.”

Baker’s claim might have had some credibility had the Yugoslav republics pre-existed their entry into the state of Yugoslavia. There would then have been a basis for their claim to sovereignty and immutable borders. But that wasn’t the case. Of Yugoslavia’s six republics, Serbia and Montenegro alone pre-existed the creation of the multinational state. The rest were provinces of the Austro-Hungarian and Ottoman empires with boundaries drawn up after World War I. While there were unquestionably national, religious, and linguistic differences among the peoples of Yugoslavia, there were no immediate geographic correlates to these differences. The idea that there was a nation-state of Bosnia and Herzegovina to go together with the republic of Bosnia and Herzegovina, and a nation called Bosnians who inhabited that state was an absurdity. The peoples of Bosnia identified themselves not as Bosnians but as Serbs, Croats, and Muslims.

### **BOSNIA HEADS TOWARD THE PRECIPICE**

Events in Croatia and Slovenia were now having a major impact on Bosnia. If the conflict in Croatia was nasty, then the one that was sure to erupt in Bosnia would be horrific. No nation in Bosnia constituted a majority of the population. According to the 1991 census, Muslims comprised a plurality of 43.7%; the Serbs were next with 31.4%; Croats made up 17.3% of the population. 5.5% identified themselves as Yugoslavs, many of whom were Serbs.<sup>66</sup> Since Muslims resided largely in the cities and a considerable portion of Serbs were farmers, the ownership of land didn’t reflect these population numbers. In 1991, Serbs owned around 64% of the land in Bosnia.<sup>67</sup>

Bosnia’s first elections were scheduled for November 1990. Serbs, Croats, and Muslims all established political parties based along national lines and, not surprisingly, everyone voted along national lines. The Communists were defeated and the three national parties formed a coalition government.

Alija Izetbegović, leader of Bosnia’s largest Muslim party, the Party of Democratic Action (SDA), indicated that if Croatia and Slovenia seceded from Yugoslavia, Bosnia would follow suit. On September 15, 1990, during the election campaign, Izetbegović announced that Bosnia would not “remain within some federal remains with a greater Serbia.” Izetbegović said he

avored a sovereign, independent Bosnia within Yugoslavia. But if Croatia and Slovenia were to leave, then he would seek an independent Bosnia within a confederation.<sup>68</sup> Western media coverage suggested that the decision was his alone to take. This was not so. According to Bosnia's constitution, all three of Bosnia's constituent nations had to approve any changes to the republic's sovereignty.

In August 1991, following the secession of Croatia and Slovenia, Milošević invited the leaders of Bosnia, Montenegro, and Macedonia to come to Belgrade and discuss a program for the future of Yugoslavia. The so-called Belgrade Initiative envisaged the "possibility that Bosnia-Herzegovina might become part of a new Yugoslavia made up of the non-Catholic republics."<sup>69</sup> Izetbegović refused to attend, arguing that no discussion of Yugoslavia's future could take place without the presence of representatives of Slovenia and Croatia. Bosnia, he insisted, would not be part of any Yugoslav federation that did not include Croatia.

Izetbegović's rejection of the Belgrade Initiative is invariably explained as an understandable fear of Bosnia's becoming dominated by Serbia. However, in a Yugoslavia without Croats and Slovenes, the Muslims would have been the second largest population group. Moreover, given that the Muslim population would have consisted not only of the Muslims of Bosnia but also those of the Sandžak in Serbia as well as the Albanians of Kosovo, and given the Muslims' historically higher birth rate, it was unlikely the Serbs would have been able to maintain their demographic dominance for long.

To be sure, a Bosnia-Herzegovina that remained in a Yugoslavia without Croatia could well have ended up losing territory, but not on account of Serbia. Once Croatia was out of Yugoslavia, Western Herzegovina (where most of Bosnia's Croats resided) would more than likely have elected to secede from Bosnia to join Croatia. But loss of Western Herzegovina was quite likely whether Bosnia stayed in Yugoslavia or not. What's important is that while the loss of Bosnian territory may have been unavoidable, war between Muslims and Serbs could have been avoided.

Izetbegović's inflexibility did not go unopposed. There were some within the SDA leadership, such as party vice chairman Adil Zulfikarpašić and Muhamed Filipović, who were troubled not only by the growing dominance of Islamism within the party but also by Izetbegović's clear determination to exit Yugoslavia. They realized early on that Izetbegović's course would lead Bosnia to disaster. A September 10, 1990 SDA election rally in Velika Kladuša proved to be the final straw. As the Dutch government's report on Srebrenica recounted:

In the presence of at least 200,000 people, the party made it clear that the Muslims were not prepared to live in a “rump” Yugoslavia and that if need be they would take up arms to defend Bosnia-Herzegovina. Now, Zulfikarpašić really became frightened by what he saw and heard. There were hundreds of green flags, people in Arabic dress and portraits of Saddam Hussein. People were chanting “Long live Saddam Hussein” ... After this, Zulfikarpašić no longer trusted Izetbegović.<sup>70</sup>

On September 22, Zulfikarpašić and Filipović were expelled from the SDA. They, in turn, created a rival, much more secular party, the Muslim Bosniak Organisation (MBO), with Zulfikarpašić as its chairman.

On July 25, 1991, one month after the secessions of Croatia and Slovenia, Zulfikarpašić launched a peace initiative for Bosnia, which was accepted by Radovan Karadžić’s Serbian Democratic Party (SDS). The plan envisaged Bosnia remaining within a diminished Yugoslavia with its borders unchanged. Hailing the agreement, Karadžić said that within this diminished Yugoslavia the Muslims would be the second largest nation next to the Serbs.<sup>71</sup> Zulfikarpašić went to see Milošević and returned from Belgrade to declare that Serbia’s president had thrown his support behind the deal.

Izetbegović’s SDA immediately denounced the agreement, claiming that it was unacceptable for two of Bosnia’s nations to gang up on a third, in this case the Serbs and the Muslims against the Croats. The SDA declared that “The constitutional and legal framework which was proposed in the draft ‘historic agreement’ envisages, however, a federation of an earlier type, the nucleus of which would be Serbia and Montenegro and – according to the proposers – Bosnia-Herzegovina. The Muslim people cannot accept that.”<sup>72</sup> Izetbegović dismissed any accord between Serbs and Muslims that failed to include the Croats. Bosnia was a republic of three major ethnic communities or it was nothing. Furthermore, Muslims “will not accept a truncated Yugoslavia,” namely, one without Slovenia and Croatia. “We must find a solution which is also suitable for Slovenia and Croatia,” Izetbegović said.<sup>73</sup>

However, Izetbegović was soon to forget his stricture against two of Bosnia’s national groups ganging up on a third. On October 14, 1991, he engineered a Muslim-Croat alliance against the Serbs. Ignoring Serb objections, representatives of the Croat and Muslim parties in the Bosnian National Assembly introduced a memorandum that declared Bosnia-Herzegovina to be a sovereign republic within its existing administrative boundaries. The memorandum also stated that Bosnian delegates would not participate in any federal institution unless representatives of the other five Yugoslav republics

were also present. It was again reiterated that Bosnia would not be part of any Yugoslavia that did not include Serbia and Croatia.

The Serb deputies protested, arguing that adoption of the memorandum would violate Bosnia's constitution. There could be no change in Bosnia's status within the Yugoslav federation without the agreement of all three of Bosnia's constituent nations. There was some basis to this claim. In July 1990, the Bosnian assembly had adopted a number of constitutional amendments that emphasized the equality of Bosnia's three nations. Any attempt by two nations to outvote a third would clearly be a violation of the equality of nations. For example, Amendment LXX declared:

A Chamber for issues of achieving equality among peoples and nationalities ... shall be formed in the SRBH Assembly. The Chamber shall comprise an equal number of deputies from the Muslims, Serbs and Croats of BH, and an appropriate number of deputies from the ranks of the other peoples, nationalities and groups living in BH. The Chamber shall make its decisions based on agreement of the members of all the peoples and nationalities ... Following a proposal from the Chamber, the SRBH Assembly shall decide on issues of interest for implementation of the equality of peoples and nationalities of BH, according to a special procedure determined by the SRBH Assembly Rules of Procedure, and by a two-thirds majority of all the deputies.<sup>74</sup>

During the debate on the memorandum, the Serb deputies proposed an adjournment. The Muslims and Croats refused to adjourn. The president of the assembly, Momcilo Krajisnik, a Serb and a member of Karadžić's party, called a halt to the debate. He claimed that the memorandum was unconstitutional and cited an agreement among members of the ruling three-party coalition that one national group could not be outvoted by an alliance of the other two on matters of national interest. Krajisnik adjourned the debate, and the Serb deputies left the chamber. The Muslim and Croat deputies stayed behind and voted to adopt the memorandum.<sup>75</sup>

The memorandum's proclamation that it expressed "the will of the majority of the deputies of this Assembly, and as such, also the political will of the majority of Bosnia-Herzegovina's citizens" could not be taken seriously.<sup>76</sup>

In response to the adoption of the memorandum, Karadžić's SDS party withdrew from the Izetbegović-headed coalition government and announced that it would establish its own assembly and that it would hold a referendum on whether Bosnia's Serbs wished to remain in Yugoslavia. By the end of October, the SDS had established the Assembly of the Serb Nation in Bosnia-

Herzegovina, and by early November it had organized the referendum. The question Bosnia's Serbs were asked was: "Do you agree with the decision of the Assembly of the Serbian people in Bosnia and Herzegovina ... that the Serbian people should remain in a common Yugoslav state with Serbia, Montenegro, SAO Krajina, SAO Slavonija, Baranja and Western Srem, and with others who have come out for remaining [in Yugoslavia]?"<sup>77</sup> The answer, not surprisingly, was a near-unanimous yes.

### SABOTAGING THE SFRY PRESIDENCY

Meanwhile, as the day approached on which the three-month moratorium negotiated at Brioni was set to expire, Croatia ratcheted up the anti-Belgrade rhetoric. The worse the alleged horrors inflicted on Croatia, the more it deserved international recognition. Leading the chorus of denunciation of the JNA was the president of the SFRY presidency, Stjepan Mesić, the man the Europeans and the Americans were so anxious to thrust into that position. Claiming he was the president of Yugoslavia (which he wasn't), Mesić traveled around Europe and America regaling his listeners with horrifying tales of alleged JNA atrocities. The media contributed to the confusion that Mesić was deliberately fostering by continually referring to him as Yugoslavia's "commander in chief," though he was nothing of the sort.<sup>78</sup> If Mesić were the real commander in chief, then it stood to reason that the JNA was either out of control or under the control of the "Serb-dominated collective presidency."

In early September, Mesić, speaking on behalf of himself, ordered JNA troops to return to their barracks. "If the army doesn't react," he said, "I will declare that the army's top leaders are acting irregularly, and that means a military coup."<sup>79</sup> In mid-September, Mesić called on the JNA to cease its "aggression on Croatia and Bosnia-Herzegovina," and to "go over to the side of the people." The JNA was "acting on its own will," Mesić asserted, "following orders not issued by the presidency. We are obviously dealing with a military coup."<sup>80</sup> This was a flat-out lie. There was no evidence that the JNA was circumventing the authority of the federal presidency. Mesić at this time was in a minority of one in the presidency.

Bringing up Bosnia was a shrewd move. There was no fighting at this time in Bosnia. However, if the JNA were to attempt to break the siege of its barracks in Croatia, its forces would have to enter Croatia via Bosnia, where many of them were stationed. The suggestion, however false, that the JNA was launching aggression against Bosnia was bound to have resonance in the

rest of Europe. Mesić didn't forget to keep the United States posted. Visiting Washington, he helpfully informed the senators that "Yugoslavia is responsible for supplying Iraq with the technology to produce sarin chemical weapons in 1986 and was instrumental in the construction of a chemical factory for the same weapon between the years 1983 and 1985."<sup>81</sup> This was barely six months since the end of the first Gulf War and, as expected, Mesić's "disclosure" had the politicians on Capitol Hill foaming at the mouth. Mesić even found time to tell the U.S. Senate Foreign Relations Committee that the JNA was using poison gas in Croatia.<sup>82</sup>

One city Mesić didn't visit was Belgrade. Throughout September, the SFRY presidency was unable to meet largely because neither Slovenia's representative nor Mesić would ever show up.<sup>83</sup> Finally, on October 1, the SFRY presidency met and announced that Yugoslavia was facing an imminent threat of war.<sup>84</sup> This meant that the presidency could meet without every republican and provincial representative having to be in attendance. All six members of the presidency who attended this meeting voted in favor of this decision.

Mesić immediately denounced both the meeting and the "imminent threat of war" proclamation as a "military putsch." He alleged that the JNA had prevented him from attending the session of the presidency by "means of tanks on the highway and a blockade of air traffic." Interestingly, Mesić had had few problems traveling to Washington a few days earlier. Moreover, Mesić had not requested the SFRY authorities to lay on transport to take him to Belgrade. Instead, he proposed holding a meeting of the presidency on the islands of Brioni, which were a part of Croatia. However, no one else on the presidency favored going to Brioni.

The presidency's move, Mesić fumed, had been engineered by the "Serbian bloc." Since non-Serbs had also supported the decision, Mesić was forced to express disappointment that "Messrs Bogić Bogićević [Bosnia's representative on the presidency] and Vasil Tupurkovski [Macedonia's representative] have joined the military putsch." Mesić's mention of the support of Bogićević and Tupurkovski for the declaration was significant, for it was an acknowledgment that Croatia and Slovenia were in the minority on the presidency. Yet the Western media that echoed Mesić's claims failed to mention the votes of the representatives of Bosnia and Macedonia for the emergency proclamation.<sup>85</sup>

On October 3, the SFRY presidency met again. This time, neither Bosnia's Bogićević nor Macedonia's Tupurkovski showed up. Nonetheless, the four members of the presidency who were present announced that while the "imminent threat of war" existed the presidency would continually be in session

and would adopt decisions on the basis of a majority of votes of those members of the presidency who attended. That same day, the secretary-general of the presidency wrote to Mesić telling him that it was “imperative that members of the SFRJ Presidency be present in Belgrade if possible or at a distance which would enable work to commence within two hours of convening the session.” It was essential therefore to “take measures, through your office and the Head of the Protocol of the SFRJ Presidency, for you to come or be taken to Belgrade in case of need.” Mesić, of course, refused to take up this invitation.

The United States threw its weight behind Mesić. The State Department declared that any meetings of the SFRY presidency amounted to “a clear attempt by Serbia and Montenegro to seize control of the federal Government. In such circumstances, the United States does not accept that this rump group legitimately speaks for Yugoslavia.”<sup>86</sup> The JNA’s “use of force against Croatia,” the State Department spokesman added, “is clearly against the will of four of the six Yugoslav republics represented in the Presidency.” The European Community also endorsed Mesić’s claims about illegalities and coups. It issued a statement calling on the “Council [sic] for Security and Cooperation in Europe as well as on the Security Council of the United Nations ... to denounce the role played by JNA and the coup d’état by four members of the federal presidency.”<sup>87</sup>

These denunciations were wide off the mark. No one had prevented Mesić or anyone else from attending meetings of the presidency. Though only four out of the eight members of the presidency attended, there was no evidence that the SFRY presidency had acted illegally, still less that some kind of a putsch or a coup d’état had taken place. The October 1 decision was in accord with the SFRY presidency’s rules of procedure, which were adopted in 1982. The claim that the SFRY was facing an imminent threat of war was unexceptionable. There was a war going on in Croatia. The Yugoslav presidency – not Mesić – was the country’s supreme command. It would have been bizarre for it not to meet. Mesić had been, and would continue to be, invited to attend. Furthermore, he was kept abreast of all decisions taken at the presidency. In any case, neither Mesić nor anyone else took the matter up with Yugoslavia’s constitutional court.

The Western media’s willful gullibility was extraordinary. Almost in unison, they unquestioningly accepted Mesić’s claim that “Only the federal president, Croatia’s Stipe Mesić, is empowered to convene sessions of the ruling body that commands the armed forces.”<sup>88</sup> No authority other than the say-so of Mesić was ever cited in support of this contention. In fact, there was

nothing in the rules saying that the presidency could only be convened by the president or that it could make no decision without the presence of the president. To the contrary, Article 3 of the presidency's rules of procedure was quite explicit on the matter: "If the president of the presidency is absent or otherwise unable to do so, the vice president shall convene and preside over the sessions." According to Article 33, if the vice president is absent or unable to attend, "the session shall be presided over by a member of the Presidency appointed by the Presidency" – by the presidency, not by the president.

According to Article 44, the presidency would decide "on matters within its competence by a majority of the votes of all members of the Presidency." However, on a matter such as "the necessity of passing a law or other regulation on temporary measures," the presidency could decide with a two-thirds majority of all presidency members. That would include "adopting the Rules of Procedure of the Presidency and acts on the powers of the president of the Presidency in a state of war, in case of imminent danger of war and other such extraordinary circumstances, when the Presidency is unable to meet." The decision on the "imminent threat of war" had been taken by six of the eight members of the presidency. So the two-thirds standard had been met.

As usual, the ICTY, following the lead of the Western powers and media, had taken Mesić's assertions at face-value: Serbia was supposedly trying to seize control of Yugoslavia. The Bosnia indictment against Milošević, for example, said that "On 3 October 1991, the four members of the SFRY Presidency from Serbia and Montenegro ... assumed the function of the SFRY Presidency, circumventing the roles and responsibilities of the Presidency members from Slovenia, Croatia, Bosnia and Herzegovina and Macedonia." The prosecutors went further and even claimed, ludicrously, that the SFRY presidency had made no finding as to an imminent threat of war. During the Milošević trial, on February 13, 2006, one of the prosecutors claimed that

the six Presidency members did not declare or conclude that there was an imminent threat of war, and therefore that's why the Presidency, the Rump Presidency, as we call it, is illegal, and all the decision and steps they took were illegal ... The movements of the JNA directed by this Rump Presidency, that's our focus, that this was all illegal.<sup>89</sup>

The ICTY claim was particularly absurd given that the presidency's October 1 decision on the imminent threat of war is in the ICTY's own archives.<sup>90</sup> Curiously, the ICTY's indignation that the federal presidency had supposedly acted illegally contrasts starkly with its insouciance on the issue of whether

Slovenia and Croatia had acted illegally in seceding. The body best qualified to determine who in Yugoslavia had violated the constitution was that country's constitutional court. The court had ruled that Slovenia and Croatia had both acted illegally when they declared themselves first sovereign, then independent. The court had never ruled the "imminent threat of war" declaration to be unconstitutional.

The ICTY's insistence on this point is not so strange. The ICTY was established in large part to sustain the regnant E.U.-Washington-NATO version of the breakup of Yugoslavia. According to that story, Serbia waged aggressive war against everyone else in order to create a Greater Serbia. It was this ambition that prevented Yugoslavia's peaceful dissolution into seven separate states that the Europeans and the Americans had selflessly envisaged. The ICTY's role is to vindicate the West's actions in recognizing the secessionist republics and to assign blame for the wars in Yugoslavia on the SFRY presidency and the JNA, which, supposedly, were acting as proxies for Serbia.

In fact, it was Mesić's determination to convene a meeting of the presidency at Brioni that was flagrantly in violation of the presidency rules. The rules mandated meetings in Belgrade. Any change of venue had to be supported by the presidency members. Mesić had no more authority to hold meetings in Brioni than he had to issue orders to the JNA on behalf of the presidency. Though Washington and Bonn threw their support behind Mesić, no one on the presidency did so. The Slovenes wanted to have nothing to do with any Yugoslavia in any form. The Bosnian and Macedonian representatives, though they didn't attend the sessions of the presidency, did not put their names to any of Mesić's orders.

What Mesić's opponents on the federal presidency had feared would happen were he to take over as president had now come true. Mesić was using the office of president to advocate on behalf of Croatia and to seek the dissolution of Yugoslavia. On October 2, Mesić wrote to U.N. Secretary-General Perez de Cuellar on SFRY presidency-headed notepaper claiming that the JNA was "operating autonomously and outside of the framework of the existing institutions." Yugoslavia "does not exist anymore," he announced. It wasn't Croatia's secession that had caused this. It was, needless to say, Milošević. He was the one who had "torn down the Yugoslav federation." Serbia and the JNA were the aggressors. The only way to stop them was "by recognizing the new reality ... The only way out now is the recognition of the new subjects within their borders, because otherwise ... the flames of war that have already been started by the last bolshevik bastion, Slobodan Milošević's Serbia, will be spread to the wider European area."

On October 3, Mesić again wrote to Perez de Cuellar, this time declaring himself to be “the President of a country in which the aggressive policy of one of the republics, the Republic of Serbia, has destroyed the constitutional order of the country and brought the atrocities of war and destruction to the Republic of Croatia.” Mesić now upped the ante, talking of “human values” that were endangered by the “one-sided and egoistic members of the human race.” He lamented the “inability of the international community to prevent aggressive and totalitarian forces to attack, molest and destroy the democratic societies.” Invoking the spirit of Churchill, Mesić asked “Have we forgotten about international solidarity and need for the democratic forces of the World to unite against the emerging dark forces of totalitarianism?”

On October 4, Mesić wrote an even more impassioned appeal to Perez de Cuellar, claiming that the Yugoslav federal defense minister, Veljko Kadijević, had declared war on Croatia. “The survival of the republic of Croatia and the Croatian people is at stake,” he asserted. The federal army was “destroying one whole nation for the purposes of the sick ambitions of the Serbian bolshevik [sic] regime.”

“Totalitarianism,” “bolshevik bastion,” democratic solidarity – Mesić certainly knew his audience. Recycling Cold War boilerplate was bound to appeal to Washington. The “Serbia equals Bolshevism equals totalitarianism” equation was to prove a brilliant propaganda coup for Croatia.

### PRESSURE FOR RECOGNITION

Croatia’s claim that Yugoslavia had ceased to exist was to provide the Europeans with a useful alibi. By October, their resistance to German pressure to recognize the secessionist states was evaporating. Throughout the summer and fall, the Germans had been pressing the Europeans to recognize Croatia and Slovenia, arguing that they were pro-Western democracies that wanted to be free of Communist or Serb-dominated Yugoslavia. By September, even French President François Mitterrand had taken to issuing statements such as “It’s clear that these (Yugoslav) republics do not want to live together anymore. It’s important that they do not continue to kill each other, that they determine the borders and pledge to protect minorities.”<sup>91</sup>

If recognition of Croatia and Slovenia could be presented as reluctant acceptance that Yugoslavia had ceased to exist or, better still, as justified punishment meted out to a government that had used excessive force, then the West would be off the hook on the charge that it had helped to destroy an

internationally recognized state. The E.C. governments as well as Washington now raised the volume of the condemnations they rained down on Belgrade. British Foreign Secretary Douglas Hurd declared that the JNA was “not an army, but a band of brigands.”<sup>92</sup> (Hurd’s “brigands” had abjectly withdrawn from Slovenia after a few days of fighting and had responded with extraordinary passivity to a three-month-long siege of its barracks in Croatia. The JNA had made no serious attempt to break the blockade even though conscripts were going without food, water, medicine, and electricity.)

Europeans reassured themselves with the argument that in the new post-national Europe, nation-states were a thing of the past. Secession therefore posed only a human rights problem: if Croatia and Slovenia would commit to the protection of minority rights, there would be nothing further to worry about. The argument was naïve and self-serving. When people lose their state they will not be fobbed off with minority rights, even assuming that such rights would be scrupulously observed, which, in the case of Tudjman’s Croatia, was highly doubtful.

### THE CARRINGTON PLAN

After unsuccessfully negotiating a number of ceasefires, the European Community announced on August 27, 1991 the convening of a peace conference and the establishment of an arbitration procedure. Needless to say, the E.C. used the announcement to denounce once again the JNA and the Serbs, but not the Croats. It “can no longer be denied,” the E.C. declared, “that elements of the Yugoslav People’s Army are lending their active support to the Serbian side.” The E.C. called “on the federal presidency to put an immediate end to this illegal use of the forces under its command.” The E.C. did not explain what it meant by the “Serbian side” or by “illegal use” of the JNA. The conflict in Croatia at this stage pitted the secessionists against the JNA, the armed forces of the legally constituted authorities. The “Serbian side” was therefore the side of the legally constituted authorities. The claim that use of the JNA was somehow “illegal” showed the extent to which Europe had by October accepted the Germany/Mesić interpretation of what was going on in Yugoslavia. As would often prove to be the case in subsequent years, the U.N. secretary-general offered a more balanced account in his report of October 25, 1991. He described the conflict in Croatia as “pitting on one side the Yugoslav National Army (JNA) and supplementary military units as well as irregular Serb forces against, on the other side, the territorial forces of the Republic of Croatia as well as Croatian irregulars.”<sup>93</sup>

Lord Peter Carrington, a former British Tory defense secretary, was appointed chairman of the E.C. Peace Conference on Yugoslavia. The arbitration commission was to comprise five members, three of whom would be selected by the E.C. and two by the Yugoslav federal presidency. However, as the Yugoslav presidency couldn't agree on whom to appoint, the three E.C.-appointed members decided to choose the other two. As a result, not one of the arbitrators came from anywhere other than the European Community. There was no one from the Balkans, no one from Russia; no one, in other words, who might be expected to have some expertise on the issues being considered. No perspective other than that of the E.C. circa 1991 entered into consideration.

The five arbitrators were Robert Badinter, chairman of the French Constitutional Council; Roman Herzog, president of the German Constitutional Court; Aldo Corasaniti, president of the Italian Constitutional Court; Francisco Thomas y Valiente, president of the Spanish Constitutional Court; and Irene Petry, president of the Belgian Constitutional Court. Badinter was selected as chairman. A narrower perspective could scarcely be imagined.

The peace conference, under Carrington's chairmanship, convened at The Hague on October 4, 1991. In attendance were the presidents of the six republics and the eight members of the federal presidency. While representatives of the Croatian Serbs were invited to the conference, they were told that they could take part only in discussions about the "rights of minorities." The centerpiece of the conference was a plan for the future of Yugoslavia drawn up by Carrington, grandly titled "Arrangements for General Settlement." The plan encapsulated the E.C. approach to Yugoslavia. There was to be independence for those who wanted it, minority rights for those who didn't want it, and no changes to internal boundaries. As van den Broek, president of the E.C. Council of Ministers, explained, the solution to Yugoslavia's crisis would be based on "recognition of the independence of those republics wishing it, at the end of the negotiating process conducted in good faith."

The Carrington plan envisaged Yugoslavia as a very loose confederation of states. The country would consist of "sovereign and independent republics with international personality for those who wish it"; a "free association of the republics with an international personality"; "comprehensive arrangements ... for the protection of human rights and special status for certain groups and certain areas"; and "in the framework of a general settlement, recognition of the independence, within the existing borders, unless otherwise agreed, of those republics wishing it."<sup>94</sup>

Carrington did, however, stipulate that areas "in which persons belonging to a national or ethnic group form a majority, will enjoy a special status

(autonomy).” This would include “the right to have and show the national emblems of that group”; the “right to a second nationality for members of that group”; and “a legislative body,” an “administrative structure, including a regional police force” and a “judiciary.”

Carrington and the E.C. now deftly outmaneuvered the Serbs. The eight members of the federal presidency had been invited to The Hague along with the six presidents of the republics. The Serbs could thus count on four votes on the presidency in support of their position that Yugoslavia should continue to exist. The E.C. got around this by arguing that, as the presidency had lost its legal standing by convening meetings without Mesić, its wishes could be ignored. The only votes that mattered were those of the six republican presidents, whom the E.C. now took to be the legitimate representatives of Yugoslavia.

There was no legal basis for the E.C.’s position. Issues affecting the sovereignty and territorial integrity of Yugoslavia fell within the purview of the federal presidency, the federal assembly, and the federal constitutional court. Article 283 of the 1974 constitution said that only the SFRY Assembly could decide on amendments to the constitution or alterations to the boundaries of the SFRY. Article 313 said that only the federal presidency, not any of the republics, could “represent the [SFRY] at home and abroad.”

Moreover, by taking the six republican presidents as the arbiters of the fate of Yugoslavia, the E.C. was ignoring the views not only of national minorities but also of Serbia’s two autonomous provinces. Article 1 of the 1974 constitution said that the SFRY was a “state community of voluntarily united nations and their socialist republics, and of the Socialist Autonomous Provinces of Vojvodina and Kosovo, which are constituent parts of the Socialist Republic of Serbia.” Article 2 said that the SFRY consisted of the socialist republics and the socialist autonomous provinces. Therefore, the autonomous provinces had to have a say on any fundamental change to Yugoslavia.

The E.C. worthies, voices still hoarse and blood pressure still dangerously high from all that indignation over the SFRY presidency holding meetings without Mesić, now dismissed the very constitution that they had been invoking and ignored the views of Kosovo and Vojvodina, not to mention the SFRY Assembly, the SFRY presidency, and Yugoslavia’s federal constitutional court.

This contrivance enabled the E.C. to secure the outcome it desired. Serbia was obviously expected to oppose the Carrington plan. The Serbs were the most populous nation in Yugoslavia and would therefore be the biggest losers in any dissolution of their common state. More than a third of Yugoslavia’s Serb population would find themselves minorities in someone else’s

state. According to the 1981 census, approximately 3 million of the more than 8.1 million Serbs living in Yugoslavia resided outside of Serbia and its two autonomous provinces.<sup>95</sup> The Serbs were bound to look upon a Carrington-style confederation as a cover for Yugoslav dissolution. On top of that, confederation would work exclusively to the advantage of the richer republics, which would get unrestricted access to the Yugoslav market but no obligation to pay anything into a common fund for security and regional development. Slovenia, in the meantime, would continue to receive the revenues from customs duties. "These proposals not only disrupt the internal constitutional continuity of Yugoslavia, but also abolish Yugoslavia itself," Milošević told the conference. "Yugoslavia was created by the Yugoslav peoples and any decision to abolish it must be adopted by means of a people's referendum. None of the participants at the Conference have the authorization to accede to these arrangements, nor does the Conference as a forum have this right."<sup>96</sup>

Slovenia and Croatia, having already declared independence, would naturally be expected to favor the Carrington plan. Macedonia, having held a plebiscite in late September, albeit without Albanian and Serb participation, could also be expected to support the plan. Bosnia, following the October 15 adoption of the memorandum on sovereignty – albeit without the participation of Serb representatives – could also be expected to be in favor. That only left Montenegro. Anxious to win the tiny republic over to its side, the E.C., on the eve of the conference, dangled a huge monetary bribe before Montenegro. Italy and Montenegro launched negotiations for a program of co-operation. According to Italy's foreign minister, Gianni de Michelis, the program amounted to something in the range of "30 or 40 billion lire in various projects, for Montenegro, a country of 600,000 inhabitants."<sup>97</sup>

The bribe worked. Montenegro's president, Momir Bulatović, came out in favor of the Carrington plan. On the other hand, Montenegro's representative on the federal presidency, Branko Kostić, rejected it. Carrington got around this little difficulty by refusing to allow Kostić to address the conference.<sup>98</sup> Carrington abruptly cut Kostić off in mid-stream. In response, the four members of the post-October 1 Yugoslav federal presidency walked out of the conference room.

These maneuvers enabled the E.C. to pretend that the Serbs were a minority that had been outvoted, five to one, by the other Yugoslavs. The E.C. story had it that Carrington's plan had been overwhelmingly accepted by everyone in Yugoslavia except for the obstreperous Serbs. Hans van den Broek, the Dutch foreign minister, now openly vented his fury at the Serbs: "It cannot be accepted that one party block progress for the others. If five republics are will-

ing to cooperate, we should continue the negotiations to obtain a settlement with those five. We feel certain pressures have to be carried out to obtain full participation in good faith by all parties.” Belgium’s foreign minister, Mark Eyskens, echoed him: “It appears clear to us now that Serbia and the federal government are blocking the whole peace process.”<sup>99</sup>

The E.C. foreign ministers now adopted the approach that was to become familiar in the coming years. The Carrington plan had to be accepted in its entirety. Anyone caught quibbling would be subjected to economic sanctions, and perhaps worse. “If Serbia continues to say no, we’ll go on with the (other Yugoslav republics). Then there will be the possibility of sanctions against Serbia,” Van den Broek explained. “An intransigent Serbia could face a gradually strengthening web of sanctions ranging from an end to economic aid, through a freeze on foreign assets to a boycott of oil and trade in general.”<sup>100</sup>

The E.C.’s resort to sanctions was extraordinary, given that at an October 4 news conference Van den Broek had admitted that the so-called ceasefire in Croatia was being “violated by all parties.” At the same news conference, the Dutchman had demanded that Croatia’s authorities lift “immediately the blockade of JNA garrisons and other facilities.” Yet no blockade-lifting had taken place and fighting had continued.

Nonetheless, in what was to become a familiar pattern, the E.C. on November 8 made good on its threats and imposed sanctions against one party only: Yugoslavia. Meeting on the fringes of a two-day NATO summit in Rome, the 12 E.C. foreign ministers announced a restriction on imports of Yugoslav textiles, suspension of a trade and economic cooperation agreement worth \$900 million, and an end to preferential trade. They also called on the U.N. Security Council to impose an oil embargo.

The E.C.-imposed sanctions didn’t go far enough for Germany. Genscher immediately announced that Germany favored “halting deliveries of oil, coal and steel to Serbia and freezing assets of the Serbian-controlled Yugoslav Central Bank.”<sup>101</sup> Of course, the E.C. issued the standard pieties on the subject of recognition. Van den Broek declared that “a policy of *fait accompli* as such is not acceptable and that assuming that the 12 would ever recognize unilateral change of borders is an illusion.” Furthermore, “the prospect of recognition of the independence of those republics who wish it can only be envisaged in the framework of an overall settlement.”<sup>102</sup> This boilerplate was to be rendered null and void within weeks.

On October 25, Carrington circulated a further paper titled “Treaty Provisions for the Convention.” The plan now envisaged that the “special status” areas, those largely inhabited by national minorities, would be demilitarized.

There would also be international monitoring of implementation of the “special status of autonomy.” This draft convention included extensive commitments to the protection of human rights. Chapter II, Article 2 (c) addressed the special status of minorities. Again, there was the promise, clearly a reference to the Serbs, stipulating that in “areas in which persons belonging to a national or ethnic group form a majority, shall enjoy a special status of autonomy.” Such a status includes “(a) the right to have and show the national emblems of that group; (b) the right to a second nationality for members of that group; (c) an educational system which respects the values and needs of that group; [and] (d) (i) a legislative body, (ii) an administrative structure ... and (iii) a judiciary.”<sup>103</sup>

The Europeans had approached Yugoslavia as if they were dealing with a bunch of particularly retarded juvenile delinquents. Their condescending attitude was perfectly encapsulated by Van den Broek’s exasperated complaint that, though he wanted to “continue impartial mediation,” it was “unacceptable that one or more republics blocks the progress of others.” However, while he and Carrington may have satisfied themselves that their mediation was impartial, this was by no means obvious to anyone else.

Consider the Dutchman’s claim that Serbia alone was holding up an agreement that everyone else had accepted. To begin with, Serbia wasn’t the only republic objecting to Carrington’s plan. Slovenia had also rejected it in tones more disdainful than Serbia’s. Milošević for example, had hailed the Carrington plan, particularly its “special status” provisions, as a “good starting point.” Kučan, on the other hand, had made it clear that he had no interest in any confederal solution. Nothing short of outright independence would satisfy him. He dismissed the conference as a pointless exercise, saying: “It is quite clear Yugoslavia and its central institutions no longer exist. So it is a waste of time and energy to try to restore their legitimacy.”<sup>104</sup> Yet no threats of sanctions were forthcoming against Slovenia, not even a warning about the withholding of international recognition.

Second, Montenegro really could not be counted in the pro-Carrington column. Bulatović had accepted the Carrington plan, but not Kostić. Worse, Bulatović came under immediate attack in the Montenegro republican assembly. On returning to Podgorica, Bulatović had to promise the assembly that Montenegro would hold a referendum on the E.C. plan. He then joined Milošević in proposing an amendment to the Carrington plan. Serbia and Montenegro proposed that, in addition to offering independence to those that wanted it, the Carrington plan provide for the continued existence of a diminished Yugoslavia for those who wanted that. Instead of the E.C.’s one-

size-fits-all model – namely, independence all round plus a vague, unspecified confederation – there would be the option of a “common state of equal republics and nations that wish to remain in Yugoslavia.”

Third, Van den Broek had blithely ignored an issue that was already staring the Europeans in the face: the growing crisis in Bosnia. The E.C. had foolishly taken Izetbegović as representing the will of Bosnia. But Izetbegović spoke, at best, only for Bosnia’s Muslims, who comprised some 43% of the republic’s population. Bosnia’s Serbs, who constituted a third of the republic’s population, were clearly opposed to the Carrington plan.

Fourth, the Dutchman had failed to take into consideration the situation in Macedonia and in Serbia’s two autonomous provinces. The E.C. took Kiro Gligorov, Macedonia’s president, to be speaking on behalf of all Macedonians. This was a remarkable sleight of hand in light of the Europeans’ noisy concern over the supposed plight of Kosovo’s Albanians. Macedonia had held a plebiscite in September 1991 on the issue of sovereignty and independence. However, Macedonia’s Albanians, constituting something like 25% of the republic’s population, had refused to take part in the vote. Thus, Albanian support for the effective dissolution of Yugoslavia, and for minority status in an independent Macedonia, could by no means be assumed. The same applied to Kosovo’s Albanians. While their preference may well have been departure from Yugoslavia, given the choice that was on offer to them at The Hague – membership of an independent Serbian republic or membership of a Yugoslav federation – they would very likely have opted for the latter.

Most important, the Serbs were scarcely a small minority in Yugoslavia. According to the 1991 census, Serbs constituted 36.3% of Yugoslavia’s population. Those who identified themselves as Yugoslavs constituted 5.4% of the population.<sup>105</sup> Most of them were Serbs. It’s a safe bet that those who identified themselves as Yugoslavs would be in favor of preserving Yugoslavia. That would come to 41.7% of Yugoslavia’s population. Consider then the E.C.’s overwhelming majority: Croats were 19.7%, Muslims 8.9%, Slovenes 7.8%, and Macedonians 5.9%. That comes to 42.3% of the population. Though Bulatović had supported the Carrington plan, Montenegro clearly did not. And Montenegro did elect to join Serbia in maintaining Yugoslavia. Montenegrins constituted 2.5% of Yugoslavia’s population. The Serbia-Montenegro-Yugoslavia bloc constituted 44.2%. Furthermore, the E.C. had not taken into consideration the views of the Albanians (7.7%) or the Hungarians (1.9%). Neither the Albanians of Kosovo nor those of Macedonia could be taken to be supportive of the E.C./Carrington/Van den Broek agenda.

Van den Broek's minority of one out of six was actually 44.2% of Yugoslavia. And his majority of five out of six amounted to 42.3%. Yet the E.C. slapped sanctions on the side representing 44.2% and gave to the side representing 42.3% everything it wanted. The E.C.'s subsequent hand-wringing bafflement as to how its impartial mediation and good intentions could have resulted in war was thoroughly disingenuous. When one tries to ram through a massive constitutional change in the teeth of fierce opposition from at least half of the population, one can hardly then turn around and express astonishment that people resorted to guns to settle matters.

### THE NON-ARBITRATION COMMISSION

In its August 27 statement, the E.C. had urged the "relevant authorities" to submit their differences to an "arbitration commission." However, when the parties submitted their differences, something very odd happened. Carington took it upon himself to alter significantly the issues the "relevant authorities" had presented. From the start, the task of the arbitration commission was to put a legal gloss on what the E.C. had in effect already decided.

The Arbitration Commission of the International Conference on the Former Yugoslavia wasn't any kind of an arbitration body at all. To be sure, it adopted some of the procedures laid down by the 1907 Hague Convention on the Pacific Settlement of International Disputes, but it discarded most of the others. For example, the commission kept the requirement that the panel consist of five members. The commission also followed the specified time limitation of two months. The E.C.'s August 27 declaration stipulated that the decisions had to be ready within two months of the arbitrators being requested to act.

Badinter's commission didn't remotely follow the arbitration procedures set down in the 1907 Hague Convention. Article 37 defines arbitration as the settlement of disputes "between States by Judges of their own choice." In the case of Yugoslavia, however, the parties to the dispute had had no say in the appointment of the commission members. Crucially, the issues that were presented to the commission for arbitration had been drastically rewritten by the chairman of the conference, who represented no one in the dispute.

The E.C. made sure to rig the commission's rules. On September 3, it issued a declaration that the "Chairman will transmit to the Arbitration Commission the issues submitted for arbitration, and the results of the Commission's deliberations will be put back to the Conference through the Chair-

man.” The rules of procedure for the arbitration were to be established by the arbitrators themselves. Yet Article 52 of the Hague Convention specified that, “The Powers which have recourse to arbitration sign a ‘*Compromis*,’ in which the subject of the dispute is clearly defined ... The ‘*Compromis*’ likewise defines, if there is occasion, the manner of appointing Arbitrators.” This was repeated almost verbatim in the International Law Commission’s 1958 Model Rules on Arbitral Procedure, which held that the parties “having recourse to arbitration” would “conclude a *compromis*,” spelling out, first, “[t]he subject-matter of the dispute and, if possible, the points on which the parties are or are not agreed”; and second, “[t]he method of constituting the tribunal and the number of arbitrators.”<sup>106</sup>

Amusingly, Article 53 of the Hague Convention lays it down that arbitration is inappropriate if one party declares that “in its opinion the dispute does not belong to the category of disputes which can be submitted to compulsory arbitration.” However, in 1992, when Serbia and Montenegro objected to three of the questions posed by Carrington, claiming that they were outside the arbitrators’ terms of reference, the Badinter commission ruled that it alone would decide what was and what wasn’t within its jurisdiction.<sup>107</sup>

Rather than explain how existing international law would apply to the conflict in Yugoslavia, Badinter’s commission took it upon itself to rewrite international law altogether. Doubtless that was the reason the E.C. preferred to turn matters over to its own appointed body rather than to the International Court of Justice, the usual forum for resolving legal disputes between states.

The commission’s 13 opinions were literally post-facto in that most of them were issued after the European Community had already recognized Croatia, Slovenia, and Bosnia. The first opinion came in December 1991, the last in July 1993. The commission made four key rulings. First, it determined that Yugoslavia was a state in dissolution. Therefore, the republics that were seeking to exit Yugoslavia weren’t really seceding. They were responding to an intolerable state of affairs. There was neither a legal nor a factual basis for this finding. Most of Yugoslavia wanted to keep the country going. Slovenia and Croatia were in the minority. In any case, the people of Yugoslavia had not had the opportunity to vote on whether or not to preserve the federation. In addition, Yugoslavia’s constitutional court had already ruled the independence declarations to be illegal. By asserting that Yugoslavia was a state in dissolution, Badinter was essentially prejudging the very issue his commission was set up to arbitrate. The secessionists get everything; the non-secessionists nothing.

Second, Badinter declared that the internal administrative boundaries drawn up by Tito's partisans during World War II would be the international frontiers of Yugoslavia's successor states. Again, this was clearly contrary to Yugoslavia's constitution. Badinter had adopted the standard Western approach toward Yugoslavia, and indeed toward the former Soviet Union. Communist-era boundaries were deemed sacrosanct, no matter how arbitrarily and opportunistically drawn up. On the other hand, the decisions of institutions that may have originated in the Communist past were deemed to have no value whatsoever.

Third, Badinter declared that any Yugoslav republic that was interested in becoming an internationally recognized state needed only to hold a referendum on the issue and to pledge undying commitment to the protection of human rights.

Fourth, Badinter declared that the aspirations of those who wanted to remain in Yugoslavia were of no account. Those who wanted to continue to live in Yugoslavia would be unable to do so. Their state would be deemed to be a new state, not the continuation of Yugoslavia. This was really adding insult to injury. Not only had Badinter rewarded the secessionists by granting them all of their wishes, he punished the non-secessionists by refusing even to acknowledge their aspirations.

It is hard to avoid the conclusion that Badinter was seeking to provide a post-facto legal gloss on E.C. policy. The commission justified what it did by pointing to the supposed humanitarian goal at stake, namely, the liberation of oppressed nations.

Curiously enough, there was nothing in Badinter's opinions about arbitration, nothing about the establishment of a process for resolving disputes. Once Badinter was done, there really was no need to talk any further. The nationalists who had insisted on unilateral and immediate secession got everything they wanted. Therefore, they had no incentive to negotiate something that had already been settled. Those who lost out from Badinter were left with two alternatives. They could accept what European power-brokers had ordained for them and grumble ineffectually about the injustice of it all. Or they could take matters into their own hands, just as the secessionists in Croatia and Slovenia had done. Doubtless, Badinter believed that by presenting the Yugoslavs with a *fait accompli*, his commission would avert war. In fact, the commission's rulings made war a certainty. By declaring administrative boundaries to be international frontiers, the commission ensured that any disputes about them would become international conflicts.

### THE BADINTER MANEUVERS

The Badinter commission was supposed to answer questions posed by parties to the dispute as transmitted to it by Lord Carrington. However, while Carrington sought out the views of Yugoslavia's republics, he didn't bother to solicit the views of the country's federal government or its constitutional court. He did seek out the personal views of Mesić, who, however, offered his views without consulting the presidency that he nominally headed. Mesić, as usual, served as an advocate on behalf of Croatia.

Crucially, Carrington altered the questions posed by the parties. The dispute that needed arbitrating was the one between the secessionist republics and the federal government. Carrington, however, turned it into a dispute between the Serbs and everyone else. For example, Serbia had asked the question: "Is secession a legal act from the standpoint of the United Nations Charter and other rules of international law?" However, Carrington changed this question into a completely different one:

Serbia considers that those Republics which have declared or would declare themselves independent or sovereign have seceded or would secede from the SFRY which would otherwise continue to exist. Other Republics ... consider that there is no question of secession, but the question is one of a disintegration or breaking-up of the SFRY as the result of the concurring will of a number of Republics. They consider that the six Republics are to be considered equal successors to the SFRY.

He then asked Badinter for his opinion on the matter. Carrington's reformulation was significant. Secession isn't recognized in international law and states abhor it. The Western powers couldn't go on the record as sanctioning secession. Therefore, if the secession of Croatia and Slovenia were to be recognized, as Germany was demanding, it would have to be called something else. Carrington replaced the term secession by the term disintegration. For the Western powers, avoidance of the word secession had the additional advantage of enabling them to insist that the core state of Yugoslavia, the part that would remain after the secessions, no longer existed.

It was no surprise, therefore, that Badinter did indeed declare Yugoslavia to be a state "in the process of dissolution." Badinter's justification for this finding was peculiar. He claimed that the republics had "expressed their desire for independence." As evidence, he cited the referendums in Croatia, Slovenia, and Macedonia, as well as the sovereignty resolution adopted by

the Bosnian parliament in October 1991. But the plebiscites had posed vague, almost incomprehensible questions and had been boycotted in substantial numbers. The constitutionality of Bosnia's resolution was highly dubious, as even Badinter acknowledged. Neither Macedonia's plebiscite question nor Bosnia's sovereignty resolution had even mentioned the word "independence."

These plebiscites had taken place in the immediate aftermath of the fall of Communism and the first multiparty elections in different republics. There had been no multiparty elections in Yugoslavia. There had been no Yugoslav referendum on the future of Yugoslavia. The governments that had organized these republican plebiscites had not even had time to face re-election. As the SFRY presidency was to note in its bitter response to Badinter's Opinion No. 1, "no political agreement has been reached in Yugoslavia on the state and political destiny of the country, as a result of a general Yugoslav referendum as advocated by the Presidency of the SFRY." The referendums that had been held in (a few) republics took place "under conditions of highly exacerbated and even armed conflicts among nations as well as media blockade and closing on the part of some of the republics, as well as in the absence of objective Yugoslav and international control." The referendums had asked people to "express their will on the basis of questions that were not precise enough, and on the basis of which one cannot definitely and with certainty come to the conclusion about the authentic will of the citizens of the given republic."

Badinter's determination lacked any of the legal seriousness that marked the Canadian Supreme Court's 1998 opinion on the issue of Quebec's possible secession. Canada's court pointed out, correctly, that a plebiscite vote for independence does not automatically confer a right to independence:

The democratic vote, by however strong a majority, would have no legal effect on its own and could not push aside the principles of federalism and the rule of law, the rights of individuals and minorities ... The negotiations that followed such a vote would address the potential act of secession as well as its possible terms should in fact secession proceed. There would be no conclusions predetermined by law on any issue. Negotiations would need to address the interests of the other provinces, the federal government and Quebec and indeed the rights of all Canadians both within and outside Quebec, and specifically the rights of minorities. The negotiation process would require the reconciliation of various rights and obligations by negotiation between two legitimate majorities, namely, the majority of the population of Quebec, and that of Canada as a whole.

That's the point. The secession of any part of a country affects every other part. Therefore, it's a matter on which every part of a country has to be allowed to have its say. There has to be a nationally agreed upon procedure to address the issue. A locally held plebiscite won't suffice. It was a point made also by Yugoslavia's constitutional court apropos of Croatia's secession. The right to secession, the court said,

cannot be exercised unilaterally by individual peoples or by documents adopted by their parliaments. This right can be exercised only under specific conditions and in the specific manner agreed upon jointly and severally by all peoples and their republics in accordance with the [SFRY] Constitution. The fact that the [SFRY] Constitution does not contain provisions stipulating the procedure for exercising the right to self-determination, including the right to secession, does not mean that this right can be exercised by unilateral acts.

The same went for Slovenia. Slovenia could not unilaterally declare itself independent of the SFRY until the federal constitution was changed "or until a procedure is determined, on the basis of mutual agreement and the Constitution of the SFRY, on the future arrangement of relations among the republics, since this would signify a unilateral change in the structure of the [SFRY] and a unilateral alteration of its borders, which is not in accordance with the SFRY Constitution."

Badinter had craftily made his starting point the assertion that Yugoslavia's federal organs had ceased to function. They "no longer met the criteria of participation," the arbitration panel claimed, as they were "powerless to enforce respect for ... succeeding ceasefire agreements." Justifying secession on the ground that secessionists had made the work of government impossible is bad law and even worse morality. By Badinter's logic, secessionists need only to disrupt the work of government and engage in violence to merit international recognition. It was also the height of impudence for the Western powers – which had threatened the Yugoslav federal government with punishment if it were to resort to force, first to disarm the paramilitaries and second, to end the secessions – now to turn around and cite the inability of the government to exert itself as evidence of its unworthiness to be considered a proper government. Besides, fairness should have dictated that the Croatian secessionists' failure to enforce respect for ceasefire agreements nullified their claim to a state of their own.

On December 7, 1991, when Badinter published this, his first, opinion, only two of the republics had seceded; most of Yugoslavia was still intact.

Crucially, the Western powers that were now rushing to declare Yugoslavia to be ancient history had never insisted on a federal plebiscite on the future of Yugoslavia. Clearly, the dissolution of Yugoslavia, which was almost certain to lead to war, was not an outcome the Western powers were anxious to forestall. As Woodward pointed out,

Western powers and organizations enthusiastically welcomed the appearance of competitive elections in 1990 and even the revival of right-wing, exclusionary, ethnic nationalism when it came in the guise of anti-communism. But their apparent commitment to elections ... was not strong enough, when republics began to press for independence, to insist that citizens have a chance ... to register their preferences on the breakup of the country before it was dissolved. In the decisions made in 1991, Europe accepted without question that the people who had the right to self-determination were the majority nations within the republics, not the Yugoslav people as a whole.<sup>108</sup>

Badinter's opinion blithely took no account of what Yugoslavia's constitutional court had ruled, namely that

Yugoslavia is not a contractual association of sovereign states ... Yugoslavia was not created as a federation of sovereign and independent states in the form of republics ... but as a federal state of the peoples of Yugoslavia and their republics. Therefore, every republican act by which a republic is declared a sovereign and independent state is an unconstitutional change of the state structure of Yugoslavia, that is, an act of secession.<sup>109</sup>

Of Yugoslavia's six republics, only two – Serbia and Montenegro – had existed as independent states before the establishment of Yugoslavia. Interestingly, Serbia and Montenegro were the two states that were keenest on maintaining Yugoslavia.

Carrington also altered the second question that Serbia had posed. Serbia had asked: "Who is entitled to the right to self-determination from the standpoint of public international law: a nation or a federal unit? Is the right to self-determination a subjective, collective right or the right of a territory?" However, the question Carrington transmitted to Badinter was changed to: "Does the Serbian population in Croatia and Bosnia-Herzegovina, as one of the constituent peoples of Yugoslavia, have the right to self-determination?" In his response, issued on January 11, 1992, almost a month after Germany had already recognized Croatia and Slovenia, Badinter airily declared that it

is “well established” that the “right to self-determination must not involve changes to existing frontiers at the time of independence (*uti possidetis juris*) except where the States agree otherwise.” Badinter cited no legal opinion to support this extraordinary statement. Nor did he explain how he arrived at the conclusion that Yugoslavia’s existing administrative boundaries merited the label “frontiers.”

The republican borders drawn up by Tito’s Partisans during World War II were never supposed to be anything other than administrative. In his memoirs, *Wartime*, Milovan Djilas quotes Tito as saying, “With us this will be more of an administrative division, instead of fixed borders, as with the bourgeoisie.”<sup>110</sup>

Badinter went on to explain that “where there are one or more groups within a State constituting one or more ethnic, religious or language communities, they have the right to recognition of their identity under international law.” Consequently, the Serbs in Bosnia and Croatia had to be “afforded every right accorded to minorities under international conventions.” Badinter had thus not only failed to address the issue that Serbia had raised, namely, who has the right to self-determination, he didn’t even acknowledge Carrington’s point that the Serbs in the SFRY were “one of the constituent peoples of Yugoslavia” and thus possessed the right to self-determination. Instead, Badinter babbled on about something that was neither here nor there: the rights of minorities.

Although it wasn’t at all clear what Badinter meant by minority rights, it was clear what he did not mean. Minority rights did not include the right to self-determination. The Serbs of Bosnia and Croatia had the right, whether they chose to exercise it or not, to exit Yugoslavia, but not the right to remain in Yugoslavia. They had the right to remain in the independent states of Bosnia and Croatia, but not the right to leave Bosnia or Croatia. Badinter’s message to the Serbs was that they had lost their common state – Yugoslavia – but, not to worry, they would be guaranteed freedom of worship, freedom of assembly, and all the other wonderful freedoms on offer in Europe.

The Badinter commission’s argument wasn’t terribly convincing. If minority rights were really the only issue in contention, then why not stick with the tried and true state? Why not stick with Yugoslavia and promise full minority rights in a state that had already been in existence for more than 70 years? The Western powers would surely be as capable of monitoring Yugoslavia’s compliance with a human rights regime as they would be of monitoring the performance of a half-dozen new states. Wouldn’t one state be easier to guide than six?

Badinter's most peculiar finding concerned the international frontiers of Yugoslavia's successor states. In its Opinion No. 3, the Badinter commission declared that Yugoslavia's internal boundaries had to "become frontiers protected by international law." Badinter claimed that this conclusion followed from "the principle of respect for the territorial status quo" and from the principle of *uti possidetis juris*, which, the commission explained, was applied in settling decolonization issues in Africa. In support, Badinter cited the International Court of Justice's ruling in *Burkina Faso v. Mali*, which said that the purpose of the principle of *uti possidetis* was to "prevent the independence and stability of new States being endangered by fratricidal struggles." Therefore, Badinter claimed, there could be no changes to the boundaries between any of the republics "except by agreement freely arrived at."

The *Burkina Faso* decision was of extremely limited relevance to the case of Yugoslavia, as it involved a border dispute between two African states that had formerly been French colonies. It had nothing to do with secession from an existing state. The principle of *uti possidetis juris*, as it had historically been applied, converted former colonial administrative boundaries into the international borders of newly independent states. However, there was nothing in the *Burkina Faso* decision to indicate that the ICJ intended this principle to apply in any context other than decolonization. *Uti possidetis* was designed to prevent border disputes between newly emergent states. "Agreement that existing colonial borders were to be international borders was a precondition to the application of *uti possidetis juris* in the decolonization context in Latin America and Africa," international law scholar Peter Radan wrote. But *uti possidetis* was irrelevant to Yugoslavia, for there were no disputes among the republics over their boundaries within their common existing state. The dispute that had emerged in 1991 was over whether these boundaries could be taken to be international frontiers. The question Carrington had asked Badinter was: "Can the internal boundaries between Croatia and Serbia and between Bosnia-Herzegovina and Serbia be regarded as frontiers in terms of public international law?" Badinter didn't answer the question, preferring instead to elaborate on why these borders couldn't be changed.

Furthermore, as Radan pointed out, the principle of "respect for the territorial status quo" was irrelevant to Yugoslavia. This "principle requires that the borders be determined by treaty or agreement. In the case of the SFRY, internal federal borders were not the subject of any legal document or act of any state or republic institution. They were established by the inner sanctum of the Communist Party of Yugoslavia following World War II."<sup>111</sup> They possessed the authority neither of law nor of history.

As proof of the reasonableness of the *uti possidetis juris* requirement, Badinter pointed triumphantly to Article 5 of Yugoslavia's constitution, which said that the boundaries of republics could not be altered without their consent. However, Badinter ignored the rest of Article 5, which held that "A border of the SFRY cannot be altered without the concurrence of all republics and autonomous provinces." In other words, there was no right to unilateral secession. Badinter likewise made no mention of the article's stipulation that "The territory of the SFRY is indivisible." Republican borders were inviolable only in the context of the continued existence of Yugoslavia as a whole. This is spelled out in other parts of the 1974 constitution. Articles 283 and 285 stated that only the SFRY assembly could "decide on alteration of the boundaries" of the SFRY.

Yugoslavia did not come into being through a union of pre-existing republics that had determinate borders. It was the nations of Yugoslavia that came together to form a common state. The preamble to the 1974 constitution opens with "The nations of Yugoslavia, proceeding from the right of every nation to self-determination, including the right to secession, on the basis of their freely expressed will ... have joined together into a federal republic of free and equal nations and nationalities."<sup>112</sup> It is the nations of Yugoslavia that established a single federal republic of Yugoslavia. It is not individual republics that came together to create a federation of republics. Article 1 said that the SFRY was a "state community of voluntarily united nations and their socialist republics."

Badinter even had the gall to cite the 1970 Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States, according to which, any alteration "of existing frontiers and boundaries by force is not capable of producing any legal effect." This was, of course, a highly selective reading of the 1970 declaration. Badinter, much as the ICTY was to do subsequently, arrived at political conclusions, then rummaged around among various legal documents to select various findings, rip them out of context, mix them together, and offer up the resulting stew as weighty legal opinions. That 1970 document, for example, stated:

Nothing ... shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States ... Every State shall refrain from any action aimed at the partial or total disruption of the national unity and territorial integrity of any other State or country.

Badinter paid no attention to this any more than he paid any attention to Article 5 of the 1974 constitution.

Thus Badinter's absurd conclusions: the administrative boundaries of the republics are inviolable but the international frontiers of Yugoslavia merit no respect. Self-determination is an inherent right that belongs to territories, not to nations. New states can be trusted to secure the rights of all of their citizens but long-standing states cannot. Minority rights must be vehemently protected, but only as long as such rights don't include the right of national self-determination.

In Yugoslavia, as in any state, internal boundaries were changed regularly. Such changes were dictated by one administrative exigency or another. By suddenly declaring such borders to be inviolable, Badinter was suggesting that Yugoslavs had been gambling in a casino that, unbeknownst to them, was about to close down for good. The most recent winners on the roulette wheel got to keep all of their winnings. Those on a recent losing streak would have to accept that their losses were permanent, as the house was closed for business.

But the Badinter commission wasn't done yet. In order to reach the desired outcome – the legally existing state of Yugoslavia, having ceased to exist, must be replaced by a half-dozen or so tiny, weak states – it now had to reverse itself. The commission had invoked the principle of *uti possidetis* to argue that republics deserve international recognition within their inviolable administrative boundaries. But Badinter now turned around to say that *uti possidetis* did not apply to the core of Yugoslavia, namely, that core that wished to continue as the successor-state to Yugoslavia. Instead, Badinter declared that, as the state of Yugoslavia had ceased to exist, the remnant of Yugoslavia that had not seceded was a new state. It would therefore have to reapply for entry to the United Nations.

"The FRY [Federal Republic of Yugoslavia]," the commission declared, "is a new state that cannot be considered to be the sole successor of the SFRY." Badinter's ruling was bizarre, for it contradicted international practice: Russia was taken to be the successor-state of the USSR; Pakistan wasn't required to reapply to the United Nations after the 1970 secession of East Pakistan and its emergence as the new state of Bangladesh, even though the population size of the latter was greater than that of Pakistan; post-Independence India took over British India's seat at the U.N. even though its territory had been massively reduced through partition. Badinter didn't bother to explain why the case of Yugoslavia was different.

**BADINTER V. BOSNIA**

Badinter had to say something about Bosnia, a republic that was rapidly heading toward catastrophe. On November 10, 1991, Bosnia's Serbs voted in a plebiscite to remain in Yugoslavia. On December 21, the Bosnian Serb assembly passed a resolution calling for the formation of a Serbian Republic of Bosnia-Herzegovina within a federal Yugoslavia if Bosnia's Muslims and Croats decided to "change their attitude toward Yugoslavia." On January 9, 1992, the Bosnian Serb assembly proclaimed the independence of a "Serbian Republic of Bosnia and Herzegovina," with its capital as Sarajevo. A constitution for the Serbian Republic of Bosnia and Herzegovina was promulgated on March 16. The preamble reiterated the Serb argument, namely, that the right to self-determination inhered in nations not in territories. "Proceeding from the inalienable and non-transferable natural right of the Serb people to self-determination ... on the basis of which it freely determines its political status." The republic was proclaimed a "part of the federal state of Yugoslavia."

Bosnia's Croats also prepared to secede from Bosnia. Their preferred destination was not Yugoslavia but Tudjman's Croatia. On August 18, 1990, Bosnia's Croats established the Croatian Democratic Union (Hrvatska Demokratska Zajednica Bosnia, HDZ). It was closely linked to the Croatian party of the same name led by Tudjman. The Bosnian Croats in no time set up their own state in Western Herzegovina, the "Croatian Community of Herzeg-Bosna," with Mostar as its capital. Mate Boban was its leader; it had its own flag (derived from the flag of Croatia), its own armed forces, and its own currency, which was the Croatian kuna. "The Croatian national cause was quickly embraced by the Western Herzegovinians, who had broken all ties with the central government in Sarajevo as early as the spring of 1991 and formed a Croat crisis staff in the fall of that year while at the same time organizing paramilitary units to defend the region," wrote one scholar.<sup>113</sup>

Bosnia, according to Badinter's Opinion No. 4 issued on January 11, 1992, did not yet merit recognition as an independent state. This was because the will of the people of Bosnia "cannot be held to have been fully established." However, rather than apply common sense and point out that the will of the people of Bosnia could only be established if all of the republic's constituent nations were polled, Badinter announced that the commission would be satisfied with a single "referendum of all the citizens ... without distinction, carried out under international supervision." Since Badinter knew that the Serbs would boycott any referendum in which they were likely to be outvoted by Bosnia's Muslims and Croats, the commission was sanctioning something

that Bosnia's constitution was designed to avoid, namely, two constituent nations ganging up on the third. It was certainly a strange way of protecting human rights.

On January 25, 1992, while the Serb representatives were absent (they had withdrawn from the chamber following the October 14 memorandum maneuver), Bosnia's national assembly voted to hold a plebiscite to ask voters the question: "Are you in favor of a sovereign and independent Bosnia and Herzegovina?" Karadžić immediately discounted the results of any such referendum. The Bosnian Serbs had already held a referendum in November 1991. "The Serbian people have held a plebiscite and voted for staying in Yugoslavia with all those who wish to do so," he said.

The Bosnian referendum nonetheless went ahead on February 29 and March 1, 1992. As expected, the Serbs boycotted the proceedings. Of those who voted, 99.44% were in favor. That was good enough for Badinter, though it shouldn't have been. While 99.44% may sound like an overwhelming majority, it only amounted to 63.37% of Bosnia's eligible voters. And that, according to Bosnia's constitution, was not enough to effect constitutional change. In July 1990, the Bosnian assembly had adopted a constitutional amendment that specified the number of votes needed to bring about fundamental change in Bosnia. Amendment LXII stated that the borders of Bosnia "may be altered by a decision of the [assembly] only in accordance with the will of the people of the entire Republic as expressed by at least two-thirds of registered voters in a referendum."<sup>114</sup> 63.37% was obviously not 66.67%.

Furthermore, according to Amendment LXXVII, any bill to amend the constitution could be considered adopted only "if voted for by two-thirds of the total number of deputies of each SRBH Assembly Chamber." This obviously had not happened because the Serbs had left the assembly. To be sure, Karadžić's withdrawal from the Bosnian assembly may have been of dubious legality, but it had come in response to moves on the part of the assembly's Muslim and Croat parties that were also of dubious legality. In any case, it was the height of irresponsibility for Badinter to ignore the Serb boycott and to pretend that the views of all of Bosnia's citizens had been solicited.

Thus Bosnia – a territory that had never existed as an independent state, having been passed from the Ottomans to the Habsburgs to the Karadjordjeiches to the Fascist Independent State of Croatia to Tito's Yugoslavia; a territory that in 1992 comprised armed groups ready to wage war against one another; a territory presided over by a government with no resources and no authority beyond downtown Sarajevo, this non-existent state – was nonetheless deemed worthy of membership of all the august international institutions.

Badinter's reasoning was particularly absurd in light of Opinion No. 1, according to which Yugoslavia was no longer in existence because it was supposedly "in the process of dissolution." As evidence, Badinter had cited the failure of the federal authorities to meet the "criteria of participation and representativeness" and "to enforce respect for the succeeding ceasefire agreements concluded under the auspices" of the E.C. and the U.N. These considerations apparently did not apply to the entirely imaginary state of Bosnia.

### THE E.C. RECOGNITIONS

The Badinter recommendations were guaranteed to trigger a mad rush for the exits in Yugoslavia and thus catastrophe. It was not just the Serbs who overnight lost their Yugoslav citizenship and became minorities in states to which they didn't want to belong. There were also the Kosovo Albanians who now became a minority within Serbia. There were the Albanians in Macedonia who lost their Yugoslav citizenship and became Macedonians. There were Bosnia's Croats who wanted to join a newly independent Croatia. The secessionists had used force to get what they wanted. If Croatia's and Slovenia's seizures of their republican borders could transform them into international frontiers, then why shouldn't any seizure of land today turn out to be a state frontier tomorrow? Badinter's bland acceptance of Croatia's and Slovenia's unilateral acts as a *fait accompli* was bound to lead others to conclude that what counts for the so-called international community is use of force to change the facts on the ground. Thus the Balkan wars' distinctive feature: ethnic cleansing, the purpose of which was to forge new territorial arrangements in anticipation of the next round of international arbitration.

Though Badinter's recommendations were supposed to be advisory, not binding, the European Community immediately took them to be binding, except of course whenever political expedience suggested that they not be binding. By December 1991, it was clear that the E.C. had lost whatever resistance it once had to Germany's recognition agenda. On December 16, the E.C. promulgated guidelines for the recognition of new states. To merit recognition, new states would need to demonstrate a commitment to human rights and to the inviolability of frontiers. Crucially, the E.C. stipulated that applicants for recognition "accept the provisions laid down in the draft convention – especially those in Chapter II on human rights and rights of national or ethnic groups – under consideration by the Conference on Yugoslavia."

The draft convention, which Carrington had presented on October 25, had urged “special status of autonomy” for minorities. The E.C. also announced that any Yugoslav republic had until December 23 to apply for recognition. Four of Yugoslavia’s republics, including Bosnia, applied for recognition as independent states.

By issuing this declaration, the E.C. was signaling that it had already prejudged the issues the Badinter commission had been appointed to resolve. The reference to minorities indicated that a republic could expect to enjoy recognition as the nation-state of the most populous nation within it. This was particularly absurd when applied to Bosnia, since it suggested that Bosnia was the nation-state of the Bosnians. No such people had ever existed. Residents of Bosnia identified themselves as Muslims, Serbs, and Croats. Yet Bosnia’s secession was now inevitable. Izetbegović had vowed to declare independence the moment Croatia and Slovenia were accepted as no longer part of Yugoslavia.

With war in Bosnia a virtual certainty, Carrington now tried to halt the E.C. juggernaut. On December 2, he wrote a letter to van den Broek in which he pointed out that, “An early recognition of Croatia would undoubtedly mean the break-up of the conference. There is also a real danger, perhaps even a probability, that Bosnia Herzegovina would also ask for independence and recognition, which would be wholly unacceptable to the Serbs in that republic ... This might well be the spark that sets Bosnia Herzegovina alight.”<sup>115</sup> Perez de Cuellar also foresaw catastrophe and he too pleaded with the E.C. not to go ahead with recognition. On December 10, the U.N. secretary-general wrote to Van den Broek warning against premature recognition. “I am deeply worried that any early, selective recognition could widen the present conflict and fuel an explosive situation in Bosnia-Herzegovina and also Macedonia; indeed, serious consequences could ensue for the entire Balkan region,” he said.<sup>116</sup>

In response, on December 13, German Foreign Minister Hans-Dietrich Genscher wrote to Perez de Cuellar arguing that refusal to recognize Croatia and Slovenia

would necessarily lead to a further escalation of the use of violence by the JNA since they would regard this as a confirmation of their policy of aggression. I would like to point out that according to the Helsinki Final Act and the Paris Charter, the borders in Europe are inviolable and cannot be changed by force. Therefore, the E.C. has demanded that the internal and external borders of Yugoslavia be respected.<sup>117</sup>

Again the equation: recognition is humanitarian; non-recognition is a vote for violence. In his reply, Perez de Cuellar pointed to the startling “omission” from Genscher’s letter “of any reference to the common position” adopted by the E.C. foreign ministers in Rome on November 8, namely, that recognition can only be envisaged within the context of an overall political settlement. There had been nothing remotely approaching a political settlement. Like Carrington, the U.N. chief warned that “early selective recognitions could result in a widening of the present conflict” to Bosnia and Macedonia.<sup>118</sup>

These last-minute interventions failed. On December 19, just three days after the E.C. had issued its guidelines, Germany broke ranks and recognized Croatia and Slovenia. Though the international borders of Yugoslavia had been altered through manifestly non-peaceful means, the non-international boundaries of Croatia and Slovenia had remained intact. Germany was therefore able to pretend that its action was in accord with the Helsinki Final Act and that its unilateral move was prompted by the German people’s heightened sensitivity to the oppression of nations.

On January 15, 1992, the E.C. followed Germany’s lead and recognized Croatia and Slovenia, claiming that the two states had met the conditions laid down by Badinter and its own December 16 guidelines. The E.C.’s claim was wholly untrue. To qualify for independent statehood, Croatia, according to Badinter, needed to amend its constitution to grant “special status” to the Serbs. Croatia had refused to do so. On January 11, 1992, Badinter had issued Opinion No. 5, which stated that Croatia’s constitution had “not fully incorporated all of the provisions of the draft Convention ... notably those contained in Chapter II, Article 2(c), under the heading ‘Special status.’” Acceptance of the human rights provisions of Carrington’s draft convention had also been one of the requirements for recognition that the E.C. had insisted on in its December 16 declaration. Croatia never did amend the constitution. But that didn’t trouble the Europeans too much. To get the E.C. off the hook, the Germans pressed Tudjman into writing a letter to Badinter on January 13 assuring him that Croatia fully intended to accommodate its Serb minority. That’s all the E.C. needed.

Amusingly, the E.C. refused to recognize Macedonia even though, according to Badinter’s Opinion No. 6, it did merit recognition. Unlike Croatia, Macedonia had satisfied the E.C.’s December 16 guidelines. The reason for the E.C.’s reluctance was not the refusal of some 25% of Macedonia’s population – the Albanians – to take part in the independence referendum. What troubled the Europeans was Macedonia’s name, which Greece, an E.C. member, found irksome. Greece claimed that Macedonia was located in the north-

eastern part of the Greek peninsula, incorporating the territories of ancient Macedon.

Having ignored Badinter's recommendations in regard to Croatia, Bosnia, and Macedonia, the Europeans decided to follow scrupulously the opinion pertaining to the Yugoslav core state. Opinion No. 10 stated that the Federal Republic of Yugoslavia (FRY) was "a new state" and could not be considered to be "the sole successor of the SFRY." On June 29, 1992, the European Council declared that neither the E.C. nor its member states would "recognize the new federal entity comprising Serbia and Montenegro as the successor State of the former Yugoslavia." In addition, the European Union would "demand the suspensions of the delegation of Yugoslavia in the proceedings at [the Conference on Security and Cooperation in Europe] and other international forums and organization." On July 20, the E.U. announced that, in light of Badinter's findings, it would "oppose the participation of Yugoslavia in international bodies."

Interestingly, on April 27, the FRY promulgated a new constitution. It was packed with the sort of human rights and minority rights boilerplate beloved by the E.C. and by Badinter:

The Federal Republic of Yugoslavia shall recognize and guarantee the rights of national minorities to preserve, foster and express their ethnic, cultural, linguistic and other peculiarities, as well as to use their national symbols, in accordance with international law ... Freedom of the expression of national sentiments and culture and the use of one's mother tongue and script shall be guaranteed ... Members of national minorities shall have the right to education in their own language, in conformity with the law ... Members of national minorities shall have the right to information media in their own language ... Any incitement or encouragement of national, racial, religious or other inequality as well as the incitement and fomenting of national, racial, religious or other hatred and intolerance shall be unconstitutional and punishable.

Article 2 declared that the FRY "shall be composed of the Republic of Serbia and the Republic of Montenegro." No other territories of Yugoslavia, no Serbs residing anywhere other than in Serbia and Montenegro were deemed as belonging to Yugoslavia. Neither the Serb Republic of Krajina nor the Bosnian Serb Republic was part of the FRY. This did nothing to still the cry that Belgrade was seeking to create a Greater Serbia by laying claim to lands belonging to its neighbors.

These commitments made no difference. The constitution committed the cardinal sin of stressing the “unbroken continuity of Yugoslavia.” Washington and Brussels were determined not to recognize the FRY; unlike Slovenia, Croatia, and Bosnia, it was not permitted to take part in the 1992 Summer Olympics in Barcelona.

Croatia and Bosnia, which had not fulfilled the E.C.’s or Badinter’s conditions, were now accepted as independent states. Macedonia, which had fulfilled those conditions, wasn’t accepted. The Croatian government did not control about a third of its territory; the Bosnian government controlled little but downtown Sarajevo, if that. Yugoslavia, which was in effective control of its territory, was deemed not to exist.

### **SABOTAGING A LAST-DITCH PEACE EFFORT**

The Bosnian catastrophe that Carrington and Perez de Cuellar had foreseen was now all but certain. In urging Bosnia to hold a referendum on independence, one that would inevitably be boycotted by one of Bosnia’s three constituent nations, one comprising a third of its population, Badinter and the E.C. were leading Izetbegović to disaster.

On the eve of Bosnia’s international recognition, for the first and probably the last time, there was a rush of common sense among some international worthies. There was a sudden realization that, in order to avoid a catastrophe similar to the one that befell Croatia, it might be prudent to secure a political agreement among the republic’s three nations before a proclamation of independence rather than afterward. This sudden outburst of sanity didn’t last long.

On February 23, 1992, with Portugal holding the E.C. presidency, the country’s foreign minister, Jose Cutileiro, organized a last-minute E.C. conference on Bosnia. Attending the meeting in Lisbon were Radovan Karadžić on behalf of the Bosnian Serbs, Mate Boban on behalf of the Croats, and Alija Izetbegović on behalf of the Muslims. Bosnia’s Serbs, who had previously refused to countenance any other option but remaining within Yugoslavia, were now prepared to accept an independent state of Bosnia, provided the state was divided into three separate units. “We cannot accept the loss of the state of Yugoslavia without getting our own state within Bosnia-Herzegovina,” Karadžić explained. “Either we remain in Yugoslavia, or else we will get a sovereign state in Bosnia-Herzegovina which will form an alliance of states, that is a confederation, together with the other two states.”<sup>119</sup>

Bosnia's Croats were also receptive to the idea. With Bosnia's referendum scheduled for February 29, the Muslim-Croat alliance was suddenly on the brink of collapse. The Croats and the Serbs both now adopted the position that Bosnia should be a state community of three sovereign nations and not a single, unitary state. Izetbegović, on the other hand, continued to insist that Bosnia should be treated like any other Yugoslav republic with sovereignty belonging exclusively to a so-called Bosnian nation.

Cutileiro put forward a plan providing for decentralization, consensual decision-making, and restrictions on simple majority rule. The plan envisaged Bosnia as "a state comprising a number of constituent units, along national principles." Sovereignty, the plan announced, "rests with members of the Muslim, Serbian and Croatian peoples and other peoples and nationalities who exercise it through their civic participation in the constituent units and the republic's central organs." The plan was thus in conformity with Bosnia's constitution.

The United States was distinctly unenthusiastic about Cutileiro's proposal. Having been outmaneuvered by the Germans on Croatia and Slovenia, and by the E.C. in general on Yugoslavia, the Americans were scrambling to get in on the action. If Croatia and Slovenia were to be in Germany's column, Bosnia would belong to the Americans. U.S. Secretary of State James Baker told Haris Silajdžić, Bosnia's foreign minister, that Washington expected Bosnia's three warring factions to accept Cutileiro's plan. However, Baker immediately undercut this by assuring Silajdžić that the application for recognition that Bosnia had submitted to the E.C. on December 20 would be granted given the maturity and responsibility that the republic's leaders had demonstrated. With recognition of independence assured, Bosnia's Muslims went to Lisbon with little incentive to reach an agreement.

Nonetheless, on March 18, it appeared as if the leaders of Bosnia's three national communities had agreed on a formula of independence plus cantonal division. The leaders of Bosnia's constituent nations signed a statement of principles. Bosnia's parliament would have two houses. One house would comprise a chamber of citizens; its members would be elected directly. The other house would be a chamber of the constituent units; each constituent unit would have an equal number of representatives. Vital national and constitutional issues would be decided on by the chamber of constituent units by a majority vote of four-fifths of the total number of its representatives.<sup>120</sup> Maps of the constituent units would be drawn up by a working group composed of three members from each of the three nations, as well as three people, including the chairman, nominated by the E.C.<sup>121</sup>

Bosnia's assembly would have to approve the draft of this constitutional solution. Cutileiro promised that before the draft became law, Bosnia would hold an internationally supervised referendum.

However, the deal was a non-starter from the start. On March 10, the E.C. and the United States declared their intent to recognize Bosnia and expressed strong opposition to "any effort to undermine the stability and territorial integrity" of either Bosnia or Macedonia. This time it was the Americans, not the Germans, who acted as spoilers. Baker urged the European foreign ministers "to recognize Mr. Izetbegović's Government immediately." In return, Washington would recognize Croatia and Slovenia. Meanwhile, U.S. policy-makers were pressing the Europeans to "stop pushing ethnic cantonization of Bosnia."<sup>122</sup>

Once again, the Western powers were only too happy to ignore Badinter's recommendations whenever it suited them. Badinter had said that Bosnia's request for recognition could only be considered after a "referendum of all the citizens ... without distinction." The meaning was clear. Recognition could be considered only after a referendum in which Bosnia's Muslims, Croats, and Serbs had all taken part. Nothing of the sort had occurred. Wisely, neither the Europeans nor the Americans made any attempt to ascertain whether the Bosnian referendum had met Badinter's conditions. They simply assumed that it had, even though the Serbs, the second-largest constituent nation of Bosnia, had boycotted it.

The March 18 Cutileiro-sponsored agreement had thus put a spanner in the works. The Americans made no secret of their unhappiness with what had taken place in Lisbon. "Izetbegović's acceptance of partition, which would have denied him and his Muslim party a dominant role in the republic, shocked not only his supporters at home, but also United States policymakers."<sup>123</sup> Through the intervention of Zimmermann, the United States moved, as it was to do many times during the next few years, to sabotage the agreement. Zimmermann called on Izetbegović in Sarajevo. "The Bosnian leader complained bitterly that the European Community and Bosnian Serbs and Croats had pressured him to accept partition. 'He said he didn't like it,' Mr. Zimmermann recalled. 'I told him, if he didn't like it, why sign it?'"<sup>124</sup>

With U.S. support under his belt and with the international community apparently ready to accept an independent Bosnia with or without cantonization, Izetbegović withdrew his signature from the Lisbon agreement. The division of Bosnia was out of the question, he announced. He had agreed to the Cutileiro plan, he explained, only because he had been subjected to so much pressure. "The European mediators forced us to accept this document

... because if we had said no, Bosnia-Herzegovina's international legal recognition – our main objective at present – would have been jeopardized.”<sup>125</sup>

A last-minute deal that might have averted war had been successfully thwarted. In a final plea to Western leaders, Karadžić warned that, in the event of recognition, Bosnia's Serbs would organize their own state within Bosnia. In January 1992, Bosnia's Serbs had already proclaimed a separate republic of Serbian people in Bosnia. If the Western powers insisted on recognition, Karadžić suggested, they should extend it to the confederation of Bosnia-Herzegovina.

The U.S. and the E.U. ignored Karadžić's plea and rushed to recognize a state that was little more than three warring factions facing off against one other. On April 6, the E.C. recognized Bosnia. On the following day, in accordance with the Washington-Brussels deal, the United States recognized Bosnia, Croatia, and Slovenia.<sup>126</sup> Bosnia's Serbs, as Karadžić had promised, set up their own state: the Serb republic of Bosnia proclaimed its independence from Bosnia and its continuing membership of Yugoslavia.

To be sure, negotiations under Cutileiro's chairmanship on a constitutional solution for Bosnia continued in a desultory fashion for a little while longer. Needless to say, Izetbegović was thoroughly unenthusiastic about prolonging discussions at the end of which he was bound to end up with less than he had already been given. Cutileiro had to plead with him to return to Lisbon; the E.C. even arranged for a special plane to get him there.

On May 6, in Graz, Austria, Karadžić met Franjo Boras, representative of the Bosnian Croats. After the meeting, Karadžić expressed satisfaction, claiming that the two sides had agreed on Bosnia's cantonization and that a map of Bosnia-Herzegovina would be ready by May 15. On hearing of these talks at Graz, U.S. Senator Robert Dole (R-Kan.) fired off an angry letter to Tudjman, accusing the Serbs and Croats of reaching a deal at the expense of the Muslims. Muslim-Croat deals at the expense of the Serbs were fine; Serb-Croat deals at the expense of the Muslims were abhorrent.

Tudjman now had some fence-mending to do. Dole had long been a keen supporter of Croatia.<sup>127</sup> Loss of his patronage on Capitol Hill would be a serious blow. Tudjman knew how to get around Dole: he denounced the Serbs and Communists. The Croats were seeking a reasonable solution, Tudjman explained. The Serbs were “conducting armed aggression against” Bosnia. The Muslims were not much better. They were “in favor of a sovereign and unitarian Bosnia-Herzegovina – as it had been during the communist reign.”<sup>128</sup> It was the Croatian side that had come up with “a rational and compromise solution” at the Lisbon conference, namely, preservation of “the

sovereignty and integrity of Bosnia-Herzegovina, which would consist of three constituent nations living in their cantons.” The purpose of the bilateral talks in Austria had been to “win over the Serbian side to end the aggression and to agree on peaceful talks between all three nations.” Sadly, he doubted that the Serbs could be won over to the camp of peace. Dole wasn’t buying any of this and the Serb-Croat talks came to an end.

With the situation in Bosnia deteriorating daily, Carrington decided that the Lisbon talks had to be reconvened whether a ceasefire was in place or not. On May 19, the E.C. sent out letters of invitation, drafted by Carrington, to Bosnia’s leaders saying that “only a political agreement based on principles laid down on March 18 by the three parties” could be the basis for lasting peace. In addition to the inviolability of Bosnia’s frontiers and the unacceptability of territorial gains by force, Carrington listed a third guiding principle for the talks: an independent Bosnia would be “formed by three constitutional units, as set down on March 18.”<sup>129</sup> Again, Izetbegović was being asked to discuss something he abhorred.

Talks were scheduled to open on May 21. Karadžić and Boban arrived on time; Izetbegović refused to attend. In his place, he sent Haris Silajdžić, Bosnia’s foreign minister. But Silajdžić didn’t arrive in Lisbon until May 23. “The sooner we draw maps, that is, the sooner we agree on delineation, the sooner the war would end,” Karadžić declared at the start of the talks. On May 23, however, the E.C. announced that it was studying what further sanctions it could impose on Yugoslavia. And, on May 24, U.S. Secretary of State Baker announced that he would seek to pressure the United Nations to impose sanctions on Yugoslavia. Quite why Yugoslavia was to blame was a little baffling; for months, the stumbling block had been Izetbegović’s refusal to countenance a cantonal division of Bosnia. Failure of the Lisbon conference was assured.

A total collapse of the talks was secured three days later. On May 27, an enormous explosion took place in Sarajevo killing at least 17 people queuing for bread outside a bakery. The Muslims immediately blamed the deaths on a Serb mortar attack and pulled out of the Lisbon talks.<sup>130</sup> The Serbs denied the accusations, but that made no difference. The same day, before any kind of investigation of the incident could even begin, the E.C. announced an almost complete ban on trade with Yugoslavia. All forms of scientific and technological co-operation with Yugoslavia were suspended, and all export credits frozen. The E.C. also announced that it was withdrawing the various trade concessions that it had dangled before Montenegro in order to induce it to break with Serbia. A gleeful E.C. diplomat was quoted as saying, “The Ser-

bian economy is already close to collapse, with inflation approaching 100 per cent annually. These additional measures will bite very hard indeed and must cause the Serbian government to think again about its expansionist strategy elsewhere in the former Yugoslavia.”<sup>131</sup>

### ENTER CYRUS VANCE

On October 8, 1991, Slovenia and Croatia announced that they were now independent states. Since the E.C. had spectacularly failed to bring the fighting in Croatia to an end, it was now time to turn matters over to the United Nations. Acting as the personal envoy of U.N. Secretary-General Perez de Cuellar, former U.S. Secretary of State Cyrus Vance stepped into the Croatian imbroglio. Vance succeeded in negotiating a deal: the Croatian paramilitaries would lift their siege of the JNA barracks; the JNA would withdraw from Croatia; the areas in which the Serbs resided would become U.N.-protected areas; and U.N. peacekeepers would take over from the JNA as protectors of those areas. Furthermore, the United Nations promised the Croatian Serbs that they would not “be subject to the laws and institutions of the Republic of Croatia during the interim period pending a political settlement.”

Vance’s “basic approach,” according to a December 1991 report by the U.N. secretary-general, was to place U.N. peacekeeping forces “in those areas of Croatia in which Serbs constitute the majority or a substantial minority of the population and where inter-communal tensions have led to armed conflict in the recent past.”<sup>132</sup> Perez de Cuellar’s language was measured – and accurate: These were not Serb-conquered or Serb-held areas; they were areas in which the Serbs resided and had done so for centuries. In addition, local police “forces would be formed from residents of the [area] in question, in proportions reflecting the national composition of the population which lived in it before the recent hostilities.” This was a particularly crucial point since the conflict in Croatia was triggered by the arrival of Croat police units to replace local police forces in the Serb areas.

The four United Nations Protected Areas (UNPAs) were to be Eastern Slavonia (Sector East), Western Slavonia (Sector West), Southern Krajina (Sector South), and Northern Krajina (Sector North). The areas were to be demilitarized, with the U.N. forces ensuring that “all persons residing in them were protected from fear of armed attack.” There remained the tricky issue of where to deploy the peacekeepers. Croatia wanted them placed at the border with Serbia. The Krajina Serbs wanted them along the ceasefire line between

the Croat and the Serb forces. That way they would be monitoring a de facto border between Krajina and Croatia. Vance, however, insisted on an “inkblot plan”: U.N. forces would be stationed “at points of tension throughout the contested region.”<sup>133</sup> The peacekeepers would be within the protected areas, not at the confrontation lines. However, they would control access to the UN-PAS through checkpoints on all roads leading into them.

The proposed withdrawal of the JNA alarmed the Croatian Serbs. They suspected – rightly, as it turned out – that the U.N. forces would fail to protect them against a rearmed, resurgent Croatia. Milošević, however, welcomed the plan, and he, along with Yugoslavia’s federal authorities, prevailed upon the Croatian Serbs to accept it.

The leader of the Croatian Serbs tried vainly to thwart the Vance-negotiated plan. On January 8, 1992, Milan Babić, president of the Serbian Krajina, wrote an open letter to the Belgrade newspaper *Politika* protesting the agreement. Babić pointed out that an extension of the term of the peacekeeping mission would require the approval of Croatia’s government. If the Krajina were disarmed, was it likely that Croatia would agree to prolong the presence of the U.N. peacekeepers? After the withdrawal of the U.N., wouldn’t any re-introduction of Yugoslav forces to help the Krajina be regarded as aggression against Croatia? The questions were reasonable. Milošević dismissed Babić’s concerns but without answering the points he had raised. The assembly of the Republika Srpska Krajina accepted the Vance plan. Later on, the assembly replaced Babić.

The so-called Vance Plan was explicit about not prejudicing the outcome of final status negotiations. “The deployment of the force would not prejudice the outcome of the political process: on the contrary, its purpose would be to stop the fighting and to create the conditions in which political negotiations could take place,” the U.N. secretary-general said in his report.<sup>134</sup> This was repeated in the formulation of U.N. Security Council Resolution 743, adopted on February 21, 1992, which established a United Nations Protection Force (UNPROFOR) to implement the peacekeeping plan. The Vance plan was “in no way intended to prejudice the terms of a political settlement.” The cease-fire had presupposed neither Croatia’s final borders nor the status of Croatia’s Serbs. “[B]ecause there had been no decisive military victory,” Woodward wrote, “the cease-fire ... could only be achieved if both parties saw it as not prejudicing the final outcome. It would create a stalemate ‘without prejudice,’ as the Vance Plan for the U.N.-monitored cease-fire declared.”<sup>135</sup>

In fact, according to the Vance plan, the peacekeeping operation was to be an “interim arrangement to create the conditions of peace and security

required for the negotiation of an overall settlement of the Yugoslav crisis.” In other words, resolution of the crisis in Croatia was inseparable from an overall political settlement in Yugoslavia. It was precisely this stricture that Germany, and subsequently the E.C., was seeking to evade by extending recognition to two republics in the absence of any overall political settlement.

The E.C.’s recognition of Croatia on January 15 immediately resolved all outstanding issues in Croatia’s favor. The E.C.’s move overnight turned the Krajina Serbs into rebels who had no choice but to accept the rule of Zagreb. This was made formal when Croatia became a member of the United Nations in May 1992. By March 30, 1993, when the U.N. Security Council adopted Resolution 815, the UNPAS were referred to as “integral parts of the territory of the Republic of Croatia.” The outcome of the final status negotiations was no longer in any doubt, and the Croatian government had little incentive to offer any concessions. As Boutros-Ghali was to write, “it was repeatedly emphasized to the local Serb leadership in what were to become the UNPAS that ... the only basis for a settlement was their acceptance of Croatian sovereignty in return for guarantees of their minority rights.”<sup>136</sup>

The Croatian Serbs had suffered a considerable injustice, something that could not be remedied by soothing words from Zagreb about minority rights. The Krajina had not been part of historical Croatia. As David Owen pointed out, the Krajina was military frontier territory between the Habsburg and Ottoman empires – “areas which had been ruled from Vienna, but not from Zagreb.” It resisted incorporation into Croatia. The Serbs who lived there had escaped persecution at the hands of the Ottomans and had been recruited by the Habsburgs to serve as frontier guards against the encroachments of the Ottomans. Indeed, the Krajina was only awarded to Croatia in 1881, after Bosnia and Herzegovina came under the administration of Austria-Hungary, in accordance with the 1878 Congress of Berlin. Croatia at that time was, of course, not an independent state, but a part of Hungary. “With the new lands, Croatia added 61 percent more territory and 663,000 more people, of which 55 percent were Serbs.”<sup>137</sup>

In 1991, Serbs constituted an absolute majority in 11 communes and a relative majority in two communes in the 13 communes that constituted the territory known as Krajina. According to the 1981 census, within the 11 absolute Serbian majority communes, Croats made up only 22% of the population and Serbs 69%. Of the 8% who classified themselves as Yugoslavs, the overwhelming majority were Serbs.<sup>138</sup> “Very few commentators ... understood or acknowledged that when the Croatian government attacked the Krajina they were not ‘retaking’ or ‘reoccupying’ this land, for the Serbs had inhabited

it for more than three centuries,” Owen correctly pointed out.<sup>139</sup> Needless to say, the ICTY has been a leading purveyor of the story that the Serbs had somehow “occupied” Krajina, even though they had lived there for centuries. Its indictment of Milošević explained that, “Under the Vance Plan, four United Nations Protected Areas (UNPAs) were established in the areas occupied by Serb forces. The Vance Plan called for the withdrawal of the JNA from Croatia and for the return of displaced persons to their homes in the UNPAs. Although the JNA officially withdrew from Croatia in May 1992, large portions of its weaponry and personnel remained in the Serb-held areas ... The territory of the RSK remained under Serb occupation until large portions of it were re-taken by Croatian forces in two operations in 1995.”

It was now simply a matter of time before Croatia would move against the Serbs in order to assert sovereignty over territory that the West deemed belonged rightfully to Zagreb. As UNPROFOR commander General Lewis MacKenzie pointed out, the Croats made little pretense that their acceptance of the Vance Plan was anything other than a tactical maneuver to buy time before mounting an attack against Croatia’s Serbs: “I got the distinct feeling that [the Croats] had signed the Vance Plan for reasons well beyond the basic one of stopping the war. Once the U.N. Protection Force was in place, the plan called for the JNA to withdraw to what was left of the former Yugoslavia. The Croats barely camouflaged their intention to regain control over the UNPAs with the JNA out of the way, using force if necessary.”<sup>140</sup>

## IN SEARCH OF THE GOOD WAR

*Bosnia: April 1992 to May 1993*

“More war means more, not less, hatred, more violence,  
more ethnic cleansing and more destruction ...  
Peace can provide the opportunity to tackle and to change  
the attitudes that cause ethnic cleansing.”

*Thorvald Stoltenberg,  
address to the Parliamentary Assembly  
of the Council of Europe, January 2, 1994<sup>1</sup>*

As expected, war broke out in Bosnia immediately following recognition. In fact, violence had already broken out a month earlier, on March 1, when Muslim gunmen opened fire on a Serb wedding party being held in a Muslim section of Sarajevo.

Having urged Izetbegović to seek independence even though there was not the slightest possibility that Bosnia could survive as an independent state, the Europeans and Americans now left him to fend for himself. Having made their bizarre decisions – granting statehood here, refusing statehood there, conjuring nations out of thin air while making others disappear – having provoked certain war, the Europeans and the Americans could have offered to send in troops to safeguard their bizarre handiwork. Understandably, they did no such thing. Public opinion wouldn't have tolerated it. A villain therefore had to be found to explain why the policymakers' self-evidently good intentions, based as they were on boilerplate about democracy, human rights, and anti-Communism, had resulted in such total fiasco. David Owen gave expression to the West's self-satisfied complacency when he explained that, though the Serbs may have had a “justified grievance” over the West having carved out independent countries from Yugoslavia on the basis of arbitrary borders drawn up during World War II, they, the Serbs, would nonetheless have to accept this outcome because ... well, simply because that was what the “international community” had decided – with the best of intentions, of course. The decision was “taken in good faith in believing it would not

be possible to reach agreement on any other boundaries, and probably that judgment was correct.”<sup>2</sup>

Since the West’s good intentions were obviously not to blame, malevolent intentions on someone else’s part had to be the problem. A ready candidate was to hand: the most implacable opponent of Yugoslav dissolution, namely, Serbia, and in particular, its president, Slobodan Milošević, long reviled in the West as a Stalinist, a strongman, a dictator, a Communist holdout against the tide of democracy sweeping across Europe, a nationalist in the new post-nationalist Europe. Blaming the wars on Milošević killed several birds with one stone. It absolved the Europeans of any responsibility for their reckless and ill-conceived decisions. It explained why a former Communist who still espoused socialist ideas continued to win elections. And it showed what a thoroughly rotten bunch Communists were and always would be.

Western opinion could thus be satisfied that the war in Bosnia wasn’t about premature recognition and the non-negotiable decree that arbitrary administrative boundaries should serve as international frontiers. It wasn’t about millions of people suddenly finding themselves stripped of their citizenship; no, it was about Serbia under Milošević waging an aggressive war to create a “Greater Serbia.” Those discontented Serbs in Croatia and Bosnia were only discontented because they had been ordered to be so by the “senior Serb” – to use Richard Holbrooke’s derogatory term – in Belgrade.

The original purveyors of this story were Slovene, Croat, and Muslim nationalists who, understandably, had every incentive to persuade the West that they were victims of Serb aggression. The success of their secessionist claims depended on their winning Western support. Having insisted on independence, and nothing less than that, the Croats and Muslims now found themselves confronting massive Serb resistance and ruling rump states. Without Western military and economic assistance, they would be forced to give up large chunks of territory.

### THE GREATER SERBIA THESIS

The “Greater Serbia” thesis, which Western policymakers and commentators eagerly pounced on and which was to become the ICTY’s guiding star, lacked elementary logic. Tudjman and Izetbegović’s problem was that Serbs had no interest in becoming members of a minority in the independent states of Croatia and Bosnia. In successive plebiscites, they had expressed their wish to remain citizens of Yugoslavia. These Serb plebiscites took place *after* Croa-

tia's and Bosnia's leaders had expressed their intention to exit Yugoslavia. For their resistance to have been part of a sinister Milošević plot to create a Greater Serbia, Belgrade would have had to will Croatia and Bosnia to seek independence. Hence the confusing and contradictory claim the nationalists and their Western supporters came up with: the Serbs, at one and the same time, sought to keep Yugoslavia going *and* to break it up.

The hapless Muslim-dominated Bosnian government had, at the urging of the United States, rejected a cantonal reorganization of the state. Lacking either the resources or the popular support to prevail, Sarajevo was left with one strategy: to seek to persuade the rest of the world that it was morally obligated to come to the Muslims' aid and to deliver them the unitary state that they believed they rightfully deserved. The Muslims' refrain that they were facing genocide played well in the West. It satisfied the Western media's insatiable, ghoulisn craving for horror stories, replete with dismembered bodies, concentration camps, and multiple rapes. And it served the interests of Western policymakers desperately seeking a justification for NATO's continued existence.

Many Western intellectuals, in the aftermath of the Cold War, seized on Bosnia as their generation's "Spain" – a glorious moral crusade to destroy an evil tyranny. In their minds, the battle lines were clearly drawn. On one side was unmitigated evil, the Serbs; on the other side, unmitigated good, the "Bosnians," seeking to escape the yoke of a tyrannical Belgrade determined to crush as brutally as possible their experiment in forging a multinational, multiethnic, multi-confessional democracy.

To liberals, intervention in Bosnia represented the kind of moral, selfless war they had always craved. The cause of the "Bosnians" was just not only because they were victims but because they represented the forces of multiculturalism and enlightenment, while their foes stood for ethnic exclusion and backwardness. Their cause could appeal to neo-conservatives and to liberal humanitarians alike. For neo-conservatives, Bosnia was the latest re-run of 1938: Hitler was on the march and a small nation was about to be betrayed in the name of Realpolitik. "President Milošević may lack Hitler's vast power to threaten us, but the Moslems trapped in small Bosnian towns under a rain of Serbian artillery fire must feel little different from the Jews in the Warsaw Ghetto exactly 50 years ago," according to Mark Almond, at that time an ardent champion of Bosnia's cause.<sup>3</sup>

A moral imperative thus required the international community to come to the aid of Bosnia. That same imperative dictated that any plan that involved the partition of Bosnia, and hence destruction of its supposed long

tradition of multicultural tolerance, had to be resisted. For nearly four years, first the Bush, then the Clinton administration resolutely rejected one peace plan after another on the grounds that it destroyed the supposedly indissoluble unity of Bosnia.

The “stand up for Bosnia” cry made for vivid copy and helped launch not a few journalistic careers. It forged a fateful alliance between journalists angling for awards and NATO policymakers seeking continued employment. To the latter, Western intervention in Yugoslavia would serve to demonstrate the perpetual relevance of NATO: without NATO, there’s war, with NATO, there’s peace.

The “NATO equals stability” equation was a hard sell. It was the leading NATO powers that had triggered instability in the Balkans through premature recognitions, a fact repeatedly pointed out by such Establishment figures as Owen and Carrington. Had the West avoided issuing its precipitate recognitions, the Serbs would not have panicked and taken matters into their own hands. There might then have been time to seek negotiated outcomes in Yugoslavia. To get around this uncomfortable fact, an alternative reality had to be created. An entirely fictional Bosnia had to be constructed, one that would serve as a correlate to the required emotional commitment. Bosnia was to be presented as an island of tolerance surrounded by a cruel sea of intolerance. Even U.N. resolutions adopted the high-flown verbiage of the modish intellectuals. In 1993, U.N. Security Council Resolution 824, for example, referred to Sarajevo’s “unique character ... as a multicultural, multi-ethnic and pluri-religious centre which exemplifies the viability of coexistence and interrelations between all the communities of the Republic of Bosnia and Herzegovina.” Extraordinarily uplifting rhetoric about a republic then mired in several fierce civil wars, all triggered by an E.C.-sanctioned referendum that was boycotted by one-third of its population!

Needless to say, there was something disturbingly dishonest about this moralizing. If multinational, multi-confessional Bosnia demanded international solidarity, why had the survival of the even more multinational, multi-confessional Yugoslavia – a state with a long and brave history – elicited only yawns?

Mobilizing support for NATO intervention in Bosnia required Western policymakers to insist that a “Bosnian” people existed. The term “Bosnian” sounded innocuous enough: it referred presumably to the citizens of the newly created republic of Bosnia. However, Bosnia’s Serbs had already opted out of this Bosnia, insisting they were still citizens of Yugoslavia. Bosnia’s Croats claimed they were citizens of Croatia. Bosnia’s Muslims and Croats

were at war with each other, as were Bosnia's Muslims and Serbs. Thus, "Bosnians" essentially meant Bosnian Muslims, even though Muslims comprised substantially less than 50% of Bosnia's population.

Moreover, the Muslims themselves were deeply divided between the followers of Alija Izetbegović, who enjoyed the support of the West, and the followers of the more moderate, less sectarian Fikret Abdić, who didn't. Abdić had headed a huge agro-industrial company, Agrokomerc, in Cazinska Krajina in northwestern Bosnia. During the late 1980s, he had been indicted and acquitted in a high-profile fraud case. Unlike Izetbegović, however, he was able to work successfully with both Serbs and Croats. So Bosnian, in effect, meant a follower of Izetbegović.

Nonetheless, the "stand up for Bosnia" policy required Western leaders to maintain the fiction that, as citizens of the new state, Bosnia's Serbs were Bosnians, not Serbs, much as Bosnia's Croats were Bosnians, not Croats. Whenever it suited them, though, those same policymakers were only too happy to ignore their own stricture, to concede the Serb argument and to treat the Serbs as one people whose titular leader was the president of Serbia, Slobodan Milošević. During negotiations to end the wars in Croatia and Bosnia, Western leaders would make pilgrimages to Belgrade to beg Milošević to pressure the Serbs of Bosnia and Croatia to accept their peace plans. In 1995, the United States forced Milošević to lead the Bosnian Serb negotiating team at Dayton, Ohio. The late U.S. Ambassador Richard Holbrooke was given to boasting of his cleverness in managing "to marginalize Karadžić and Mladić and to force Milošević, as the senior Serb in the region, to take responsibility for the war and the negotiations we hoped would end it."<sup>4</sup>

There was an obvious point here that Holbrooke and others deliberately refused to grasp. If the Bosnian Serbs' real leader was Milošević, not Izetbegović, and the Bosnian Croats' real leader was Tudjman, then the sovereign, independent state of Bosnia on behalf of which the West was supposed to take up arms was a fiction. Indeed, the case against Serbia and Milošević, as expressed in the frequent denunciations of Western policymakers and, of course, in the rulings of the ICTY, is based on the assumption that Serbs in Bosnia and Croatia were taking their marching orders from Belgrade. The West thereby had it both ways. The Serbs of Bosnia and Croatia were condemned for seeking to secede from Bosnia and Croatia to join Greater Serbia.<sup>5</sup> At the same time, Serbia was accused of aggression against the independent states of Bosnia and Croatia. "The people of Bosnia have fought a war of resistance for over two years against an aggressor with overwhelming firepower," declared Victor Jackovich, Washington's first ambas-

sador to Bosnia, upon his arrival in Sarajevo to take up his new post.<sup>6</sup> Only two equally bizarre conclusions were possible: Either the Bosnian Serbs were a foreign, occupying force or the Serbs were committing aggression against themselves.

The Western powers' unprincipled, wholly opportunistic policymaking was again on display in early 2008 when they rushed to recognize Kosovo as an independent state. By doing so, they jettisoned the central Badinter thesis on behalf of which they had so vehemently moralized. It now turned out that the SFRY's administrative boundaries were not to be taken as unalterable international frontiers as laid down by the Helsinki Final Act, the Charter of Paris, and so on. The West's new position was that national self-determination or majority rule within a province trumps administrative boundaries. Or, at least, they do whenever Serbs are at the wrong end of such rights.

### REVERSING CAUSE AND EFFECT

Given these confusing and contradictory policies, it was obviously preferable to change the subject and focus on individual atrocities. The West's self-serving approach to the war, first in Croatia, then in Bosnia, was to ignore the causes of the wars – who started them and why – and to focus instead on the humanitarian crises the wars inevitably triggered. The Serbs were the enemy, according to the humanitarian crusaders, because they allegedly had perpetrated all, or at least the worst, of the atrocities. Whether true or not, as a rationale for taking sides in a conflict it was thoroughly disingenuous. The scale of atrocities had never before – or since – determined the worthiness or unworthiness of a protagonist. The United States was responsible for the loss of many more lives than were the Communists in Vietnam; Israel is responsible for many more killings than are the Palestinians; Iraq was at peace in March 2003, now bloody carnage is part of daily life. The extent of casualties has never been taken as an indication of the rights and wrongs of a war.

The West claimed that its intervention in the wars in Yugoslavia was motivated solely by its concern over atrocities. However, only one faction was ever singled out for condemnation, sanctions, and, eventually, bombing. Though a number of conflicts were taking place in Bosnia, to listen to Western policymakers and journalists, the JNA and the Serbs alone were responsible for the war and for any and all atrocities.

The atrocity that received the most public attention was "ethnic cleansing." There was, of course, nothing new about ethnic cleansing. But ethnic

cleansing is a consequence of war, not the cause of it. The cause of the war was the uncompromising insistence of the secessionists within Yugoslavia and of their supporters in the West on dissolution of the state of Yugoslavia without even the pretense of negotiations. The war then led to a mad scramble to create facts on the ground that would determine the shape of the successor states.

The phrase “ethnic cleansing” was a misnomer in that it suggested its purpose was ethnic or racial purity. That wasn’t the objective sought in Bosnia or in Croatia. New states or new political entities were being created. Where the status of a state wasn’t in question, there was no ethnic cleansing. There was no war in Serbia; so there was no ethnic cleansing even though its population was extremely diverse – Hungarians and Croats in Vojvodina, Muslim Slavs in Sandžak, and Muslim Albanians in Kosovo.

Ethnic cleansing is inseparable from the breakup of old states and the creation of new ones. Transfers of population create viable states. There are plenty of examples of ethnic cleansing that had successful outcomes, most notably the population transfers after World War I, carried out under the auspices of the League of Nations. In the Balkans of the 1990s, people took matters into their own hands, largely because of the stubborn insistence of the Western powers that there could be no redrawing of borders to take account of the geographic locations of national groups and no population transfers. During his testimony in the Milošević trial, Serb nationalist leader Vojislav Šešelj described what took place:

After the civil war broke out there was a great movement in the population, both spontaneous, sometimes forceful. Sometimes crimes did take place, but there was this general aspiration for everybody to join, in figurative terms, their own birds of a feather flocking together, if I can put it that way. So in that war crimes were committed. Sometimes crimes were in response to crimes that had been committed previously, sometimes it was criminals committing crimes through base motives, criminal motives. Sometimes there was the urge for retaliation and revenge.<sup>7</sup>

To be sure, even if there had been a redrawing of boundaries, the Serbs might have remained dissatisfied. But, as David Owen pointed out, “to rule out any discussion or opportunity for compromise in order to head off war was an extraordinary decision.” Sticking “unyieldingly to the internal boundaries of the six republics of the former Yugoslavia,” he argued, “before there was any question of recognition of these republics, as being the boundaries for in-

dependent states, was a folly far greater than that of premature recognition itself.”<sup>8</sup>

Ethnic cleansing was carried out by all sides, something U.N. observers on the ground such as General Lewis MacKenzie, chief of staff with the United Nations Protection Force (UNPROFOR), repeatedly pointed out. However, policymakers and journalists attributed the practice exclusively to the Serbs.<sup>9</sup> In May 1993, Boutros-Ghali reported that in Croatia, as of March 19, “the number of Serb refugees and displaced persons who have fled from Croatia to Serbia and the UNPAS (approximately 251,000) now exceeds the number of Croats who were displaced from the UNPAS to Croatia.”<sup>10</sup> Yet one would be hard pressed to find a single reference to ethnic cleansing of Serbs in the emotional exhortations of U.S. Ambassador Madeleine Albright.

In New York, in London, in Paris, and in Washington, double standards became *de rigueur* in all discussions of Yugoslavia. As long as the violence was directed at Serbs or served to frustrate Serb interests, it was either ignored or excused. The Izetbegović regime, for example, was not only breaking the arms embargo but bringing in mujahedin fighters from the Middle East. Croatia didn’t even bother to conceal its army’s involvement in the fighting in Bosnia. According to General Sir Michael Rose, commander of UNPROFOR from 1994 to 1995, Croatia’s army was engaged in creating what effectively would be Greater Croatia:

the Croats were fighting to carve out for themselves a piece of southern Bosnia, which they called Herceg-Bosna, and in doing so, they had committed some of the worst atrocities of the war. These included the destruction of east Mostar and the massacre in 1993 of over 100 women and children in a small village called Ahmici in the Lasva Valley.<sup>11</sup>

The understanding that was extended to the Croats was never forthcoming for the Serbs. In Croatia, as Owen acknowledged, the Croats were responsible for all of the ceasefire violations. Nonetheless, Owen was ready to offer them sympathy. It was perfectly understandable, he said, that Croats should seek “to avoid a repeat of what had happened in Cyprus, with the U.N. presence entrenching the *de facto* partition of the island.”<sup>12</sup> Western leaders looked the other way even when Croatian forces attacked U.N. peacekeepers in Croatia. On January 22, 1993, for example, the Croatian army launched a bombing attack on a United Nations Protected Area (UNPA) which led to the death of two UNPROFOR soldiers. On this occasion, the U.N. did take some action. As was to become a pattern, the U.N. Security Council would only

ever take a hard line with Croatia if a Croatian attack led to U.N. casualties. Attacking Serbs was one thing, attacking U.N. peacekeepers was something else altogether. On January 25, the U.N. Security Council passed Resolution 802, which expressed “concern at the violent deterioration of the situation in Croatia” caused by “military attacks by Croatian armed forces” on areas under UNPROFOR’s protection. The resolution condemned “those attacks which have led to casualties and loss of life in UNPROFOR.” However, an admonition was as far as the Security Council was prepared to go. It imposed no penalties on Croatia. Crucially, subsequent resolutions did not demand that Croatia give up any of the territory it had captured in its January 22 offensive. UNPROFOR had failed to defend the Serbs, and the “international community” wasn’t too perturbed by it.

Clearly, then, it wasn’t atrocities that made the Serbs uniquely deserving of punishment: it was their stubborn refusal to accept the breakup of Yugoslavia along the lines ordained by Badinter and the E.C. On top of that, they had insolently refused to follow the path of the rest of Eastern Europe and instead kept their “Communist” leader.

To ensure that any peace negotiations would be doomed from the start, Western powers came up with two startling innovations which, while delighting the human rights crowd, did little to bring the human suffering to a speedy end. Both of these policies were enacted in April and May of 1993. While refusing to get directly involved in the war, the Western powers eschewed staying out of it, imposing various conditions on any possible peace agreement and thereby ensuring the war’s continuation. First, in the middle of the conflict, the Western powers pushed the U.N. Security Council to establish something called “safe areas.” Six Bosnian Muslim towns, some deep behind Serb lines and all housing Muslim armed forces and military equipment, were deemed worthy of U.N. protection. Second, the Western powers pushed for the creation of an international criminal tribunal to punish alleged war criminals. The impetus behind both policies was the feeling that the Western powers had to be seen to be doing something to help the beleaguered Muslims, given that the much-vaunted “lift and strike”<sup>13</sup> policy – the favorite of op-ed pundits and out-of-office politicians – had been rejected by the countries whose nationals made up the UNPROFOR forces.

The creation of an international criminal tribunal under the firm control of the U.N. Security Council implied that the peoples of Yugoslavia could not be trusted to administer justice themselves. As less civilized people, they had yet to develop an adequate understanding of the proper balance that needed to be struck between peace and justice. The most striking feature of the tri-

bunal idea was the identity of its originators. Though they were representatives of outside powers, they were hardly disinterested parties. It was surely up to the combatants themselves to decide if, and to what extent, they wanted interminable, emotionally wrenching trials to bedevil a future in which they would inevitably have to coexist with one another. The truth was that the tribunal was a mechanism for the Western powers to insert themselves into the war in Yugoslavia while pretending to stay out of it.

### THE MEDIA MOBILIZE

From the beginning, the strategy of the Bosnian Muslims was wild, absurd exaggeration in order to force an armed international intervention on their behalf. In April 1992, Izetbegović referred to what was going on in Bosnia as “genocide.” In July 1992, upon arriving in London for the peace conference, Haris Silajdžić, Bosnian foreign minister, declared that, “It’s time the international community should send those responsible to trials for crimes against humanity. There should be another Nuremburg process because what they did ... is exactly what Hitler and his bunch did ... but in a shorter time.”<sup>14</sup> Such overheated absurdities only served to enhance the good-looking, well-spoken Silajdžić’s popularity with the media. Surprisingly though, the sneering description “self-pitying” continued to be applied only to the Serbs.

Given that the Muslim armed forces were based in the cities and the Serb forces were outside of the cities, the war took on the appearance of Serbs besieging civilian population centers. The media, fascinated as ever by atrocity stories, were only too happy to follow the Sarajevo government’s script, particularly once the U.S. government threw its weight behind the Muslims.

Facts were a readily dispensable commodity, as was the context in which war crimes occurred. The media would report, for example, that the JNA was shelling Sarajevo. Yet the kind of context that an observer on the ground such as General MacKenzie provided was invariably absent. There was scant mention of Izetbegović’s order to lay siege to the barracks of the JNA in order to force it to hand over weapons and equipment to the Muslims. On April 12, 1992, six days after the E.C.’s recognition of Bosnia, the Bosnian Territorial Defense Forces (TDF), under the command of Izetbegović, blockaded the JNA’s barracks and attacked, according to MacKenzie, “JNA soldiers and their families with the objective of driving them from Bosnia. The JNA was retaliating by shelling Sarajevo. And, under cover of the conflict, the Croatian army was invading Bosnian territory in the north and the southwest.”<sup>15</sup>

Boutros-Ghali also reported, to aggressive indifference, that “Muslim forces have blockaded JNA locations in the city (including a military school with 1,300 teenage pupils and the military hospital) and regularly attack a Serb stronghold in the suburb of Ilidža as well as other locations in the city.”<sup>16</sup>

Reporters would file emotional stories about Serbs shelling civilians in Sarajevo, yet omit to mention that the Bosnian Muslims were deliberately dressing soldiers as civilians and civilians as soldiers. Testifying before the ICTY, Francis Roy Thomas, a Canadian army major who served as a United Nations military observer (UNMO) in Bosnia from 1993 to 1994, stated that “it was a constant theme that we did not want any shooting, but [if] there was any, they should limit their fire to people in uniform. One of the problems with this was the question of who was a soldier. Many people including women and children wore camouflage and then many people who were military wore civilian clothes.”<sup>17</sup>

Horried journalists would report that Serbs were shelling Sarajevo airport and preventing the arrival of humanitarian relief. The fact that the airport was being used to bring in military supplies was strikingly absent from their accounts. There was no mention of the tunnel under the airport, used by Muslims to bring in weaponry and to transfer troops. Writer Neal Ascherson disclosed that “[i]n the 1990s, foreign reporters in Sarajevo during the siege (pro-Bosnian almost to a man and woman) found out how weapons and ammunition were still getting into the city. They agreed among themselves not to use the story.”<sup>18</sup>

UNPROFOR’s first mission in Bosnia had been the opening of the airport for humanitarian supplies. Taking over control from the Bosnian Serbs on June 5, 1992, UNPROFOR was supposed to ensure that the airport would be used only for humanitarian flights. According to the agreement, “UNPROFOR will control all incoming personnel, aid, cargo and other items to ensure that no warlike materials are imported, and that the airport’s opening is not otherwise abused in any way.”<sup>19</sup> The promise was never remotely fulfilled.

Even the ICTY acknowledged that Bosnian government “troops dressed as civilians used to cross the runway with military supplies for the city. In fact, the Presidency seemed to allow the use of the airport ... for military purposes.” Military supplies continued to arrive in Sarajevo even after the airport came under U.N. control. “UNPROFOR battalions entrusted with the implementation of the airport agreement used to patrol the airport at night to stop such crossing: weapons found were seized and destroyed. However, the patrolling was not very effective; people were still able to cross, and, at the beginning, some people were able to bring weapons into the city due to

mistakes by UNPROFOR or tricks devised” by the Bosnian military.<sup>20</sup> Indeed, as General Charles Boyd, deputy commander in chief of U.S. European Command from November 1992 to July 1995, described it, Bosnian government soldiers

shelled the Sarajevo airport, the city’s primary lifeline for relief supplies. The press and some governments, including that of the United States, usually attribute all such fire to the Serbs, but no seasoned observer in Sarajevo doubts for a moment that Muslim forces have found it in their interest to shell friendly targets. In this case, the shelling usually closes the airport for a time, driving up the price of black-market goods that enter the city via routes controlled by Bosnian army commanders and government officials.<sup>21</sup>

Journalists would describe Serb attacks on Muslim towns but fail to mention that these towns were now Muslim precisely because they had been cleansed of their Serb inhabitants. Nor would they report that Serb attacks were often retaliation for earlier Muslim attacks on neighboring Serb villages. While atrocities perpetrated by Serbs would elicit loud cries of horror, atrocities perpetrated on Serbs would be met with a shrug of the shoulders or newspaper headlines such as “Serbs Them Right.”<sup>22</sup>

All too often, journalists would uncritically repeat claims emanating from the Sarajevo government. A notable example was the media’s obsessive coverage of rapes during the war. The stories were replete with lurid accounts of alleged rapes along with entirely unsubstantiated, and inherently unlikely, statistics. Dame Ann Warburton’s European parliamentary delegation estimated that 20,000 rapes had taken place in Bosnia. This claim received wide publicity even though the delegation had undertaken no investigation of its own and had not interviewed any rape victims. The assertions of the Sarajevo authorities sufficed. In January 1993, *Newsweek* carried a lengthy cover story charging Serbs with the rape of as many as 50,000 women, mostly Muslim, as part of “deliberate programs to impregnate Muslim women with unwanted Serb babies.” The charge of impregnation not only contradicted the more familiar charge of genocide but made very little sense even on its own terms. Since there is no ethnic difference between Bosnian Serbs and Bosnian Muslims, the only result of forcible impregnation would be to increase the number of people brought up in the Islamic faith.

Systematic research invariably resulted in findings that were insufficiently dramatic to make it into the papers. On January 29, 1994, the U.N. secretary-general issued a report on rapes in the former Yugoslavia based on

a study by the U.N. Commission of Experts. The report found “126 victims, 113 incidents, 252 alleged perpetrators, 73 witnesses.” The report also stated “some of the rape cases” were “clearly the result of individual or small-group conduct without evidence of command responsibility. Others may be part of an overall pattern. Because of a variety of factors, such a pattern may lead to a conclusion that a systematic rape policy existed, but this remains to be proved.”<sup>23</sup>

Another lurid case involved the 1992 Independent Television News (ITN) film that purported to be footage from a Serb concentration camp housing Muslims. The reporters sought out a uniquely emaciated man among the camp residents, asked that he stand in the foreground and arranged the men so that it appeared as if they were imprisoned behind barbed wire. Photographs from the film were immediately reproduced in countless newspapers and magazines. *Time* and *Newsweek* ran the picture on their covers with stories inside full of emotionally charged references to “Nazis,” “Holocaust,” “death camps,” and “genocide.” Later it turned out that the emaciated man, Fikret Alic, and the other Muslims were not imprisoned behind a barbed wire fence. The barbed wire in the picture did not surround the inmates – it surrounded the cameraman and journalists. The fence enclosed a small compound next to the camp. The British team had filmed from inside this compound, shooting pictures of the refugees through this fence. In fact, there was no barbed wire surrounding the Trnopolje camp.

To make their case in Washington, the Bosnian Muslims in June 1992 hired public relations firm Ruder Finn Global Public Affairs. The firm had previously been hired by the Croatian government in August 1991 to persuade U.S. politicians that Croatia was fighting a war to free itself from Milošević and the JNA, the would-be architects of a Communist-run Greater Serbia. While fighting raged in Croatia, politicians and the media were inundated by Ruder Finn press releases that explained the conflict in simple-minded moral categories. It was no small feat to persuade Holocaust-preoccupied America to embrace the cause of Tudjman’s Croatia. So it wasn’t surprising that Izetbegović’s government, in turn, also availed itself of Ruder Finn’s services. The centerpiece of the agency’s Bosnia campaign was the assertion that the Muslims were the victims of genocide. Through this tour de force, Bosnia’s Muslims took on the role of Europe’s persecuted Jews and the Serbs the role of Hitler’s Wehrmacht. It was an amazing reversal of Yugoslav history.<sup>24</sup>

An extraordinarily ferocious campaign to demonize the Serbs was now under way, with invective taking the place of analysis and advocacy jour-

nalism taking the place of traditional reporting. A balanced approach was equated with appeasement of Nazism. Journalists sought to make news rather than merely to report it. The aim seemed to be to pile on the horror in the hope of shaming the West into taking up arms on behalf of the Muslims. Frequently, even atrocities perpetrated against Serbs were attributed to the Serbs. General Rose recounted CNN correspondent Peter Arnett reporting in 1994 that “Sarajevo was under heavy attack by the Serbs.” However, it was clear from the footage that “the rounds were outgoing and had been fired by the Muslims, not by the Serbs. Someone commented that he appeared to be confusing Sarajevo with Baghdad.”<sup>25</sup>

A study of media coverage of the wars in Yugoslavia, written by Peter Brock, listed numerous occasions on which the media attributed crimes perpetrated on Serbs as having been committed by Serbs. Among many examples: in 1992, the BBC filmed an ailing, elderly man who was described as a “Bosnian Muslim prisoner-of-war in a Serb concentration camp.” It later turned out that the man was “retired Yugoslav Army officer Branko Velec, a Bosnian Serb, who was being held in a Muslim detention camp.” In 1992, “European television showed scenes of dozens of Bosnian Serb victims and coffins after a massacre at Kupres in Western Bosnia. But the bodies were described as Muslims.” On January 4, 1993, “Newsweek published a photograph of several bodies with an accompanying story that began ‘Is there any way to stop Serbian atrocities in Bosnia?’” However, Brock pointed out, the bodies in the photo were those of Serbs. In March 1993, “CNN aired a report ... from the scene of a massacre of fourteen Muslims who were killed by Serbs. The victims later turned out to be Serbs murdered by Muslims.” Brock cited an August 1993 photo that appeared in the *New York Times* with a caption saying that this was a Croatian woman from Posusje who was “grieving for a son who died as the result of recent attacks by Serbs.” However, Brock wrote, “the Croat village of Posusje is in Bosnia ... and was the scene of bloody fighting between Muslims and Croats that had caused thirty-four Bosnian Croat deaths, along with the one in the photo.”<sup>26</sup>

As Rose wrote, “It is of course quite understandable that a Government struggling for survival should have a propaganda machine. It is not understandable that the international media should become part of that machine. Mischievous distortion of reality can only undermine the work of those who are pursuing the path towards peace.”<sup>27</sup>

With awards beckoning, journalists outdid one another in the luridness of their atrocity stories. A typical case was that of John F. Burns of the *New York Times*. In 1993, Burns was awarded a Pulitzer Prize for having done lit-

tle more than conduct an interview with a Bosnian Serb imprisoned in a Sarajevo jail. The prisoner, Borislav Herak, was made available to him by the Bosnian authorities. Burns accepted without question Herak's confessions to all manner of grotesque crimes. However, Burns was no naïf. He carefully avoided disclosing to readers that Herak had accused UNPROFOR's General Lewis MacKenzie of having raped Muslim women in a local bordello. The sarajevo authorities were actively campaigning against MacKenzie, who was seen as insufficiently supportive of their cause. The unlikely story about MacKenzie was almost certainly fed to Herak by his Muslim captors. Disclosure of the accusation against the Canadian general would have seriously damaged Herak's credibility and thus spoiled the story. Several years later, Herak recanted, claiming that he had been tortured and forced to memorize his confession. Subsequently, two of his alleged murder victims turned up alive. (Needless to say, Burns didn't return his Pulitzer.)

Then there was Roy Gutman of *Newsday* who won the Pulitzer for writing stories made up of whole cloth of Serbs running death camps. Another Pulitzer winner was David Rohde, now at the *New York Times*, who won his award after visiting what he was told was the site of a "mass grave" near Srebrenica and claiming to have seen what appeared to be a human leg sticking out from the dirt. Interestingly, Rohde, fearlessly, made no attempt to establish whether what he saw was indeed a human leg. Indeed, he didn't even take a picture of that leg for the simple reason that he didn't bother to take a camera with him on his trip. Nonetheless, he won himself a Pulitzer, a lucrative book contract, and a successful journalistic career.

Journalists were also enthusiastic purveyors of wildly exaggerated casualty statistics, the *New York Times'* Burns being a particularly zealous mas-sager of numbers. Already in August 1993, he was claiming that 150,000 to 200,000 Muslims had been killed.<sup>28</sup> On January 10, 1994, he upped the ante. Appearing on television, he announced that the Muslims had "lost perhaps a quarter of a million or three hundred thousand killed, perhaps two or three times that many wounded." The Western media settled on the 250,000 number (invariably taken to refer exclusively to Muslims), which they repeated as if it were as firmly established as the laws of gravity.

So how many were killed? Reliable statistics are hard to come by, the process of compiling numbers having by now become so politicized. In 2004, Mirsad Tokača at the Research and Documentation Center in Sarajevo published a study that estimated that 97,207 people were killed during the Bosnian war. According to the center's research, funded by the Norwegian government, of those killed, about 60% were soldiers and 40% civilians. Some

65% of those killed were Muslims, 25% were Serbs, and more than 8% were Croats. Of the civilians, 83% were Muslims, 10% were Serbs, and more than 5% were Croats.

Another study, conducted on behalf of the ICTY by population experts Ewa Tabeau and Jacob Bijak, claimed that 102,622 people were killed in the war in Bosnia. Of those, 55,261 were civilians and 47,360 were soldiers. The researchers estimated that, of the civilians killed, around 38,000 were Muslims and Croats and 16,700 were Serbs. Note that, according to Tabeau and Bijak's numbers, of the civilians killed, the proportion comprised of Serbs was very close to the proportion of the Bosnian population comprised of Serbs. Of the soldiers killed, the two researchers estimated that around 28,000 were Muslims, 14,000 were Serbs, and 6,000 were Croats.<sup>29</sup>

These numbers confirmed what many military observers had reported throughout the war, namely that, compared to the Serbs, the Muslims fought poorly. They had a huge advantage in manpower, but they squandered it on reckless offensives that led to debacles and heavy casualties. The offensives served no strategic purpose other than to discredit U.N. peacekeepers and lend urgency to the calls for NATO intervention. "Bosniac attacks," wrote Colonel John Sray, "were conducted for no ostensible military purpose other than to force a BSA [Bosnian Serb] overreaction which would lead to further international condemnation."<sup>30</sup> The Western media played a key role in this strategy. As Rose put it, "If the Bosnian Army attacked and lost, the resulting images of war and suffering guaranteed support in the West for the 'victim state.' If they won, then the Bosnian Government would be able to dictate the terms of any future political settlement. It was the task of their propaganda machine to conceal the true nature of this policy by blaming the U.N. for the war."<sup>31</sup> During these offensives, when Muslims racked up early victories, the reporters rejoiced; when the tide shifted and the Muslims were forced to retreat, reporters "accus[ed] the U.N. of failing to stop the fighting."

### CELEBRATING THE VICTIM

But did the Muslims really merit the tag "victims"? To be sure, for most of the three and a half years of the war, they appeared to be getting the worst of the fighting. But this wasn't on account of any special advantages enjoyed by the Serbs. The Muslims were the largest national group in Bosnia: they far outnumbered the Serbs and Croats in the manpower at their disposal. Like the army of the Bosnian Serbs, the Muslim army was commanded by the of-

ficer corps of the JNA. Unlike the Serbs, however, they were not subject to an oil embargo.

In fact, Muslim mobilization began long before the declaration of independence. "The Bosnian Muslim Green Berets were organized in the fall of 1991. According to Izetbegović, they numbered between 35,000 and 40,000 when the conflict began. The more inclusive Patriotic League was formed at the same time and, in February 1992, drew up a plan for the defense of Bosnia," a scholarly account recounted.<sup>32</sup> The authors quote Sefer Halilović, the first commander in chief of the Bosnian Muslim army as saying that "the League numbered 120,000 members by spring 1992."

There was no shortage of weaponry in Bosnia either. In fact, the territory of Bosnia was littered with arms factories. The bulk of Yugoslavia's military industry had been located in Bosnia. "The mountainous central republic was deemed the safest place for the JNA's backbone."<sup>33</sup> According to the official Dutch government report on Srebrenica,

an armaments industry was set up on the territory of the Bosnian government in which 15,000 people were reported to be working at the start of 1994. The materiel produced here included rifles and shells. Important armaments factories were located in Sarajevo, Goražde, Vitez, Konjic, Zenica and Tuzla. In the two years between the start of the war and early 1994, the Bosnian government is reported to have achieved a production of 20,000 automatic rifles, 100,000 mines, 50,000 hand grenades and 11 million rounds for small arms. During the siege of Sarajevo, the city was even able to achieve an annual production of 40,000 82 mm mortar shells.<sup>34</sup>

As the JNA withdrew from Bosnia, the Muslims, like the Serbs, took possession of weapons from police storage depots and territorial defense storage facilities. And the weapons continued to come in. As Sray explained:

The Muslim forces receive and stockpile significant amounts of small arms and ammunition as well as produce some of their own materiel. Despite the arms embargo, a steady flow of illegal weapons finds its way into Bosnia on commercial convoys from Zagreb and new road links from the Croatian coast through Konjic and Mostar ... The lack of heavy weapons has not deterred government forces from conducting attacks in the past and is unlikely to stop them in the future. In this type of war, light weapons have their own special utility for small-scale operations. They make local successes possible, but concurrently, they invite BSA counterattacks in which heavy weapons are used.<sup>35</sup>

Relief supplies were another conduit for arms. U.N. convoys ostensibly delivering humanitarian aid frequently also delivered weaponry. For example, in April 1993, the *New York Times* reported the Serb discovery of “21,800 rounds of assault-rifle and machine-gun ammunition ... concealed beneath a cargo of flour that a United Nations relief truck was carrying to a district held by Bosnian Government troops.”<sup>36</sup>

Arms were also arriving from Croatia, which, from 1991 on, was being energetically rearmed by Germany and the United States. As Owen described it,

West European governments and the U.S. tolerated and indeed in some cases condoned the Croatian government bringing arms and materials in ... Nor did they do anything to stop the Croatians then transferring arms on into Bosnia-Herzegovina, for there were no U.N. or other monitors on the border with Western Herzegovina ... There was no effective restriction on Croatia building up effective armed forces, and it was Croatia who then controlled the quantity and quality of the arms that moved into Bosnia-Herzegovina to increase the effectiveness of the Bosnian Muslim forces.<sup>37</sup>

Arms were also arriving courtesy of the United States. In 1994, first the European, then the U.S. media reported that the United States was surreptitiously arming the Bosnian Muslims. By November 1994, according to Owen, the French government “at the highest level was making it plain that they had information that the U.S. were supplying light weapons and light missiles to the Muslims.”<sup>38</sup> One encounter with Admiral Jacques Lanxade, France’s military chief, became very fraught when the Frenchman “all but accused the United States of encouraging an escalation of the war and allowing American weapons to endanger the lives of allied soldiers.” Lanxade was enraged because a French plane had suffered serious damage flying over Bosnia when it was hit by a Stinger missile fired by Bosnian army forces. Lanxade told the Americans that C-130 cargo planes had been seen “flying at night into [Tuzla] airport and delivering stocks of M-16 rifles and American-made uniforms to Muslim soldiers.”<sup>39</sup> The deliveries were carried out using airdrop techniques that were standard NATO operating procedure. Shortly after those flights, U.N. observers caught sight of new arms, including anti-tank missiles, in the hands of Bosnian Muslim soldiers. In addition, U.N. officials were coming to suspect that the United States was using NATO patrols that were supposed to enforce the “no-fly zone” over Bosnia as a cover to help private contractors fly arms cargoes into Tuzla.

U.S. General John Shalikashvili, chairman of the Joint Chiefs of Staff, denied that the United States was directly shipping arms to the Bosnian Muslims but did not deny that Muslim states may have transshipped U.S. arms to Bosnia with U.S. assistance. U.S. officials also admitted that the United States had provided information to facilitate the scheduling of the flights, telling the C-130s when “the coast is clear.”

Indeed, once the war was safely over, the media felt free to divulge details of the extensive flow of arms that had poured into Bosnia. “Bosnia’s Muslim-led government evaded a United Nations arms embargo and purchased hundreds of millions of dollars worth of black-market weapons,” the *Washington Post* reported in September 1996.<sup>40</sup> A Vienna, Austria-based organization, the Third World Relief Agency, had facilitated the flow of funds “from Muslim governments and radical Islamic movements to Bosnia. At least half was used to purchase weapons illegally and smuggle them to the Bosnian government army.” The Austrian authorities did nothing to curtail the activities of the agency even though, according to the *Post*, it was connected to one Osama bin Laden. “[M]ilitants in the terrorist underworld are also believed to have used the relief agency to get money to the Bosnian government, including the wealthy Saudi Arabian emigre Osama Binladen, a suspected sponsor of militant Islamic groups around the Middle East,” the *Post* said. “Binladen, a resident of Sudan until last year, is reportedly now in Afghanistan, where he has issued statements calling for attacks on U.S. forces in the Persian Gulf.” The report quoted a Western diplomat as claiming that “the Clinton administration knew about the Third World Relief Agency and its activities beginning in 1993.” Yet the United States took no action to stop the fundraising and the arms purchases, “in large part because of the administration’s sympathy for the Muslim government and ambivalence about maintaining the arms embargo.”

During this time, incidentally, Yugoslavia was under an arms embargo and a U.N. sanctions regime. At the same time, despite a lot of feverish reporting, hard evidence of extensive Yugoslav armed forces (*Vojska Jugoslavije* – *VJ*) support for the Bosnian Serbs has never materialized. The Dutch government’s report on Srebrenica admitted that “Secret UN documents, to which the media referred and that indicated that the VRS [*Vojska Republike Srpske* – Army of the Serbian Republic of Bosnia and Herzegovina] was receiving ‘high-level military support’ from the *VJ* and that personnel and equipment was being supplied across the Drina, were not found by the NIOD in the U.N. archives.”<sup>41</sup>

In any case, heavy arms weren't that important. The terrain in Bosnia is ideally suited for defensive warfare. The Muslims located their armies in the cities, but Bosnia is full of mountains and forests that are hard to break through. Bosnia was where the Partisans carried out their war against the Germans during World War II. Following one particularly sorry Muslim military debacle, Rose wrote scathingly that "the Bosnian Army had probably retreated in order to get the U.N. and NATO embroiled in the war. In the narrow passes and ravines anyone could have stopped the [Serb] tanks with a crowbar ... [T]he Bosnians had turned and run, leaving the U.N. to pick up the pieces."<sup>42</sup>

To read the Western press, one had the impression that the siege of Sarajevo was a re-run of the siege of Leningrad. It was nothing of the sort. According to Owen:

In Sarajevo ... there were in fact two sieges of the city: one by the Bosnian Serbs army, with shells, sniper fire and blockades, and the other by the Bosnian government army, with internal blockades and red tape bureaucracy which kept their own people from leaving. In a radio broadcast the army ... said that able-bodied men aged 18-65 years and women aged 18-60 years were forbidden to leave because they were needed for the city's defence; but the main reason was different. In the propaganda war the Serbian siege aroused the sympathy of the world, and for this they needed the elderly and the children to stay. It was their most emotive propaganda weapon for bringing the Americans in to fight the war, and they never wanted it to be weakened.<sup>43</sup>

Knowledgeable observers such as General Charles Boyd, deputy commander in chief of U.S. European Command from November 1992 to July 1995, pointed out that the anguished tales of the 1000-day siege of Sarajevo were based on hyperbole rather than facts. Writing in *Foreign Affairs*, he said:

As [the Bosnian] government was commemorating the thousandth day of the [Sarajevo] siege, local markets were selling oranges, lemons, and bananas at prices only slightly higher than prices in western Europe. At the same time the commercial price of gasoline in Sarajevo was 35 percent cheaper than gasoline in Germany. A World Food Programme survey in May 1994 found that, after a tough winter for Sarajevo, no one in the city was malnourished, and only a small percentage of the population was undernourished.<sup>44</sup>

The Dutch Srebrenica report recounted how "in the autumn of 1992 stories were doing the rounds of cannibalism in Žepa as a result of food shortages

but, when the first convoys carrying humanitarian aid entered this enclave in December 1992, there appeared to be an abundance of cattle and poultry.”<sup>45</sup> Morillon also expressed his annoyance at the wild exaggerations being relayed by the Bosnian Muslim government: “Everywhere in this crazy situation there was misinformation, very often false information.”<sup>46</sup>

In May 1995, Boutros-Ghali described the extent of the relief effort on behalf of Sarajevo: “The airlift into Sarajevo organized by the Office of the United Nations High Commissioner for Refugees (UNHCR) has become the longest lasting such airlift in aviation history. It has succeeded in delivering more than 150,000 tons of humanitarian relief to the people of Sarajevo and has been an important means of meeting UNPROFOR’s logistic needs in that city.”<sup>47</sup> Not exactly Leningrad.

The Muslim authorities had both strategic and pecuniary reasons to exaggerate the suffering. According to Boyd,

[D]uring the winter of 1993-94, the municipal government helped deny water to the city’s population. An American foundation had implemented an innovative scheme to pump water into the city’s empty lines, only to be denied permission by the government for health reasons. The denial had less to do with water purity than with the opposition of some Sarajevo officials who were reselling U.N. fuel donated to help distribute water. And, of course, the sight of Sarajevans lining up at water distribution points, sometimes under mortar and sniper fire, was a poignant image.<sup>48</sup>

### THE IZETBEGOVIĆ MYTH

Izetbegović was a strange figure on whom to pin hopes for a multiethnic, multicultural, democratic paradise in the Balkans. The political party he headed, the Party of Democratic Action (SDA), was an exclusively Muslim affair. Contrary to much of what was reported about Izetbegović’s alleged commitment to multiethnic diversity, the SDA leader had throughout his life been a dedicated Islamist. During World War II, Bosnia had been a part of the Ustaša Croatian state. The SS created the so-called 13th Handžar division, which consisted of 20,000 Bosnian Muslim volunteers. The Muslims, according to a classic work on the subject, “were traditional enemies of the Christian Serbs, and in 1941 their religious zeal had urged them to join in the massacres of Serbs, which were carried out by the ‘Ustashe.’” The Muslims “were organized on the lines of the Bosnian regiments of the old imperial Austrian

army, with officers and even NCOs of German race, but they wore the Turkish fez with their ss runes and ... each battalion.”<sup>49</sup> The ss assigned Mohammad Amin al-Husayni, the Grand Mufti of Jerusalem, to take charge of propaganda and recruitment. Izetbegović himself had been one of the leaders of the Young Muslims, and supported the Handžars. In 1946, he was sentenced to three years in prison for his wartime activities. In 1983, he was convicted for seeking to turn Bosnia-Herzegovina into an Islamic state and sentenced to 14 years in prison. He was released in 1988.

The Western media’s Izetbegović was as much a figure of fantasy as their Milošević, one supposedly embodying pure goodness, the other pure evil. Izetbegović’s 1970 *Islamic Declaration* gave full expression to his belief that “there can be neither peace nor coexistence between the Islamic faith and non-Islamic social and political institutions.” Among many other pronouncements in the book, he called for the establishment of “a united Islamic community from Morocco to Indonesia,” and expressed disdain for the so-called Turkish model – “Turkey as an Islamic country used to rule the world. Turkey as an imitation of Europe represents a third-rate country, the like of which there is a hundred in the world.” The Islamic movement, Izetbegović said, “must and can, take over political power as soon as it is morally and numerically so strong that it cannot only destroy the existing non-Islamic power, but also to build up a new Islamic one.” During a July 1991 visit to Turkey, Izetbegović asked to join the Organization of the Islamic Conference.<sup>50</sup> If the *Islamic Declaration* was a youthful indiscretion, Izetbegović gave no indication of it. He had the book republished in 1990.

Yet, almost from the beginning of the Yugoslav crisis, the Western media would refer to Izetbegović as a “moderate.” *Newsday* described him as “the respected moderate leader of the republic of Bosnia-Herzegovina” (November 21, 1991); a *Times* (London) editorial lamented that Bosnia was sliding into “a vortex of suspicion, fear and bloodshed” despite “the efforts of Alija Izetbegović, the moderate Muslim president” (April 10, 1992); the *New York Times* called him a “moderate Muslim Slav” (May 8, 1992); the *Observer* (London) claimed that he was “rapidly emerging as an intelligent and moderate mediator in the conflict in Yugoslavia” (September 15, 1991); the *Independent* (London) claimed that Izetbegović was “seen by most people in Sarajevo as an arch-moderate” (July 31, 1992). Strangely enough, throughout the war, Izetbegović’s refusal to countenance any Bosnian peace plan that was based on partition or confederation or consensus among the republic’s three constituent nations was invariably taken as an indication of his passionate commitment to multiculturalism.

The award-winning Yugoslav filmmaker Emir Kusturica, himself a Bosnian Muslim, frequently expressed disgust with Izetbegović. In a 1992 interview with the *New York Times*, he recounted how in the town of Višegrad a Bosnian Muslim had destroyed a statue of Yugoslav writer Ivo Andrić, the 1961 winner of the Nobel Prize for literature. Andrić's crime appeared to have been that he was a Serb. "I know people in Sarajevo who think Andrić was a criminal," Kusturica said. "One of those, he said, is Alija Izetbegović, the President of Bosnia and Herzegovina, who is a Muslim fundamentalist ... [T]he Izetbegović Government hailed the bomber as a hero. You can't lead the country thinking Andrić was an awful writer and a bad person."<sup>51</sup>

In 1990, in Bosnia's first multiparty elections, Izetbegović's SDA overwhelmingly won the Muslim vote. However, Izetbegović himself did not win the presidential race. Within the seven-member rotating Bosnian presidency, two seats were assigned to the Muslims, two to the Serbs, two to the Croats, and one to a Yugoslav. In the 1990 election for the Muslim seats, Fikret Abdić received 1,010,618 votes and Izetbegović 847,386 votes. Abdić and Izetbegović were both members of the SDA. The "Yugoslav" seat was to be occupied by Ejup Ganić, yet another member of the SDA, who received 680,783 votes. In a mysterious post-election agreement, Abdić agreed to step aside and cede to Izetbegović his spot as head of the presidency.

Ganić, incidentally, was no ecumenical moderate as the term "Yugoslav" may suggest. According to David Owen, Ganić had one objective: to bring the United States into the Bosnian war as a combatant on the side of the Muslims. "He orchestrates Bosnian government propaganda, operating at every level in the U.S. – at the White House, on Capitol Hill and on the television screens in American homes ... His message to America is simple – 'we are the victims' – and like all good propagandists he does not shrink from repeating the message over and over again." He opposed the demilitarization of Sarajevo, for that "would remove the most powerful weapon in his propaganda armoury for involving the U.S."<sup>52</sup>

Fikret Abdić eventually broke with Izetbegović following the latter's rejection of the so-called Owen-Stoltenberg peace plan. Abdić, Owen wrote, "was in favor of negotiating and compromising with Croats and Serbs to achieve a settlement, and scathing about those Muslims who wanted to block any such settlement ... [He] had no time for Izetbegović's attitudes, believing that he was perpetuating the war."<sup>53</sup> Abdić left the presidency and returned to his power base, Cazinska Krajina in the Bihać region, which he continued to feed and keep in relative comfort throughout the war. In 1993, Abdić signed a peace agreement with both Karadžić and Mate Boban, the leader of

Bosnia's Croats. Abdić eventually declared Cazinska Krajina's independence. For much of the time between 1993 and 1995, Izetbegović's and Abdić's forces were at war with one another.

The constitutionality of Izetbegović's rule was also very much in question. Though his term as head of Bosnia's rotating presidency was supposed to last for only one year, he extended it indefinitely on the grounds that Bosnia was in a state of war. As Owen was to note, the "international community" elected to deal only with Izetbegović, "conveniently ignoring that his own position was meant to rotate annually according to the constitutional arrangements of the traditional Bosnia-Herzegovina Presidency. It was not just a Bosnian Croat problem, for Fikret Abdić, the secular Muslim leader in Bihać, was also a member of the collective Presidency and disagreed with Izetbegović."<sup>54</sup>

Izetbegović's behavior did little to endear him to Bosnia's Serbs or Croats; however, it did nothing to dissuade the Americans from throwing their weight behind him. His long-standing, often virulent anti-Communism sufficed to ensure that his background and ideology would receive little scrutiny. Nor was much attention paid either to his enthusiastic visits to Iran in 1991 or to his creation of paramilitary units within his political party long before the outbreak of war in Bosnia.<sup>55</sup>

Izetbegović's defenders at times stressed his naïveté or his Hamlet-like indecisiveness. Owen, for example, argued that Izetbegović "did not appear to comprehend how inflammatory it was to some Serbs and Croats for him to visit Libya in March 1991 to arrange a \$50 million loan, and in July to ask that Bosnia-Herzegovina ... should be an observer at the meetings of the Organization of the Islamic Conference."<sup>56</sup> Such observations miss the point. Whether Izetbegović was a committed Islamist or a naïf or merely too weak to resist his Islamist allies, there was something rather distasteful, if not hypocritical, about Western leaders' imperious demands that Bosnia's non-Muslims accept Izetbegović's professions of multiculturalism at face value.

Izetbegović's specialty was wild, hysterical accusations calculated to appeal to Western public opinion. On April 4, 1992, two days before the E.C. and the U.S. recognized Bosnia, he claimed that Bosnia's Muslims were the victims of "genocide" and ordered the mobilization of all territorial defense forces in Bosnia. All JNA weapons and military and technical equipment, he decreed, had to be turned over to the territorial defense forces. This may have sounded reasonable to outsiders. However, the Bosnian presidency, on behalf of which Izetbegović purported to speak, contained not one Serb. Izetbegović's demand that the JNA hand its weapons over to such an unrepresentative body was unlikely to elicit a favorable response. Even less appealing

to non-Muslims was Izetbegović's order for Muslim paramilitary forces to blockade JNA facilities.<sup>57</sup>

The Europeans and the Americans, having dismissed the orders of the SFRY presidency as illegitimate because they emanated from a "rump presidency," now accepted as solemn and binding the decrees of a Bosnian presidency that comprised no representatives from Bosnia's second-largest constituent nation. A few months earlier, Mesić had been attending international gatherings and receiving the deference due to a purported president of Yugoslavia; now it was the turn of Izetbegović to parley with fellow dignitaries as if he were president of Bosnia.

### DEMONIZING THE JNA

Thanks to the legerdemain of international recognition, the West overnight felt itself entitled to denounce the JNA – which had been stationed throughout Yugoslavia's republics for decades – as an illegal occupation force. Bosnia's Muslim and Croat paramilitaries, on the other hand, were taken to be the new state's legal armed forces. On April 30, Bosnia-Herzegovina became a member in good standing of the Conference on Security and Cooperation in Europe, and on May 1, the CSCE demanded the immediate withdrawal of the JNA from Bosnia. "Regular and paramilitary forces in Bosnia-Herzegovina, in particular the Yugoslav national army, should be subjected to the authorities of that republic. Otherwise, they should be immediately withdrawn or disarmed and dissolved," it declared.<sup>58</sup> The CSCE seemed amazingly blasé about turning armaments and weaponry over to a government that was neither legitimate nor representative.

Furthermore, the JNA was now taken to be nothing more than the army of the Serbs. In fact, the JNA had been a model of multinationalism, the very embodiment of Yugoslavism, which may explain why it had sought – ineffectually, to be sure – to keep Yugoslavia together. How little the JNA ever resembled the armed forces of the Serbs Milošević disclosed during his cross-examination of prosecution witness General Aleksandar Vasiljević, former deputy head of the Federal Secretariat for People's Defence and deputy head of the security service of the Yugoslav army. Milošević read out to Vasiljević a list of the 1991 commanders of the JNA:

- 1, Veljko Kadijević, Federal Secretary. 2, Blagoje Adžić, Chief of General Staff. Josip Gregorić, deputy federal secretary and under-secretary. Stane Brovet,

deputy, federal secretary, under-secretary. Mile Ruzinovski, head of the first administration of the General Staff ... Konrad Kolšek, commander of the north-west battlefield. The commanders in Zagreb: Spirkovski, commander of the central theatre, headquarters in Belgrade. Andrija Silić, also a Croat, Chief of Staff of the central theatre. Života Avramović, head of the south-east theatre, headquarters in Skopje. Božidar Grubišić, head of the navy. Anton Tus, head of the air force. Zvonko Jurjević, deputy chief of the air force ... Ivan Radanović, head of the centre for higher military schools in Belgrade. Ibrahim Alibegović, head of the war college. Tomislav Bjondić, commander of the Command Staff Academy ... This is the way it was: Kadijević, Yugoslav; Adžić, Serb from Bosnia; Josip Gregorić, Croat; Stane Brovet, Slovenian; Mile Ruzinovski, Macedonian; Konrad Kolšek, Slovenian; Aleksandar Spirkovski, Macedonian; Andrija Silić, Croat; Života Avramović, Serb; Božidar Grubišić, Croat; Anton Tus, Croat; Zvonko Jurjević Croat; Ivan Radanović, Croat; Ibrahim Alibegović, Muslim; Tomislav Bjondić, Croat; Mate Petar, a Croat. The ethnic pattern as regards these 16 top generals in the top military echelon of the JNA: One Yugoslav, two Serbs – that is to say from Bosnia and Serbia proper, a total of two Croats, eight Slovenians, two Macedonians too, and Muslims one.<sup>59</sup>

To be sure, by 1992 Serbs had come to dominate the JNA, but this wasn't due to Serb design. The republics that were seeking to leave Yugoslavia had instructed their conscripts not to respond to call-up notices from the JNA. Only Serbia and Montenegro continued to provide the JNA with their conscript allotments. Nonetheless, even in 1992, the JNA still enjoyed a measure of trust by all sides. Its original mission had been to ensure Yugoslav unity; now that that mission had been rendered pointless, it could at least have served the humanitarian purpose of separating the combatants pending a peace agreement. This was the last thing the secessionists wanted. The continuing presence of the JNA would undermine their claims of having forged viable states. Their strategy was to provoke clashes with the JNA in order to bring down further international denunciations on the federal authorities.

The Western powers were only too happy to play along. Like gamblers at a casino desperately hoping that if they keep betting on the same number their luck will eventually change, the U.S. and the E.C. continued ratcheting up pressure on Belgrade. They goaded the United Nations to act and pass resolutions demanding the immediate and unconditional withdrawal of the JNA from Bosnia. U.N. Security Council Resolution 752, adopted on May 15, demanded the withdrawal of both the JNA and the Croatian army. In the alter-

native, they had to place themselves under the authority of the government of Bosnia “with their weapons placed under effective international monitoring.” Who would provide this monitoring wasn’t explained; U.N. presence in Bosnia at the time was almost non-existent. The U.N. secretary-general was extremely reluctant to extend the U.N. peacekeeping mission in Croatia to Bosnia. There was no explanation either as to how the international monitors would prevent these weapons from falling into the hands of Muslim and Croat paramilitary forces.

Surprisingly, Belgrade agreed to withdraw the JNA from Bosnia. A deal was reached on April 26, 1992 at a meeting in Skopje, Macedonia attended by Izetbegović; Blagoje Adžić, Yugoslavia’s defense minister; and Branko Kostić, vice-president of the Yugoslav presidency. All members of the JNA who were citizens of Bosnia would remain in Bosnia, all citizens of Bosnia serving elsewhere in Yugoslavia would return to Bosnia, and all officers and soldiers who were not citizens of Bosnia would leave Bosnia.<sup>60</sup> A U.N. secretary-general’s report<sup>61</sup> claimed that the Skopje meeting ended inconclusively. Whatever the case may be, on May 4, the Yugoslav presidency ordered all JNA members who were not from Bosnia to withdraw.

The consequences of JNA withdrawal were to prove disastrous, as was entirely foreseeable. Once the federal army was gone, national groups had no choice but to look to undisciplined, disorganized paramilitaries and criminal gangs to defend them. As Woodward explained:

The task assigned the [JNA] by the federal presidency in early 1991 was similar to that of a peacekeeping force – separation of forces, disarming paramilitaries, and a holding action until political talks could resume – and there is evidence that it was attempting to do just that long into 1991 ... International mediators rejected the option of working with the army or using it as a neutral force, for that would presume a continuation of the state. But the leaders of the *krajina* Serbs rejected the Vance plan primarily because they saw the withdrawal of the [JNA] as leaving them with no protection other than their own arms.<sup>62</sup>

Even UNPROFOR commander General Philippe Morillon subsequently admitted, “I believe that the JNA ... really tried to exert a restraining influence, although it did not hide its sympathy for the cause of the Bosnian Serbs.”<sup>63</sup>

Contrary to the emotionally overwrought accounts of reporters, in Croatia the JNA had worked to separate the combatants and to protect civilians caught in the crossfire. This was confirmed by Vasiljević. Asked by Geoffrey

Nice, the lead prosecutor in the Milošević trial, about the role of the JNA in the war in Croatia, Vasiljević explained:

Well, that conflict had different stages, but the first and basic objective was, during the first stage, for the JNA to separate the parties in conflict. This is a conflict that the JNA did not take part in. These parties in conflict were the Serb forces in the territory of Croatia, and paramilitary units in Croatia. Later, the objectives were to protect, first and foremost, the JNA units which were then, for the most part, in facilities and barracks that were under blockade in the territory of Croatia. And sometime from August or September onwards, 1991 – that is what we are talking about – the protection of endangered peoples is referred to, the people in those areas that were attacked by either side, any side. Specifically in that period of time that we're referring to, that is to say September 1991, this had to do with the protection of the Serb people in some areas ... where there were combat operations and attacks of the National Guards Corps that had been established as an army by then.<sup>64</sup>

The West had given no thought to the chaos that would ensue following the loss of the JNA's restraining influence. The West also appeared to have been unaware that, due to the actions of the secessionists who had refused to allow their nationals to serve in the JNA, by 1992 the overwhelming majority of Yugoslavia's armed forces would be Serbs. Most of the JNA forces then stationed in Bosnia were Serbs who were from Bosnia. This should have been obvious to anyone. It was certainly obvious to Boutros-Ghali. Three days before the adoption of Resolution 752, the U.N. secretary-general expressed alarm over Belgrade's decision "to withdraw from Bosnia-Herzegovina by 18 May all JNA personnel who are not citizens of that Republic. This will leave in Bosnia-Herzegovina, without effective political control, as many as 50,000 mostly Serb troops and their weapons. They are likely to be taken over by the Serb party."<sup>65</sup>

The Bosnian Muslims only had themselves to blame for the fiasco that followed the withdrawal of the JNA. Izetbegović had rejected Milošević's Belgrade Initiative, the Karadžić-Zulfikarpašić agreement, and the Cutileiro plan. On top of that, he had ordered Muslims to cease responding to call-up notices. This was a point made to Izetbegović during the Skopje meeting by Adžić:

Less than 15% of members of the armed forces currently in Bosnia and Herzegovina are originally from outside Bosnia and Herzegovina. This percentage

is almost insignificant. That means that the JNA is mainly filled with personnel from Bosnia and Herzegovina, with over 80% of them coming from that territory and over 90% of them being Serbs living there. That is not our mistake, Mr. Izetbegović, it is your mistake and your leadership's mistake, because you forbade the recruits to serve in the JNA, you banned mobilization for the JNA units and you called on active-duty officers to cross over to your side, to the Territorial Defence, which they are doing now on a relatively massive scale.<sup>66</sup>

Izetbegović did not dispute any of this. In fact, he admitted sheepishly that the ethnic composition of the JNA in Bosnia had indeed "been upset, and severely upset at that. I do not blame the Army for that. A lot of things played a part. We also played a part by denying the deployment of recruits."<sup>67</sup>

There was now the issue of what was to happen to JNA weaponry and equipment. The Izetbegović government would not permit the JNA to remove its weapons and equipment from Bosnia. For Izetbegović, getting his hands on JNA weaponry would obviate any need to come to an agreement with the recalcitrant Serbs. In consequence, the JNA, during its withdrawal, was repeatedly attacked and ambushed by Bosnian Muslims who wanted to get their hands on JNA materiel. In one notorious incident in early May, Bosnian forces ambushed JNA soldiers who were being evacuated by the United Nations, which had promised them safe passage. Captured JNA soldiers were executed. In the words of the U.N. secretary-general's report, "On 3 May, Muslim militiamen, reneging on an agreement for the safe passage of JNA personnel leaving the JNA headquarters in Sarajevo, killed a number of them in cold blood in the presence of senior UNPROFOR officers who were powerless to stop the slaughter."<sup>68</sup>

Such events were barely covered in the media. As MacKenzie wrote, "I couldn't help thinking that if the JNA had ambushed the TDF [Bosnian territorial defense forces], instead of the other way around, it would have been front-page news."<sup>69</sup>

On May 25, Branko Kostić, vice president of the FRY presidency as of April 27 (the day of the proclamation of the FRY constitution), wrote a letter to Boutros-Ghali claiming that all JNA units had been out of Bosnia since May 19 except for those who continued to be blockaded in their barracks.

All that remained were three blocked barracks of military cadets with some 1,500 boys under 17 years of age in them whose withdrawal was rendered impossible by paramilitary Moslem organizations. Efforts to withdraw, with the help of special teams, a part of the remaining heavy weaponry were prevented

by paramilitary Moslem and Croat units, which massacred the members of the teams appointed by the army to perform this task in the towns of Tuzla and Sarajevo.<sup>70</sup>

Morillon testified that the widely covered siege of Sarajevo began on May 2 “after the general staff and the JNA cadets had been surrounded in the Tito barracks and the JNA had made an attempt to get them out.”<sup>71</sup> General Satish Nambiar, UNPROFOR’s first commander, had pointed this out already at the first International Conference on the Former Yugoslavia (ICFY) ministerial meeting in Geneva in December 1992. “In so far as Sarajevo was concerned,” he explained, “the situation really started getting bad subsequent to the attacks on the JNA, particularly the 03 May 1992 incident.”<sup>72</sup>

Izetbegović absurdly continued to deny that his forces were blockading JNA barracks. That they were doing so was a matter of public record. Boutros-Ghali had referred to it in his May 12 report. “Muslim forces,” he wrote, “have blockaded JNA locations in the city (including a military school with 1,300 teenage pupils and the military hospital) and regularly attack a Serb stronghold in the suburb of Ilidza as well as other locations in the city. Loss of life and much damage to property have resulted.”<sup>73</sup>

In the end, the JNA did leave its weapons and equipment behind. But they fell into the hands of those who were the quickest to seize them. As Branko Kostić explained during his testimony in the Milošević trial, “Everywhere where the JNA was withdrawing, people would put up roadblocks, come out en masse into the street to stop JNA convoys from withdrawing. And the JNA if it wanted to pull out its weapons as well, they had to roll over those people in tanks.”<sup>74</sup>

### ASSIGNING BLAME FOR THE CARNAGE

The chaotic and carnage-strewn JNA withdrawal was to lead to the subsequent, tirelessly repeated charge that the departing army had handed over its weaponry to the Serbs. However, as Woodward pointed out,

[the] initial military advantage or disadvantage was largely the result of who was able to seize control of weapons stocks and eventually to obtain heavy artillery, tanks, and planes from the withdrawing federal army ... Yet there would have been no reason for the federal army to hand over its weapons to political parties in Croatia and Bosnia-Herzegovina if it had not been required

to withdraw by international negotiations on Croatia and the U.N. Security Council in the case of Bosnia.<sup>75</sup>

As a matter of fact, Belgrade didn't care too much about what happened to JNA equipment; its chief concern was to get Serbian and Montenegrin soldiers out of Bosnia safely. Nambiar recounted a meeting in Belgrade, also attended by MacKenzie and Morillon, during which Milošević declared that the JNA should "leave their bloody weapons behind." Milošević even raised the possibility of UNPROFOR providing an escort for the withdrawing JNA. MacKenzie responded that while UNPROFOR could provide an escort, it "could not guarantee safe passage." Milošević also offered to help pull out heavy military equipment from Bosnia. MacKenzie dismissed that as "impractical." On the other hand, "If the desire was to remove them from play they should be destroyed. Milošević agreed that destruction was probably a good solution."<sup>76</sup>

That the JNA supposedly did not really withdraw but rather transformed itself into the army of the Bosnian Serbs is an integral part of the mythology of the war in Bosnia. For example, in his 1999 report to the U.N. General Assembly on the fall of Srebrenica, Kofi Annan wrote that the JNA withdrawal from Bosnia was

largely cosmetic since the JNA "left behind" those units whose members were nationals of Bosnia and Herzegovina. General Mladić, Commander of JNA forces in Bosnia and Herzegovina, was restyled Commander of the BSA. Throughout the war that was to follow, the BSA remained closely associated with the JNA/VJ and with the Federal Republic of Yugoslavia, on which the BSA relied for *matériel*, intelligence, funds and other forms of support. The Serb paramilitary groups, which included a substantial criminal element, often operated in close cooperation with the regular armies of Yugoslavia and the Bosnian Serbs.<sup>77</sup>

A shriller version of this tale was recounted by Judge Gabrielle Kirk McDonald, former president of the ICTY. According to her, "the creation of the VRS was a legal fiction," nothing more than a change of name and insignia:

There remained the same weapons, the same equipment, the same officers, the same commanders, largely the same troops, the same logistics centers, the same suppliers, the same infrastructure, the same source of payments, the same goals and mission, the same tactics, and the same operations. Importantly, the objective remained the same: to create an ethnically pure Serb State

by uniting Serbs in Bosnia and Herzegovina and extending that State from the Federal Republic of Yugoslavia (Serbia and Montenegro) to the Croatian Krajina.<sup>78</sup>

Demonstrating the judicial probity and fair-mindedness that secured her the job of presidency of the tribunal, she called the creation of the VRS “nothing more than a ruse.” The Republika Srpska, she explained, “had no army until the JNA division and re-designation, and had no need of one, for the Federal Republic of Yugoslavia (Serbia and Montenegro) was conducting the military operations necessary for the establishment of a Greater Serbia. Only after the Security Council demanded that the Federal Republic of Yugoslavia (Serbia and Montenegro) cease all interference in Bosnia and Herzegovina, was the VRS created.”

Whether the JNA supposedly turned into the VRS or armed the VRS or left its weapons behind for the VRS or continued to aid and abet the VRS, this version of the history of the Bosnian war has long been standard fare in the mainstream media. In March 2006, the *New York Times* obituary of Milošević claimed that the JNA-VRS connection had been definitively proven. According to the writer, no less a personage than former Milošević ally Borislav Jović, Serbia’s man on the Yugoslav presidency, had supposedly let the cat out of the bag:

In interviews with the BBC for a documentary on the destruction of Yugoslavia, he [Jović] explained that the aim was always to use wars in Croatia and Serbia to consolidate areas with large Serb population into a Greater Serbia. Before war broke out upon Bosnia’s declaration of independence from Yugoslavia in April 1992, planning was already in place. “We knew that when Bosnia was recognized, we’d be seen as aggressors because our army was there,” Mr. Jović said. “So Milošević and I talked it over, and we realized we’d have to pull a fast one. We transferred all the Bosnian Serbs in our Yugoslav army to their forces and promised to pay all the costs.” One result was that for the initial year of the war, Serbs enjoyed a crushing military domination.<sup>79</sup>

The *New York Times* seriously misrepresented what Jović said. Jović had not asserted “that the aim was always to use wars in Croatia and Serbia to consolidate areas with large Serb population into a Greater Serbia.” Common sense would suggest that Jović was unlikely to say anything of the sort. In the book that went together with the BBC documentary, Jović was quoted as explaining that he and Milošević had “instructed the General Staff to redeploy troops

and to transfer all those born in Bosnia to Bosnia and to withdraw those born in Serbia and Montenegro to Serbia and Montenegro ... We did not wait for the international recognition of Bosnia to redeploy the troops in Bosnia. [By the time of recognition], out of 90,000 troops in Bosnia ... eighty-five per cent of them were from Bosnia.”<sup>80</sup>

In his own account of the end of Yugoslavia, *The Last Days of the SFRY*, Jović gave a fuller explanation of the thinking behind this redeployment. The goal had been to avoid the kind of clashes that had taken place in Croatia with blockaded barracks and fighting between the JNA and paramilitaries:

Interethnic fighting has already begun. Muslims and Croats have left the JNA and formed paramilitary units. Practically all those who remain in the JNA are Serbs and Montenegrins, but from all Serb lands. When Bosnia-Herzegovina is recognized internationally, the JNA will be declared a foreign army and its withdrawal will be demanded, which is impossible to avoid. In that situation, the Serb populace in Bosnia-Herzegovina, which has not created its own paramilitary units, will be left defenseless and under threat. Sloba [Milošević] feels that we must withdraw all citizens of Serbia and Montenegro from the JNA in Bosnia-Herzegovina in a timely fashion and transfer citizens of Bosnia-Herzegovina to the JNA there in order to avoid general military chaos upon international recognition, caused by moving the military around from one part of the country to another. That will also create the possibility for the Serb leadership in Bosnia-Herzegovina to assume command over the Serb part of the JNA, just as the Muslims and Croats have already done ... Sloba tells me, in simplified terms, that the military must be redistributed: everyone from Bosnia-Herzegovina to Bosnia-Herzegovina and vice versa, that such a move is strategically and politically necessary.<sup>81</sup>

There was no sinister plot. Milošević and Jović were anticipating the inevitable demands of the “international community,” however foolish and misconceived they undoubtedly would be. Within months, Serbia was indeed subjected to increasingly stringent sanctions on the grounds that the JNA had not withdrawn from Bosnia.<sup>82</sup>

The men the JNA left behind were to constitute the various armies that emerged in Bosnia. As Branko Kostić explained at the time, “JNA members, citizens of FR of Yugoslavia will take with them their military equipment, while JNA units, made up of citizens of Bosnia-Herzegovina, will keep their equipment.”<sup>83</sup> Leaders of the VRS, such as Ratko Mladić, were not from Serbia; they were from Bosnia. Interestingly enough, this was not the case with

some of the leaders of the Muslim army. Its first commander in chief, Sefer Halilović, was not from Bosnia but from the Sandžak region of Serbia. “If we were to look strictly at who came from where, then Serbia could be accused of sending Sefer Halilović to Bosnia-Herzegovina to organize the defense of Bosnia,” Milošević quipped at one point during his trial.<sup>84</sup>

But the VRS was not the JNA, no matter how often Western pundits conflated the two. The VRS, like the armies of Bosnia’s Muslims and Croats, was a ragtag force created out of Bosnia’s territorial defense units in the heat of battle. The assumption that a paramilitary fighter or indeed anyone sporting a gun was subordinate to a Bosnian Serb commander as if he were a professional soldier was absurd. Indeed, the CIA’s history of the wars in Yugoslavia disclosed that:

Although most Serb troops in Bosnia served in the ranks of the JNA, Bosnian Serb Territorial Defense and volunteer units formed an important segment – and, at the start, a more heavily engaged one – of the Serb forces. Drawn from the towns and villages now contested between Serb and Muslim-Croat armed forces, the TO and volunteer units formed the Serbs’ first line of defense (or offense).<sup>85</sup>

The CIA study further pointed out that within the VRS “most regular infantry units were poorly trained, particularly in 1992, and suffered from a lack of trained and competent junior officers and NCOs. Most units were not mobilized until war was upon the country, so that reservists rarely received even the most basic refresher training. The inevitable result was heavy casualties among the infantry during 1992.” It was the absence of JNA leadership and organization that led to poor discipline and morale and, inevitably, atrocities.

### METING OUT PUNISHMENT

On May 30, one week after Croatia, Slovenia, and Bosnia-Herzegovina became members of the United Nations, the West’s obsession with removal of the JNA from Bosnia found expression in the imposition of sanctions – a trade embargo as well as a ban on all scientific, cultural, and sporting exchanges – on Yugoslavia, now referred to as merely Serbia and Montenegro.<sup>86</sup>

The severity of the sanctions – much harsher than anything imposed on apartheid South Africa, for example – was inexplicable. The only justification the Security Council offered was that Belgrade had to be punished for its sup-

posed failure to withdraw the JNA from Bosnia. Yet on the very day that sanctions were ordered, U.N. Secretary General Boutros-Ghali issued a report that reached the opposite conclusion, namely, that Yugoslavia had indeed withdrawn its armed forces from Bosnia. The report commended Belgrade but took to task Zagreb: Croatia had failed to remove its forces from Bosnia. According to the report, the bulk of the JNA that was currently deployed in Bosnia comprised of "citizens of that Republic and were not therefore covered by the Belgrade authorities' decision of 4 May to withdraw JNA." Most of them, the report said, had joined the army of the so-called "Serbian Republic of Bosnia and Herzegovina." Others joined the "Territorial Defence of Bosnia and Herzegovina which is under the political control of the Presidency of that Republic." Those who were not citizens of Bosnia accounted for some 20% of the total. "Most of these are believed to have withdrawn already into Serbia or Montenegro."<sup>87</sup> The soldiers who have remained in Bosnia "consist of personnel who have been blockaded in their barracks by the Territorial Defense of Bosnia and Herzegovina or hostile irregular forces."

The secretary-general reported that the JNA had been "subjected to attack during their withdrawal." JNA members who remained in Bosnia and who were not from Bosnia were there only because they had been prevented from leaving by Bosnian territorial defense forces that had blockaded their barracks. "Some 600 to 1,000 soldiers are blocked in the Marshal Tito Barracks at Sarajevo, with nearly 200 vehicles." The territorial defense units wanted to get their hands on the JNA's heavy weapons. "UNPROFOR has received indications that the JNA leadership in Belgrade is willing to leave the bulk of its weapons behind upon withdrawal, but the leadership of the army of the 'Serbian Republic of Bosnia and Herzegovina' is unwilling to permit this." The secretary-general's assertion thus flies in the face of the oft-repeated story of the JNA leaving their weapons behind as a special favor for the Bosnian Serbs.

The report cast doubt also on another favorite story, namely, that the Bosnian Serb leaders were creatures of Milošević, the master puppeteer of Belgrade. Boutros-Ghali questioned the "ability of the authorities in Belgrade to influence" General Ratko Mladić, who appears to be "beyond the control of JNA."

As for the withdrawal of the Croatian army from Bosnia, "information currently available in New York suggests that no such withdrawal has occurred. UNPROFOR has received reliable reports of Croatian army personnel, in uniform, operating within, and as a part of, military formation in Bosnia-Herzegovina."

The secretary-general's report was a remarkable document – and an embarrassing one for the United States, which, having suddenly embraced the cause of Bosnia, was emerging as Yugoslavia's chief adversary. Therefore, the report had to be suppressed. The chairman of the Security Council, Peter Hohenfellner, Austria's ambassador to the U.N., received the report two days before the sanctions vote but kept it from the other members of the Security Council until one hour after the vote. Security Council members thus voted for the sanctions resolution without ever seeing the report. Sanctions were imposed exclusively on the FRY. Croatia wasn't punished at all.

The Security Council piously invoked Resolution 752, adopted two weeks earlier. Yugoslavia had supposedly failed to meet its obligation, "including the disbanding and disarming with weapons placed under effective international monitoring of any units that are neither withdrawn nor placed under the authority of the government of Bosnia and Herzegovina." However, the Security Council failed to note that Resolution 752 had called on both the JNA and the Croatian army to withdraw, disband, and to disarm. The May 30 resolution simply omitted the bit about the Croatian army's obligation.

Demanding that only one party disarm is known as taking sides. With this resolution, the Security Council had firmly inserted itself into the Yugoslav conflict on the anti-Serb side. While it made pro forma demands that Croatia withdraw its forces from Bosnia, the Security Council contented itself with polite mentions of the subject along with resolute refusals to mete out punishment. Resolution 787, adopted on November 16, 1992, for example, threatened to "take measures against all parties ... which fail to fulfill the requirements of Resolution 752." But no sanctions on Croatia were ever imposed, even though, by November 1992, Bosnia's Muslims and Croats were at one another's throats.

During the May 30 Security Council sanctions debate, speakers competed with one another to be the most ferocious in heaping invective on Serbia. Britain's ambassador to the United Nations, Sir David Hannay, declared, without much evidence, "There is no doubt the principal responsibility lies with the civil and military authorities in Belgrade. They cannot duck this. It is simply not true that they have no control over what is going on in Bosnia-Herzegovina. Multiple rocket launchers are not found in Serbian peasants' barns. Somebody puts them there."

Nonetheless, the Security Council would almost certainly not have adopted the resolution had it not been for a horrific incident that took place three days earlier: the so-called breadline massacre in Sarajevo. On May 27, a huge explosion killed 17 people queuing for bread outside a bakery. The

deaths were immediately attributed to a Serb mortar attack. However, ballistics experts on the scene were unable to determine who was responsible for the explosion. There were a number of inexplicable features. First off, there had been an announcement promising a distribution of free bread. Then, according to MacKenzie, “the street had been blocked off just before the incident. Once the crowd was let in and had lined up, the media appeared but kept their distance. The attack took place, and the media were immediately on the scene.”<sup>88</sup>

That U.N. observers remained unconvinced about Serb culpability was even reported in some media. “United Nations officials and senior Western military officers believe some of the worst recent killings in Sarajevo, including the massacre of at least 16 people in a bread queue, were carried out by the city’s mainly Muslim defenders – not Serb besiegers – as a propaganda ploy to win world sympathy and military intervention,” the *Independent* reported.<sup>89</sup> Confidential reports sent to New York “suggest that Sarajevo’s defenders, mainly Muslims but including Croats and a number of Serb residents, staged several attacks on their own people in the hope of dramatising the city’s plight in the face of insuperable Serbian odds.” The paper quoted a U.N. official as explaining, “We believe it was a command-detonated explosion, probably in a can. The impact which is there now is not necessarily similar or anywhere near as large as we came to expect with a mortar round landing on a paved surface.”

While the idea that someone would perpetrate an atrocity against his own side in order to direct blame onto the other side may seem grotesque, such practices were not unusual in the Bosnian war. In fact, staging attacks on one’s own side in order to provide pretexts for war is a tried and true military ploy. Rose openly accused the Bosnian government forces of “firing on their own citizens.” In one incident, following a mortar attack that killed two children, two more shells were fired while “a French Army team was investigating the first incident,” he wrote. “These secondary shots could only have come from the Bosnian side of the firing line.”<sup>90</sup> Owen and Rose both recounted the Muslim practice of setting up a mortar crew in the grounds of the Kosevo hospital in Sarajevo and to fire over the hospital into a Serb area. The gunners would then pack up and leave just in time for the arrival of a “television crew” to “record the retaliatory Serb shelling of the hospital.”<sup>91</sup> Morillon told the Tribunal de Grande Instance in Paris on November 19, 1999, that the mortars in the hospital grounds were there “ready to provoke a reaction on the part of the Serbs ... They were provocative. I know that some U.N. observers saw the mortar at Kosevo. They very frequently used mortars in Kosevo. It was provocation.”

Whatever the truth may have been about the May 29 breadline massacre, the attack proved catastrophic for the Serbs. In the coming years, a familiar sequence of events would play itself out. Whenever an agreement seemed close or the Muslims were being pressured to accept a compromise they didn't like, a horrifying attack would take place in the Markale marketplace. The Muslims would claim the Serbs did it; the Serbs would claim the Muslims did it to themselves. U.N. investigators would suspect the Muslims, but blame would attach to the Serbs and a chorus of laptop bombardiers would take up the cry that NATO must wreak vengeance on the Serbs.

The imposition of sanctions on Yugoslavia seemed an odd response to a war taking place in Bosnia involving the republic's disparate nations. The day after the sanctions vote, the *Washington Post* ran a story on the previous day's debate that made no bones about the agenda underlying the sanctions regime. "The unstated goal of the U.N. sanctions imposed today on the new Serb-controlled Yugoslavia is to topple Serbian President Slobodan Milošević," the report opened.

After more than a year of playing down evidence of his regime's aggression against Yugoslav republics that have declared their independence, Western governments have come to view Milošević, in the words of U.S. and West European diplomats, as a brutal adventurer, a polished con man and an inventive tactician whose survival in power guarantees bloodshed in the Balkans. They view him as the prime instigator of Yugoslavia's descent into ethnic chaos and say his removal from power is the key to peace in the region.<sup>92</sup>

Rather menacingly, the *Post* went on to say that the removal from power of the "Communist strongman" is unlikely to be peaceful. "Based on the evidence of the past four years, there are few foreigners or Serbs who believe that Milošević will surrender power without a struggle that will be as labyrinthine as it is violent." The expectation of violence tends to be self-fulfilling.

### THE LONDON CONFERENCE

Though the March 18 agreement had collapsed due to Zimmermann's intervention, negotiations over some kind of cantonization of Bosnia continued in a desultory fashion. On April 12, a ceasefire agreement was reached, which committed all parties to "start in the most urgent way work on defining the areas of future constituent units of Bosnia and Herzegovina."<sup>93</sup> The Muslims

continued to resist cantonization. Izetbegović told Carrington that division of Bosnia was out of the question: "Ethnic cantons in an ethnically completely mixed environment are not the right solution and could not be constituted in a legal manner. Such cantons could only be constituted by force and by the method of ethnic cleansing, which is precisely what is happening in Bosnia-Hercegovina right now."<sup>94</sup> In response, Carrington pointed out that the Muslim program of a unitary state, plus lots of guff in the constitution about human rights, while popular in the West, was a non-starter in Bosnia. Cutileiro echoed him, complaining about the "unwillingness of the Muslims to discuss constitutional questions."<sup>95</sup> Negotiations, not surprisingly, were going nowhere fast.<sup>96</sup>

U.S. intervention ensured that Muslim opposition to cantonization would now have a powerful backer. Cantonization, Washington declared, was tantamount to legitimization of ethnic cleansing. It "would contradict CSCE principles and set a dangerous precedent," a U.S. State Department spokesman announced. The spokesman seemed unaware of or oblivious to the fact that Switzerland is divided into cantons and seems to function perfectly adequately. In addition, "cantonization along ethnic lines in Bosnia would only reward Serbian aggression, and ... we should in no way reward Serbia, nor Croatia, nor anyone else's attempts to gain Bosnian territory through aggression."<sup>97</sup> Of course, cantonization and rewarding aggression were by no means synonymous, particularly as the boundaries of the cantons had not even been drawn up yet. But, by arguing that cantonization was tantamount to aggression, the Bush administration had adopted Izetbegović's position as its own.

In no time, Britain too distanced itself from the Carrington-Cutileiro plan. Foreign Secretary Douglas Hurd flew to Sarajevo and, after meeting Izetbegović, declared that Britain would stand by Bosnia. "We are not going to accept the partition of Bosnia as if it were some Poland in the 18th century," he announced in a wonderful non-sequitur, "which can just be split up between the rulers of different states without regard for the people."<sup>98</sup>

Seeking to get the United States more actively involved, the Europeans decided that the time had come to hold another international peace conference on Yugoslavia, this time under the sponsorship of both the E.C. and the United Nations and with U.S. participation. The conference, held in London, achieved little. Peace appeared to be the least of its organizers' concerns. For Western leaders, the opportunity to engage in irresponsible hyperbole was too good to pass up. Denunciations rained down on the heads of the Serbs. Words such as "cancer," "evil," and "genocide" were thrown around with cheerful abandon by the silver-tongued statesmen assembled in Lon-

don. European leaders who only a few months earlier had blithely ignored the warnings of Perez de Cuellar, Cyrus Vance, and Lord Carrington about the dangers of premature recognition now outdid one another in the venomous invective they heaped on the Serbs.

Yet their knowledge or understanding of who was to blame for what in Bosnia was extremely limited. Neutral observers on the ground were continually telling Western politicians that the Serbs were not uniquely culpable. MacKenzie, for example, had explained to Mitterrand that “whenever we arrange any type of ceasefire, it’s usually the Muslims who break it first.” Furthermore, there was a distinct possibility that “some really horrifying acts of cruelty attributed to the Serbs were actually orchestrated by the Muslims against their own people, for the benefit of an international audience.”<sup>99</sup>

The noisiest denouncers of the Serbs were, not surprisingly, the Americans and the Germans. The Serbs, raged U.S. Secretary of State Lawrence Eagleburger, “were most guilty today of crimes which mimic those of their former tormentors.”<sup>100</sup> Klaus Kinkel, Germany’s foreign minister, offered a potted history of the break-up of Yugoslavia, one in which Germany’s encouragement of secession had played no part. “Where does the main source of evil lie?” Kinkel asked. “The answer is obvious: in Belgrade. The response to the disintegration of former Yugoslavia – which was their own fault – was a ruthless war aimed at creating an ethnically cleansed greater Serbia. They are deterred neither by violations of international law, nor by deliberate and systematic acts of terror against the other nations ... What is happening here is genocide.”<sup>101</sup> The Serbs were to blame for everything: for the secessions; for the subsequent, inevitable wars to which the secessions led; and, of course, for genocide.

The most revealing moment came during a typical Izetbegović harangue. Amidst fervent condemnations of “Fascism” and “Bolshevism,” invocations of Auschwitz and genocide and reproaches directed at the “international community” for having “failed to come to the aid of Bosnia and Herzegovina ... to fulfill its commitment to the principles of world peace and democracy,” Izetbegović let slip what the war in Bosnia was really about. “According to the Belgrade strongmen, the representatives who are present in this room,” he explained, “Bosnia and Herzegovina should have, after the dissolution of Yugoslavia, remained within a kind of rump Yugoslavia – or a ‘greater Serbia’ as it is usually called – together with Serbia and Montenegro.”<sup>102</sup> Izetbegović had it absolutely right. The war had nothing to do with any ideology of ethnic purity or desire to exterminate a nation or any of the other lurid fantasies exciting Western politicians and pundits. Belgrade had offered Bosnia, in-

cluding all of its Serbs, Muslims, and Croats, membership in a reconstituted Yugoslavia. It was this peaceful outcome that Izetbegović had spurned. It was not an ethnically cleansed Greater Serbia that was on offer – but a smaller Yugoslavia. The Muslims would have been the second largest group – larger than either the Croats or the Montenegrins or the Macedonians had Macedonia decided to join (a very real possibility).

The one significant accomplishment of the London Conference was the final abandonment by the E.C. of the Carrington-Cutileiro plan. Responsibility for this dubious triumph unquestionably belonged to the Americans. The United States, which had pressured the Europeans to recognize Bosnia and had then egged on Izetbegović to renounce the Lisbon agreement, now set out to ensure that no peaceful, negotiated end to the Bosnian war would be possible – at least not for a number of years. From now on, any agreement that the Serbs might sign would, for that very reason, be deemed too morally tainted to be acceptable to the high-minded Western powers. The Serbs were Nazis; hence, any deal with them was tantamount to appeasing mass murderers. Referring to a “cancer in the heart of Europe,” Eagleburger urged action to “demonstrate to the world – especially to the world’s one billion Moslems – that the Western democracies will oppose aggression under all circumstances.” Here, then, was rhetorical escalation of spectacular proportions – pitting one billion Muslims against a tiny European nation.

This purported U.S. concern for the opinions of the world’s one billion Muslims was new. But, so pleased was Eagleburger with this image of a West, sword drawn, embarking on a crusade to rescue persecuted Muslims, that he returned to it in his widely publicized December 16, 1992 speech in Geneva. Serb leaders, he proclaimed on that occasion, may have “convinced the people of Serbia to follow them to the frontlines of what they proclaim to be an historic struggle against Islam on behalf of the Christian West,” but the “solidarity of the civilized and democratic nations of the West lies with the innocent and brutalized Muslim people of Bosnia.”<sup>103</sup>

Solidarity with “innocent and brutalized” Muslims certainly hadn’t played much of a role in previous U.S. decision-making, certainly not when it came to vetoing U.N. Security Council resolutions condemning Israeli actions against Palestinian Muslims or to imposing sanctions against Iraqi Muslims. The world’s one billion Muslims apparently cared only about the fate of a very small number of European Muslims; the fate of millions of Arab Muslims left them cold. Moreover, invoking the specter of one billion Muslims taking up arms over the fate of their co-religionists in Bosnia was bad form. It contradicted one of the key claims of Izetbegović’s Western supporters, namely,

that the Serbs were irrational in their fears because Bosnia's Muslims were irredeemably secular.<sup>104</sup>

As outlined by Eagleburger in London, U.S. policy was to be unconditional rejection of a "de facto constitution of a Greater Serbia." De facto – whatever that may mean: Washington would know it when it saw it. While making standard pro forma calls for negotiations, Eagleburger explained that the most pressing need was for "reversal of Serb aggression." In his December speech in Geneva, Eagleburger announced that the United States was committed not only to the "restoration of the independent state of Bosnia-Herzegovina with its territory undivided and intact" (as if such an entity had ever existed), but also to the inauguration of a "day of reckoning for those found guilty of crimes against humanity." He called for a "second Nuremberg" to try Serb leaders Milošević, Mladić, and Karadžić.

Eagleburger was no diplomatic novice or naïve human rights group intern. He was U.S. secretary of state, a veteran diplomat and a former U.S. ambassador to Yugoslavia. His speech had been carefully vetted throughout the U.S. government, and he had chosen his words carefully.<sup>105</sup> Likening Milošević, Mladić, and Karadžić to the Nazis was no sudden emotional outburst. It was calculated to nullify pre-emptively any deal that Serb leaders signed. Since Serb leaders were unlikely to embrace an agreement that involved their arrest, trial, and imprisonment, any peace plan that offered the Serbs anything more than a "second Nuremberg" would thereby be deemed immoral and, hence, unacceptable to the United States. Eagleburger thus set the course for U.S. policy on Bosnia for the next three years: unconditional support for Muslim objectives in Bosnia and rejection of every peace plan on the grounds that it wasn't generous enough to the Muslims and/or punitive enough on the Serbs. It was a vote for indefinite continuation of the war. In the audience in Geneva was David Owen, the new ICFY co-chairman who had been assigned responsibility to negotiate an end to the war. Understandably, he was none too pleased, and he made clear to Eagleburger that he found his remarks "unhelpful."<sup>105</sup>

The London Conference issued the Serbs with a set of demands. Serbia and Montenegro was ordered to "cease intervention across their borders with Bosnia and Croatia," to "restrain the Bosnian Serbs from taking territory by force," to "restore in full the civil and constitutional rights of the inhabitants of the Kosovo and Vojvodina," to "ensure the civil rights of the inhabitants of the Sandjak," and to "declare that they fully respect the integrity of present frontiers." If "they" – the identity of the "they" remained a little murky: sometimes it referred to all of Yugoslavia's Serbs, sometimes to the Serbs of

Serbia, sometimes to the leaders of Serbia and Montenegro, sometimes to anyone who refused to go along with the E.C./U.S. forcible partition of Yugoslavia policy – did not comply with these demands, the U.N. Security Council would be “invited to apply stringent sanctions leading to their total international isolation.”<sup>107</sup>

The conference adopted 13 principles, which included “non-recognition of advantages gained by force” (a principle that hadn’t applied to Slovenia and Croatia) as well as “respect for the independence, sovereignty and territorial integrity of all states in the region and respect for the inviolability of frontiers.” Izetbegović could go home satisfied. This was his agenda, one that could only be realized through Western military intervention. Karadžić, who had been rejecting this agenda since 1990 and whose forces were in the ascendant, was not even permitted a seat at the table. He was allowed to attend, but only as an observer.<sup>108</sup> As General MacKenzie had vainly attempted to explain to photo-op-hunting President Mitterrand during the latter’s much-publicized June 1992 visit to Sarajevo:

The Muslims are in a box. Even if they recover the territory they had before the war, they won’t have very much. Izetbegović wants the entire country back. Quite frankly, the only way he can get it is by convincing the international community to intervene with massive military force, ridding him of his Serbian enemies ... It’s in the interests of Izetbegović to keep the fighting going, in the hope that the world will come to his rescue – provided he can make it look as if the Serbs are solely responsible for perpetuating the chaos.<sup>109</sup>

The downfall of the only peace plan on the table was greeted with rejoicing. Cantonization was dead and buried, and Carrington was gone, pushed aside by the Americans who, it was said, “were angered by the degree to which Lord Carrington was listening to Serbian leaders in Bosnia.”

David Owen, Carrington’s replacement, had been among the earliest proponents of bombing the Serbs. Clearly, a much more vigorously anti-Serb policy was to be expected. The U.S. government loudly congratulated itself for having intervened to sabotage any prospect of a peace agreement. The Bush administration, Eagleburger explained, wanted “to ensure that the conference did not become a forum for endorsing partition or cantonization. The conference has sent a clear political signal that the international community will not reward aggression; that Bosnia’s sovereignty, independence, and integrity will be upheld.”<sup>110</sup>

However, by embracing the goal of a united, indissoluble Bosnia, the Bush administration had intervened in a civil war, and on the losing side to boot. The result was that the war would have to go on. Since sending in U.S. troops to fight on behalf of a sovereign Bosnia was out of the question, and since a U.N.-mandated arms embargo was in place, the administration had few options other than familiar boilerplate: denouncing Serb “aggression” and applying pressure on others to tighten sanctions against Belgrade. There was a new ingredient. The administration decided that the best way to frustrate the Serbs would be to start or exacerbate conflicts elsewhere. At the London Conference, Eagleburger had urged the insertion of “human rights monitors” in Kosovo, Vojvodina, and Sandžak – “areas of Serbia ... that could become the next targets of aggression.”<sup>111</sup> The Bush State Department now announced that it would be “placing continuous human rights monitors in the Kosovo, Vojvodina, and Sandžak [areas] and ‘early warning’ monitors in neighboring states and regions, including Albania, Macedonia, Romania, Bulgaria, and Hungary.”<sup>112</sup> Later, in December 1992, outgoing President Bush sent a letter to Milošević threatening him with war, this time over Kosovo. “In the event of conflict in Kosovo caused by Serbian action, the United States will be prepared to employ military force against the Serbs in Kosovo and in Serbia proper,” Bush wrote.<sup>113</sup>

The *Economist*, a faithful bellwether of Establishment opinion, celebrated the demise of cantonization. “Such a settlement, if foisted on Bosnia’s Muslims, might silence the guns for a time. But it would, in effect, give Europe’s blessing to the violent expulsion from their homes of more than 1m people. It would reward Serb ethnic killers as well as Croats who profited from their work by taking land or property left by fleeing Muslims. It would create an aggrieved, dispossessed Muslim nation on the edge of Europe.”<sup>114</sup>

Thus the perfect expression of that peculiar, yet fashionable, moral sentiment: continued war, more killings, more destruction of towns and villages, more displacement of populations, more detention camps, more refugees were preferable to an agreement that – perish the thought – “might silence the guns for a time.” Heroism comes easily to those for whom it’s vicarious. While it may be right and proper to reject a peace agreement that rewards an aggressor, no such principle was at stake here. Izetbegović was no victim. He had presided over a unitary state in 1991 but had flagrantly violated its constitutional requirement of tripartite consensus by pushing ahead with a declaration of sovereignty and an independence referendum. Izetbegović had repeatedly rejected agreements that might have averted war. He had refused to countenance Bosnia remaining within Yugoslavia. He had rejected

the Karadžić-Zulfikarpašić agreement. He had withdrawn his signature from the Cutileiro plan. He had walked out of subsequent negotiations conducted by Cutileiro. By August 1992, the Muslims had lost a war that they had been warned not to provoke and that they had no hope of winning without foreign intervention. Yet here was the U.S. government as well as influential media outlets such as the *Economist* urging Izetbegović to hold out for his goal, a unitary Bosnian state, that the majority of Bosnians – the republic's Serbs and Croats – opposed.

Western policymakers had now come to regard their commitment to the unity of Bosnia as a test of their moral fiber. The more Bosnia's Serbs and Croats wanted to opt out of Bosnia, the more important it was to insist on preserving Bosnia. Bosnia's Serbs, Croats, and Muslims had to live together in one state whether they wanted to or not. Off the table was secession by any of Bosnia's nations, any discussion of changing the borders of Bosnia to take account of population locations, any kind of partition or cantonization, any proposal deemed by the United States to be unfair to the Muslims or too generous to the Serbs, any agreement that didn't provide for Nuremburg-style trials for the "major war criminals." No wonder, then, that the Bosnian war was to drag on for another three and a half years.

### THE U.N.-NATO PARTNERSHIP

Having insouciantly allowed the Cutileiro plan to collapse in the summer of 1992, the West had few ideas on how to get Bosnia's Serbs and Croats to accept the E.C.-U.S.-Badinter-ordained order. American and European leaders proclaimed their undying commitment to the sovereignty and territorial integrity of Croatia and Bosnia but were reluctant to get involved in a war in a difficult terrain, one that could provoke the Russians and perhaps bring the Communists back to power in Moscow. Western leaders had few options other than the tried and true policy: bluster, sanctions, fist-shaking, and, inevitably, threats to use force.

On September 25, 1991, the U.N. Security Council had imposed an arms embargo on Yugoslavia. The objective had been to halt the fighting. Within months, however, Resolution 713 was being denounced for its supposed immorality and anti-Muslim bias. The resolution had allegedly allowed the JNA-equipped Bosnian Serbs to gain an unfair advantage over the Muslims. The West, the vociferous Bosnia lobby cried, was therefore morally obligated to lift the arms embargo on the Muslims, maintain it against the Serbs, and

let the Bosnian parties fight it out on an even playing field. Victory for the West's clients was inevitable. The Serbs, Mark Almond assured, had proved themselves to be

remarkably incompetent and timid soldiers. Hand-to-hand fighting is not their forte, and a handful of ill-armed Moslems have kept them out of Srebrenica for the best part of a year. Any intervention or even a lifting of the arms embargo would find tens of thousands of battle-hardened Moslems bursting for the opportunity to do their own fighting with modern weapons. Only then would we discover if the Serbs are as willing to see their own blood spilled as they are on the destruction of the Moslem way of life.<sup>115</sup>

U.N. observers were not as sanguine as the armchair warriors about the Muslims' prospects for victory. They doubted the Muslims' ability to defeat the Serbs, no matter what weaponry they had at their disposal. Besides, the Serbs would not simply sit back and wait peacefully while the West armed, and presumably trained, the Muslims. The U.N. observers were right. In July 1995, a couple of hundred Serb soldiers entered Srebrenica causing some 10,000 to 15,000 Muslim men to flee in panic across Serb lines and suffer heavy casualties as a result – the perfect epitaph to the policy of keeping a war going in order to build up Muslim fighting strength.

Since arming the Muslims was unlikely to tilt the war in their favor, the policy only made sense as a prelude to open Western military intervention. The threat to resort to force had already been implicit in U.N. Security Council Resolution 770, which had urged states to provide resources to ensure safe distribution of humanitarian aid. Adopted on August 13, 1992, the resolution called on all states "to take nationally or through regional agencies or arrangements all measures necessary to facilitate in coordination with the United Nations the delivery by relevant United Nations humanitarian organizations ... of humanitarian assistance to Sarajevo and wherever needed in other parts of Bosnia and Herzegovina." Humanitarian convoys needed protection, which UNPROFOR would provide.

The Security Council's next step was the imposition of a no-fly zone over the whole of Bosnia. U.N. Security Council Resolution 781 banned all military flights, other than UNPROFOR's, over Bosnia's air space. Next came a ban on all flights by fixed-wing and rotary-wing aircraft. Resolution 816, adopted on March 31, 1993, also authorized U.N. member states "acting nationally or through regional organizations and arrangements ... to take all necessary measures ... to ensure compliance with ban on flights." The form of words

was the same as in Resolution 770. "Nationally or through regional organizations and arrangements" could certainly be taken to include NATO. There was a caveat, though. Any action taken to ensure compliance with U.N. resolutions had to be authorized by the Security Council and could be undertaken only in close coordination with Boutros-Ghali and UNPROFOR.

Resolution 787, adopted on November 16, 1992, prohibited transshipment through Yugoslavia of oil, coal, iron, steel, chemical rubber, tires, vehicles, and aircraft. Again, the resolution invoked states "acting nationally or through regional agencies or arrangements." This time, their task was "to halt all inward and outward maritime shipping in order to inspect and verify their cargoes and destinations and to ensure strict implementation" of resolutions 713 and 757. On April 17, 1993, the Security Council tightened sanctions on the Serbs of Bosnia and Croatia. Resolution 820 stipulated that henceforth, authorization from the government of Croatia would be required for the import, export, and transshipment of "goods through the United Nations Protected Areas in the Republic of Croatia." Similarly, authorization from the government of Bosnia would be required for the import, export, and transshipment of goods to "those areas of the Republic of Bosnia and Herzegovina under the control of Bosnian Serbs forces." Also, all states were now instructed to prevent diversion to the territory of the FRY "of commodities and products said to be destined for other places, in particular the United Nations Protected Areas in the Republic of Croatia and those areas of the Republic of Bosnia and Herzegovina under the control of Bosnian Serb forces."

As Boutros-Ghali noted, tightening sanctions only made the Serbs more, not less, recalcitrant. Croatia's Serbs, for example, believed that regulation of the commerce and trade of the UNPAS by Croatia was a "breach of the peace-keeping plan."<sup>116</sup> The Serbs, according to him, saw Resolution 820 as imposing "de facto sanctions on the UNPAS ... The economy of the UNPAS has been devastated both by the effects of war and by the restrictions on trade. This has further contributed to Serb intransigence on the issue of border control, which the local Serb authorities see as being intended to subjugate them through economic pressure."<sup>117</sup>

From April 12, 1993 onwards, NATO aircraft were flying over Bosnian airspace, engaged supposedly in the task of enforcing compliance with all of these resolutions. Meanwhile, NATO ships were in the Adriatic inspecting cargo bound for the Balkans. This was the beginning of the fateful partnership between the United Nations and NATO. There was a basic conflict of interests between the two organizations. UNPROFOR was supposed to be a neutral body seeking to minimize civilian suffering. NATO, on the other hand,

was a highly politicized organization, under the dominance of powers that had already intervened and taken sides in the wars in Yugoslavia.

While the U.N. carried out its humanitarian missions, NATO waited in the wings ready to undertake military missions. Humanitarian work such as monitoring ceasefires, securing the safe passage of U.N. convoys delivering aid, or opening airports to traffic, the advocates of intervention claimed, would be impossible unless NATO was there to offer muscle. U.N. workers in Bosnia didn't see things that way. They were more anxious to keep NATO out than to bring it in. As UNPROFOR saw it, the only NATO military mission that made sense was protection of U.N. personnel. However, NATO leaders, particularly the Clinton administration, were more interested in using NATO on behalf of the Muslims. The U.N.'s humanitarian mission and NATO's self-imposed mission to defeat the Serbs were clearly in conflict. "It was impossible for the U.N. to operate effectively amid the confusion caused by policies that on the one hand supported the peacekeeping strategy of the U.N. mission, and on the other hand pursued the war-fighting strategy of NATO. These contradictory policies ... undermined the political position, credibility and effectiveness of the U.N.," Rose wrote.<sup>118</sup>

NATO's self-imposed mission was to punish violators of U.N. resolutions. However, though all sides were guilty of such violations, NATO was only ever prepared to take action against the Serbs. As Rose put it, "NATO often seemed to advocate taking disproportionate action against the Serbs, while ignoring violations on the side of the Muslims. This made it difficult for the U.N. to conform to the prime requirement of peacekeeping: impartiality."<sup>119</sup> NATO would issue threats against violators. But when it became apparent that the violators weren't Serbs, NATO would withdraw its threats.

Given that some NATO governments had accepted the premise that any Muslim casualty was a civilian casualty, and that any Serb action was an attack targeting civilians that deserved swift retribution, NATO had essentially given the Muslims a blank check. Their armed forces could make forays out of their cities, they could attack Serb positions, drive Serbs out of villages and when the Serbs counter-attacked and drove the Muslims back, NATO would threaten the Serbs with bombing. With NATO jets supporting them, the Muslims would have every incentive to continue to attack the Serbs in the hope of provoking counterattacks, which could then be touted as justification for even more intense NATO attacks.

The more NATO's involvement on behalf of Bosnia's Muslims expanded in scope, the more compromised UNPROFOR became – something Boutros-Ghali repeatedly warned would happen. "Using force against only one party,"

he said, “alters that party’s perception of the neutrality of UNPROFOR, with the risk that its personnel and those of other United Nations agencies come to be identified with the use of force and perceived as a party to the war. Being widely dispersed, they become extremely vulnerable to obstruction, detention and other forms of harassment.”<sup>120</sup>

As Boutros-Ghali reported to the Security Council, the new tasks imposed on UNPROFOR have placed it “in a position of thwarting the military objectives of one party and therefore compromising its impartiality ... As a result of the changed perception of its impartiality, [UNPROFOR] has suffered increased incidents of obstruction and harassment.”<sup>121</sup>

It took the ingenuity of the laptop bombardiers to square the circle and assert that if the NATO and U.N. missions were in conflict, then so much the worse for the U.N. U.N. peacekeepers were obstructing the work of the true humanitarians: the NATO bombers.

#### EXIT CARRINGTON, ENTER OWEN

Following the abandonment of the Cutileiro plan, Owen replaced Carrington as chairman of the conference on Yugoslavia. The E.C. Conference on the Former Yugoslavia now made way for the International Conference on the Former Yugoslavia (ICFY), which was to be a joint E.C.-U.N. effort. There was to be a division of roles. Owen would represent the presidency of the E.C., and former U.S. Secretary of State Cyrus Vance, co-chairman with Owen of the ICFY Steering Committee, would represent the U.N. secretary-general. (In 1993, Vance was replaced by Thorvald Stoltenberg, former foreign minister of Norway.) Also present on the ICFY was a representative of the Organization of the Islamic Conference and a representative of the Clinton administration. From the start, though, Reginald Bartholomew, former U.S. ambassador to NATO, was more interested in serving as “a conduit for Izetbegović” than in securing an agreement.<sup>122</sup>

The numerous constitutional arrangements that first Owen and Vance, then Owen and Stoltenberg negotiated were doomed to fail, not so much because the three warring parties couldn’t come to an agreement, but because the Western powers freighted the plans with objectives that were at once incompatible and impossible to achieve.

Though the unitary state of 1991-1992 had been a flop, the Muslims’ goal and now that of the West was its restoration. But this would be unacceptable to the Serbs. The only feasible settlement was one that led to the creation

of a state that no national group could dominate either by itself or jointly with another group. That left two options: cantonization or confederation. With Washington fiercely opposed to cantonization, the ICFY co-chairmen resolved to cobble together a plan that, though ensuring separation along national lines, could be presented to the world as something other than *de facto* partition. Owen therefore decided to allocate to different national groups different regions of Bosnia but made sure that these regions would not be contiguous. That way no one could accuse him of sanctioning the eventual dissolution of Bosnia.

Key to the plan's success would be the attitude of the Croats. The Muslims were always likely to favor a plan that sanctioned the continuation of the state of Bosnia. However, if the Croats could also be persuaded to accept it, then the Serbs would be isolated. The West would then be able to apply real pressure against the supposed enemies of peace.

The ICFY adopted the inconsistent approach that had become *de rigueur* within the international community. In 1991, important world powers ruled that Yugoslavia could not be a federation. Only confederation or dissolution would be acceptable. In 1992, those same powers ruled that Bosnia had to be either a centralized state or a federation. Neither confederation nor dissolution would be acceptable. The peoples of Bosnia, the conference stated, were intermingled and hence not susceptible to separation into territorially distinct units based on national or confessional principles. "Any plan to do so," Boutros Boutros-Ghali explained, "would involve incorporating a very large number of members of the other ethnic/confessional groups, or consist of a number of separate enclaves of each ethnic/confessional group. Such a plan could achieve homogeneity and coherent boundaries only by a process of enforced population transfer." Therefore, Vance and Owen had no choice but "to reject any model based on three separate, ethnic/confessionally based States." But a confederation of such states was also unacceptable because "at least two would surely forge immediate and stronger connections with neighboring States of the former Yugoslavia than they would with the other two units" of Bosnia.<sup>123</sup> Of course, together these two would comprise more than half of Bosnia's population. The wishes of the majority thus had to be firmly resisted for the sake of an "independent" Bosnia.

The solution, therefore, was a unitary state, plus decentralization, plus lots of constitutional boilerplate about human rights. But if commitments to the protection of human rights in Bosnia's constitution would suffice to allay the anxieties of all national groups, why couldn't human rights commitments in the constitutions of the three separate states of Bosnia do the same

thing? If human rights guarantees alone protect minorities, then the size of the unit issuing the guarantees should not matter. Each of the three Bosnian state units would effectively be Bosnia writ small, much as Bosnia itself had been Yugoslavia writ small. This was yet another example of the international community's dizzying contradictions.

Martti Ahtisaari, chairman of the ICFFY's working group on Bosnia, presented Owen and Vance five constitutional options for Bosnia: a centralized state; a centralized federal state; a loose federal state consisting of three non-geographically contiguous ethnic units; a loose confederation of three ethnically determined republics; and "a Muslim state with Serbs becoming part of the FRY and Croats becoming part of Croatia."<sup>124</sup> Owen plumped for the centralized federal state option – doubtless on account of it being the least acceptable to the most people.

Thus, the so-called Vance-Owen peace plan, which Owen characterized as the "most moral and idealistic of all the five peace plans." However, the plan was based on a recommendation of the Izetbegović government. Bosnia was to be a decentralized state comprising 10 autonomous provinces or cantons. Izetbegović had suggested a division into 13 provinces, in each of which one ethnic group would predominate. Under the Vance-Owen plan, three provinces would be under Serb control, three under Muslim control, and two under Croat control; one would be under mixed Croat-Muslim control and Sarajevo would be run jointly by all three nations. The boundaries were to follow the 1981 ethnic maps, with one ethnic group – the majority group – dominating each province. Owen boasted that the provinces were drawn in such a way as to ensure that the Bosnian Serb-dominated provinces would not be contiguous: "Our task was to devise a structure whereby Serbs could retain control of those aspects of daily life that preserved and safeguarded their national identity. We could not, however, accept a state within a state and therefore had to avoid as far as we could a geographical continuity of Serb provinces."<sup>125</sup> Karadžić rejected the division into 10 provinces and proposed, instead, a division into five – one united Serbian area, three cantons for the Muslims, and one for the Croats. Owen ruled this out because there had to be a "sufficient mix of provinces so that the provincial map did not embody disguised partition, and so that the multiethnic nature of the country would be preserved." In other words, liberal uplift above everything!

Consistent with Owen's strategy of isolating the Bosnian Serbs, the plan was extraordinarily generous to the Croats. Mate Boban, the Bosnian Croat leader, "could scarcely conceal his glee when he saw the map. It gave the Croats exactly what they wanted: their provinces formed large blocks of territory,

joined to Croatia proper and stretching into the very heart of central Bosnia. They signed up to the Plan immediately.”<sup>126</sup>

The Bosnian Muslims, on the other hand, were a little disappointed. Izetbegović complained that the central government would be too weak. He also argued that the provincial boundaries as outlined in the plan would reward ethnic cleansing. The Bosnian Serbs, as expected, were less than enthusiastic. They were unhappy about the non-contiguity of the Serb areas, the absence of secure land links between them, and the areas’ territorial separation from Serbia. The plan envisaged a so-called northern corridor linking the Banja Luka and Bijeljina provinces, consisting of an internationally controlled road and a demilitarized zone extending five kilometers on either side of the road. The Serbs complained that many predominantly Serb areas had been excluded from the Serb-majority provinces. Before the outbreak of the war, Serbs had owned about 60% of the land in Bosnia. This was now to be reduced to 43%.

Owen appreciated how unfavorable his plan was for the Serbs. “The Muslims have been given all the main industrial areas and most of the natural resources,” he wrote to Sir Robin Renwick, Britain’s ambassador to Washington, on January 29, 1993. “We were amazed how foolishly the Serbs clung to their obsession with ethnic villages and virtually ignored industrial and economic factors. The net result is that the Serbs occupy 43% in their provinces but it is rural land and the Muslims though occupying only 27% in their three provinces have scooped the industrial pool with even the Croats complaining they have very little industry.”<sup>127</sup>

Though dissatisfied, Izetbegović accepted the deal largely because the Clinton administration had promised him that if he signed and if, as expected, the Serbs did not, then the arms embargo against the Muslims would be lifted.<sup>128</sup>

Realizing that the Bosnian Serbs were unlikely to come round, Owen sought to bypass them by forcing Milošević’s hand. The idea was to apply enough pressure on Milošević to compel him in turn to apply pressure on the Bosnian Serbs. Milošević, anxious to have sanctions against Yugoslavia lifted but also, doubtless, aware of the trap that was being set for him, was happy to oblige. Owen’s approach was unusual in that he disdained to offer Milošević any incentive to cooperate. In fact, Owen, or, rather the E.C. powers on whose behalf he was acting, tried to make life as difficult as possible for Serbia’s leader. Owen repeatedly brought up the issue of Kosovo, demanding that Belgrade grant extensive autonomy to the province. In January 1993, at a crucial moment in the negotiations over the Vance-Owen plan, Owen suggested

deploying the U.N. in Kosovo. Given Serb sensitivity about sovereignty over Kosovo, Owen could hardly have expected his proposal to go over well. But conciliation was not a high priority for Owen or for any Western statesman. Issuing non-negotiable demands and threatening punitive action if they were rejected was the favored approach.

Milošević, while ready to cooperate, continued to insist on getting something in return, namely, the lifting of sanctions. Owen ruled this out right away. The furthest the Western powers were prepared to go was to issue vague promises. In March 1993, in a meeting at the Élysée Palace, Mitterrand tried to win Milošević over by pledging that once an agreement was signed he would use his political influence to ensure that sanctions were lifted on Yugoslavia. If Vance-Owen is accepted, Mitterrand promised Milošević, “sanctions must and should be lifted as soon as technically feasible.”<sup>129</sup> Mitterrand admitted that his stance would be “opposed in some quarters,” but Serbs could feel confident that he “would put his full weight behind getting others to support it.” Given the incoming Clinton administration’s coolness toward the Vance-Owen plan, not to mention Washington’s unshakeable anti-Milošević fervor, Mitterrand’s promise amounted to nothing. Nonetheless, Owen wrote,

we rose from the dinner well content with what Mitterrand had achieved. Now we had to tighten sanctions but give a little time before they came into effect to act as an incentive for Milošević to deliver ... To put maximum pressure on the Serbs we needed a Security Council Resolution toughening sanctions and covering FRY economic assets passed with an implementation date set around the middle of April.<sup>130</sup>

So there it was: having won Milošević over by a promise, albeit vague, to lift sanctions, the way forward was obviously to tighten sanctions!

In the meantime, Owen sought vainly to pressure the Clinton administration to back his plan. Clinton had campaigned for the presidency in 1992 vowing to bomb the Serbs and to lift the arms embargo against the Muslims. The new administration was thus less than keen to support a plan that didn’t give the Muslims everything they wanted. In early 1993, Owen flew to the United States determined to launch a noisy campaign to force Clinton’s hand. If Washington refused to play ball, he wrote to Sir Robin Renwick, the British ambassador, he threatened to blow the lid on “Ganić and Silajdžić’s tactics – the latest example we have is of Muslim fighters firing mortars at Serbs from within the grounds of the main hospital in Sarajevo.”<sup>131</sup>

Owen's trip was a fiasco. The Clinton administration offered vague, tepid support for his plan, but refused to endorse it. There are "deep-seated objections among some in the U.S. administration about the whole idea of a peace negotiation," Owen told the E.C. ambassadors.<sup>132</sup> Owen had it right. Washington had blithely accepted the Muslim claim that the Serbs had captured 70% of Bosnia. Therefore, by offering the Serbs anything, the Vance-Owen plan was supposedly rewarding aggression. The U.S. understanding of what was going on in Bosnia was profoundly erroneous, as Owen well knew. Due to their agrarian way of life, the Serbs had formed a plurality in 64% of the territory at the beginning of the war while the more business-oriented Muslims had resided in the cities. The Vance-Owen plan envisaged considerable surrender of territory by the Serbs. Exasperated by U.S. complaints that he was sanctioning Serb "ethnic cleansing," Owen pointed out that this would be the first time in history that a winning side withdrew from won territory.

With no U.S. support forthcoming, it was back to the tried and true policy: pressure on the Serbs and, in particular, on Milošević. To give expression to their self-satisfied humanitarianism, the Western powers now resolved to ensure almost certain rejection of the Vance-Owen plan. On February 22, amidst fulsome encomia to themselves, members of the U.N. Security Council voted to establish a Nuremberg-style tribunal for the "prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991." Few were in any doubt as to whom the Security Council considered to be "responsible for serious violations of international humanitarian law." Barely two months earlier, U.S. Secretary of State Eagleburger had demanded the creation of a Nuremberg-style tribunal, the most important task of which would be to try Milošević, Mladić, and Karadžić.

Then, on April 17, much to Owen's delight, the U.N. Security Council decided to put the squeeze on all Serbs everywhere. Seeking to compel the Serbs to accept the Vance-Owen plan, the council adopted Resolution 820, which froze all Yugoslav assets held abroad and barred FRY ships from all ports and docks. All states were ordered to impound all vessels, vehicles, and aircraft owned by anyone from Yugoslavia. All services, financial or otherwise, were to be barred to anyone doing business in Yugoslavia.

As if that were not enough, Owen now returned to his old idea of bombing the Serbs. "The first step is economic sanctions, but economic sanctions alone will not stop this type of military advance. Interdicting supplies for this war has become very much more of an option ... If the Serbian government in Belgrade will not cut off those supplies, then we should interdict from the

air and cut them off ourselves ... You would effectively bomb bridges and roads in Bosnia-Herzegovina, not in Serbia-Montenegro – you wouldn't take the conflict out of the present battlefield," Owen told an interviewer.<sup>133</sup> The purpose of the air strikes, Owen explained to the E.C. ambassadors, was "systematic and prolonged interdiction of supply routes, to help tilt the balance in favor of those who had accepted the peace plan."<sup>134</sup> Strangely, such belligerence didn't stop Owen from piously taking the Clinton administration to task over its eagerness to bomb. "U.S. opinion," he complained, "would not face up to the reality that wider air strikes threatened the U.N. humanitarian mission since they were strung out all over the country in small groups, vulnerable to being seized as hostages."<sup>135</sup>

Despite the blow of tightened sanctions, Milošević was willing to go along with Owen. But his political fortunes were in decline. As Serbs saw it, his policy of obliging the West had been rewarded with more pressure and further demands. The repeated humiliations to which he had been subjected had severely diminished his ability to influence others. In return for backing the Vance-Owen plan, Milošević had been offered nothing, not even a temporary suspension of sanctions. At first Milošević's persuasive powers appeared to be unabated. On May 2, in Athens, following hours of relentless arm-twisting, Karadžić succumbed to Milošević's entreaties and signed on to the plan, but with the proviso that the Bosnian Serb assembly would have to accept it as well. Owen had already flatly rejected Karadžić's suggestion that the Bosnian Serbs hold a plebiscite on the plan. E.U. foreign ministers chimed in immediately, announcing that they would ignore the outcome of any such referendum.

The Bosnian Serb assembly was scheduled to debate the agreement on May 5. Owen, familiar with the routine of political leaders bullying their parliaments or electorates into taking their medicine, was confident that the combined weight of Milošević, Karadžić, and FRY President Dobrica Ćosić would suffice to bring the Bosnian Serbs to heel. So, on May 5, Milošević, Ćosić, and even Greek President Constantine Mitsotakis all went down to Pale, the Republika Srpska capital, to urge the Bosnian Serb assembly to accept the plan. The Bosnian Serb representatives weren't persuaded. They overwhelmingly rejected the plan. However, they ignored the stricture of the E.U. and called a referendum of the Bosnian Serbs, to be held on May 15. As expected, the "no" vote was near unanimous. It was precisely the absence of contiguity, which Owen had sought so assiduously to ensure, that proved the plan's undoing.

U.S. officials greeted the Bosnian Serb rejection of the Vance-Owen plan with a disingenuous show of outrage. The Americans had never endorsed the

plan; Clinton policymakers had repeatedly claimed that the plan “appeased Serb aggression and legitimized ethnic cleansing.”<sup>136</sup> A week before the Serb referendum, a barely coherent Madeleine Albright, the U.S. ambassador to the United Nations, had blustered and threatened at the U.N. Security Council. She dismissed in advance the proposed Serb referendum, claiming that it was a “cynical ploy to delay while the Bosnian Serbs continue to roll up additional territory.” Consequently, “our focus,” she promised, “will continue to be on the new, stronger measures on which President Clinton has decided.” And she went on:

This unelected group of dubious characters declined to ratify the agreements, instead calling for them to be put to a referendum at some point later this month. We are thus faced with the self-declared parliament of a self-declared leader stating that it needs the agreement of the “people” to stop the killing for which they are themselves to blame. We have no doubt that those responsible for war crimes will be allowed to participate in the referendum if it ever occurs. We doubt, however, that those who have been forced from their homes at gunpoint will be allowed to participate. We know that those who now enjoy the peace of the grave will not participate. This is not democracy in action: this is simply a ruse to buy time for further territorial conquest.<sup>137</sup>

These “dubious characters” were as much “elected” as Izetbegović’s followers. They were the same elected representatives who had walked out of the Bosnian assembly in protest at what they believed was a violation of the Bosnian constitution. Izetbegović’s democratic credentials were scarcely more sterling. He was supposed to have stepped down as president in December 1992, as stipulated by Bosnia’s constitution. He had refused to do so.

The dishonesty of these expressions of horror can be seen in the fact that, on May 2, the day on which Karadžić signed the peace plan, Secretary of State Warren Christopher flew to Europe seeking to rustle up support for the administration’s favored policy of bombing the Serbs and lifting the arms embargo on the Muslims. The Clinton administration, the *Washington Post* reported on May 2, had “decided . . . to use military force against the Serbs in the war in Bosnia-Herzegovina.”<sup>138</sup> There was no reason for Christopher to make this trip to Europe at such a critical time other than to try to sabotage the Vance-Owen plan. Christopher’s proposal that force be applied against the Serbs found no takers, something that could hardly have come as a surprise to the administration. Common sense prevailed, at least on this occasion: rather than end a war, the Clinton plan would have massively escalated it.

Despite the administration's resounding failure to win any European support for its bombing plan, Washington was quick to trumpet the alleged success of the Christopher mission. Karadžić's signature was taken to be a vindication of the administration's tough new strategy. "If the saber rattling in Washington over the last 10 days helped to convince Radovan Karadžić, the Bosnian Serb leader, then it seemed good sense to keep up the rattling in the hope that it would bring around the recalcitrant Bosnian Serb parliament," the *New York Times* said.<sup>139</sup> The usual political blowhards in Washington were also eager to sound off. "We have to keep the drumbeats of possible American and allied intervention sounding because that's the one sure way ... to get the Serbs to not only sign this agreement but literally to carry it out," declared Senator Joseph Lieberman, D-Conn.

Such assertions, which were to become a favorite trope of the U.S. policymaking elite during the following decade, have the happy attribute of not being susceptible to disproof. If Karadžić signs, it proves threats worked; therefore more threats are necessary. If Karadžić refuses to sign, it proves more threats are needed. Whoever is thus targeted has few avenues for escape. Whatever he does justifies violence or the threat of violence. In much the same way, if a potential target of U.S. bombing takes protective action in anticipation of bombing, such action must be inherently aggressive and becomes justification for the bombing.

Christopher had responded to news of the Athens agreement with extreme sourness. "If Athens turns out to have been another cynical ploy by the Serbs, if they are unable to move forward on the agreement that was signed there, I think it will have a very dramatic impact on the thinking in Europe because they are holding out considerable hope for going that particular route. If their hopes are dashed, that would have a dramatic impact."<sup>140</sup> Christopher was wrong. Despite the Bosnian Serbs' rejection of the plan, the Europeans remained unenthusiastic about bombing and a selective lifting of the arms embargo.

Washington continued to try to drum up support for the "lift and strike" strategy even as it insisted that it would help "implement and enforce an agreement that is acceptable to all parties." In late May, however, the administration officially distanced itself from the Vance-Owen plan. A disappointed Owen turned around and now complained that it was the Americans who were appeasing the Serbs. "Izetbegović called upon all those citizens who loved Bosnia to unite and defend ... its integrity and freedom. I agreed with every word and I felt very sorry for the predicament in which [he] now found himself. The U.S. had totally let him down," Owen wrote bitterly.<sup>141</sup>

Loud in complaining about others, Owen seemed blissfully unaware of his own failures. He blamed the Clinton administration for the demise of the Vance-Owen plan. “While talking much about morality,” the administration had “ditched the one plan which could claim to have a moral basis and offered the prospect of actually reversing some ethnic cleansing.”<sup>142</sup> Fair enough. But Owen’s plan had failed because it was unacceptable to one of the parties, arguably the strongest, to the conflict. The plan may have had “a moral basis,” but it was not practicable.

Owen had urged sanctions against the Serbs in order to make them see sense. The U.N. duly tightened sanctions. Owen had sought to pressure Milošević into leaning on the Serbs. Milošević duly obliged. The only trick left in the box was the use of force. But the Clinton administration had already tried whipping up support for that option, with very little success. Having treated Washington in a high-handed way, Owen now expected it to send in the bombers, in the face of European opposition, to ram his peace plan down the throats of the Serbs – a plan the administration had had no hand in shaping and that it had never liked.

### THE KARADJORDJEVO CONSPIRACY

By late 1992, the Greater Serbia explanation for the war in Bosnia was in trouble. The Muslim-Croat alliance had disintegrated and the two national groups were now fiercely fighting one another. What did the Muslim-Croat war have to do with Milošević, the supposed architect of Greater Serbia? A new conspiracy theory therefore had to be conjured up. This one involved the Serbs and Croats forging a secret alliance to carve Bosnia up among themselves. The Muslims now were victims not only of the Serbs but also of the Croats.

Belief in the existence of such a conspiracy required a drastic paradigm shift. For more than a year, the Western media had been filled with stories of Serb atrocities against Croats, wicked Serbs seizing Croat land, and Serb Communists denying democratic Croat leaders their constitutional prerogatives. Now, one had to accept that Serbs and Croats had been in cahoots all along. One had to discount such surface phenomena as Serbs and Croats fighting in Croatia, Muslims and Croats forging an alliance to separate Bosnia from Yugoslavia, Milošević’s proposal to keep Bosnia within Yugoslavia, and Karadžić’s agreement with Muslim leader Zulfikarpašić.

The key to understanding the mystery of the Muslim-Croat war was a “secret” meeting that Milošević and Tudjman had held in March 1991 in Kar-

adjordjevo, located in Vojvodina. It was during this meeting that the two men had apparently agreed to divide Bosnia up among themselves. The Milošević indictment, for example, unambiguously stated that “On 25 March 1991, Slobodan Milošević and Franjo Tudjman met in Karadjordjevo and discussed the partition of Bosnia and Herzegovina between Serbia and Croatia.”

The universal certitude as to what had supposedly transpired at Vojvodina is odd, given that no one other than Milošević and Tudjman attended this meeting. Over the years, both men denied repeatedly that they had ever discussed carving up Bosnia. Such denials naturally did nothing to prevent the Karadjordjevo meeting from becoming a key piece in the Balkan jigsaw puzzle. It's not hard to understand the story's popularity and wide acceptance. We in the West know that this is just the sort of thing Balkan chieftains would do. They can't help it; they are not endowed with our finer democratic sensibilities.

However, the story of a Milošević-Tudjman plot flies in the face of evidence, not to mention common sense. How could Milošević have known in March 1991 that Croatia and Slovenia would press forward with their independence claims, that the Europeans would completely reverse themselves and accept secession, that the Bosnian Muslims who at that stage were favoring the continued existence of Yugoslavia would also reverse themselves and opt for secession, that the Europeans would then accept that a Bosnia that barely had a government was entitled to recognition as an independent state? Milošević would have had to foresee all of these events in order to be able to discuss carving Serb territory out of Bosnia. Moreover, even if such a deal had been agreed on, wouldn't the vicious war between the Serbs and Croats in late 1991 have rendered such an agreement null and void?

The Milošević prosecutors were to return again and again to this alleged deal. In “Karadjordjevo there was, there may be no doubt, an agreement between this accused and President Tudjman of Croatia to carve up Bosnia, a plan that was afoot quite without prejudice to the Croatian war into which those two men were to engage,” ICTY prosecutor Geoffrey Nice explained during the trial.<sup>143</sup> To most outside observers, it would seem strange for the two leaders to come to a happy agreement on Bosnia and yet wage fierce war in Croatia, a matter that was surely of more pressing urgency for Tudjman. Not to the manufacturers of history at the ICTY though.

One should note though that, far from being an exercise in monstrous immorality, a Milošević-Tudjman deal in March 1991 could have prevented the wars in Bosnia and Croatia. As one scholar noted:

Under the best possible set of circumstances, one could envisage Bosnia as part of a rump Yugoslavia with her ethnic mix intact, or largely so. If Croatia and Serbia had been inclined to adopt this approach, Western Herzegovina and even parts of Posavina might have been ceded to Croatia without resorting to population transfers ... Yet, if it was obvious that the alternative was a devastating civil war – and if the solution proposed by Zagreb and Belgrade had the support of the international community – the wars in both Croatia and Bosnia might have been avoided.<sup>144</sup>

As usual, the ICTY had taken its lead from the Silber and Little book and the accompanying BBC “documentary” *The Death of Yugoslavia*. As Silber and Little tell the story, following the meeting at “Tito’s favorite villa for negotiations and hunting ... word soon leaked out that the two Presidents had made a pact.” While “Milošević has never divulged the details of their discussions ... Tudjman bragged how he had doubled the size of Croatia. Convened to avert war, the two men agreed on a plan which meant war.”<sup>145</sup> However, Silber and Little, in accordance with the prevailing literary fashion of giving everyone something, never actually come out and say that there was a secret deal. They say one thing on one page, the opposite on the next. Milošević and Tudjman had “agreed on a plan”; yet again they only “discussed the partition of Bosnia-Herzegovina.” On the one hand, “Tudjman was lulled into believing that his dream of an independent-and-enlarged Croatia was within reach.” On the other hand, “Milošević denied that any such agreement was ever reached. Pragmatic as ever, he kept his cards close to his chest, never divulging what he and Tudjman had decided on that day.” (Note that if Milošević “denied” that he and Tudjman had reached an agreement on Bosnia, he really wasn’t keeping “his cards close to his chest.”) Silber and Little’s conclusion? The “agreement between the two leaders ... did not last long.” In other words, there was an agreement; and yet again there wasn’t an agreement.

The ICTY naturally insisted that there was an agreement and wheeled in a procession of witnesses claiming to possess direct knowledge of it. However, not one of these witnesses was at Karadjordjevo. One veteran ICTY testifier is the garrulous and frequently inebriated Paddy Ashdown. He claimed that Tudjman had confided to him about the existence of a plan to carve up Bosnia. This disclosure occurred on May 6, 1995 at a gathering in the Guildhall in London to celebrate VE-Day. Ashdown was seated next to Tudjman. “A good deal of wine was flowing at the time, and President Tudjman consumed a certain amount of that,” Ashdown recalled. Anxious to elicit Tudjman’s

vision for the future, Ashdown drew an outline of Yugoslavia on the back of a menu card and asked his companion to fill in the rest.

Tudjman happily obliged. According to Ashdown, Tudjman's map indicated a Bosnia neatly divided up between Serbia and Croatia. "I concluded from the conversation that he regarded everything to the left of that map as Greater Croatia, and everything to the right of that map, as, as it were, Greater Serbia. My private suspicion, strong private suspicion, at the time was that that conversation and this map indicated – I will not go any further – that there was a possibility of an agreement between them," Ashdown announced.<sup>146</sup> So Tudjman didn't claim that there was such an agreement, still less that it was struck in March 1991 at Karadjordjevo. The English lord had inferred all of this from a hastily drawn sketch on the back of a menu card during a drunken conversation at a noisy banquet hall packed with hundreds of guests while waiters tripped over one another clearing plates and refilling glasses. And this is serious ICTY evidence!

Another "witness" confirming the Karadjordjevo tale is career diplomat Herbert Okun – like Ashdown, an ICTY regular. He served as deputy to Cyrus Vance when the former U.S. secretary of state, serving as the U.N. secretary-general's personal envoy, negotiated a ceasefire agreement in Croatia. Okun liked Tudjman but loathed Milošević, referring to him frequently as a "gangster." Though Okun didn't start working for Vance until October 1991 (more than six months after the Karadjordjevo meeting), he didn't hesitate to assert that a secret agreement had indeed been reached. His knowledge was even further removed than Ashdown's. He couldn't even claim to have heard about it from the lips of either Tudjman or Milošević.

During the trial of some Bosnian Croats, an exasperated defense attorney finally confronted Okun about Karadjordjevo:

I looked at your diary. I didn't see anywhere where you or Mr. Cyrus Vance ever mentioned anything about Karadjordjevo to Tudjman directly, or to Milošević for that matter, to say hey, what is this agreement about? Why do you want to carve up Bosnia-Herzegovina? ... [I]s there anywhere in your diary where you confront Tudjman and say, What about this Karadjordjevo? Or you confront Milošević? Or you confront both of them when they're together? Is there any inkling in that diary of yours?<sup>147</sup>

Okun prevaricated. The attorney, Michael Karnavas, persisted. Finally, he addressed the veteran diplomat directly: "Did you or anybody else ever meet anybody who was present that could at least tell us this was what was agreed

upon at Karadjordjevo, other than what we read in the press?” Okun admitted: “No, I did not.”

A latecomer to the Karadjordjevo plot story was Ante Marković, the last prime minister of the SFRY. Following his resignation in December 1991, he disappeared from public view. He wrote no memoirs and gave no interviews. The 12-year hiatus came to an end when he suddenly broke his silence and came to The Hague to testify against Milošević. He claimed that both Tudjman and Milošević had confided to him about Karadjordjevo. He, Marković, was in the two leaders’ way; that’s why they sought to oust him as prime minister.<sup>148</sup> Milošević’s eagerness to confide in Marković, scarcely a political ally, was surprising. He hadn’t confided about Karadjordjevo to any of his political friends. More surprising still was Marković’s remarkable reticence about divulging this important information. More than 12 years had elapsed since Karadjordjevo; yet a strong sense of fastidiousness – a personality trait that no one had hitherto suspected him of possessing – had prevented him from revealing the indiscretions of his political enemies.

Not surprisingly, the most enthusiastic and consistent purveyor of the Karadjordjevo story has been Stjepan Mesić, the former president of Croatia and, like Okun and Ashdown, an ICTY regular. A former close ally of Tudjman, he broke with him in 1994 and left the HDZ, claiming it was too nationalist for his taste. The claim sounded unlikely. Mesić had been only too happy to take part in the xenophobia and Serbophobia that the HDZ had launched upon coming to power in 1990. A more likely reason for his departure was that Tudjman, with his revisionism about World War II and the Ustaša state, was becoming a bit of an embarrassment for his Western patrons. A more adroit player was needed, and Mesić would fulfill that role.

Eager to discredit Tudjman, now his political rival, as having been a Milošević stooge, Mesić’s claims about a Milošević-Tudjman carve-up helped to advance his political fortunes. That was certainly the view of Borislav Jović, a prosecution witness in the Milošević trial who, incidentally, was very skeptical about the existence of a “secret” Milošević-Tudjman deal. The story of an agreement to divide Bosnia, he said, was “just an invention by Mesić by which he intended to discredit Tudjman because they were in conflict.”

However, Mesić, who wasn’t even at Karadjordjevo, succeeded in inserting himself as the unimpeachable source for the Bosnia carve-up story for many writers on Yugoslavia, including Silber and Little. Mesić was canny enough never to claim that Tudjman had actually told him that there was such a deal. Mesić’s claim about the deal was more surmise than fact, as became clear in his testimony during the Milošević trial:

So the two of them met. Now, what they caused there is something that I cannot say with any degree of certainty, but I can say with certainty what Tudjman conveyed to us when he came back from Karadjordjevo, because we were waiting for him the entire day. Let me also emphasise one more point. Up until Karadjordjevo, Tudjman had always been in favour of Bosnia and Herzegovina remaining one entity ... But after that particular meeting, he changed his opinion. He had a whole about-turn in his opinion. And quite obviously Milošević convinced him that Bosnia could be divided up.<sup>149</sup>

He couldn't "say with any degree of certainty" what was discussed at Karadjordjevo, but "quite obviously" Milošević had convinced Tudjman that Bosnia "could" – not would or should, mind you – "be divided up." This is as unlikely a tale as anyone had ever recounted to the ICTY. A hapless Tudjman falls prey to the wicked machinations of Milošević. So Tudjman had supposedly changed his mind about Bosnia in March 1991 and that had to have been the result of a conversation with Milošević? It is certainly a pretty thin reed on which to hang a conspiracy theory. Sensing the disappointment of the ICTY prosecutors, Mesić quickly reassured them that he had more evidence than that. He had inferred the existence of a deal from what was happening on the ground in Bosnia: "It was quite clear from what was happening in the field, on the ground, in Bosnia-Herzegovina later on the Republika Srpska was proclaimed et cetera, and on the other side the Croats proclaimed Herceg-Bosna. So that allowed one to conclude that what was in fact in play was the carving up of Bosnia-Herzegovina."<sup>150</sup>

It was left to another prosecution witness, Hrvoje Šarinić, Tudjman's chef de cabinet and one-time chief of Croatia's intelligence services, to offer the commonsensical observation that, had Milošević and Tudjman really struck a deal, the war in Bosnia would have been avoided. "Had there been a formal agreement, then all those horrors that came afterwards would not have taken place," Šarinić said. "So I was just reflecting on this, on both presidents having their own ideas about Bosnia and the division of Bosnia. That is the truth. But I do not believe that a formal agreement was reached."<sup>151</sup> Of course, Šarinić, a Tudjman loyalist, had every bit as much reason to lie as Mesić, a Tudjman ally turned enemy. It demonstrates the peril of meting out justice and manufacturing history on the basis of claims and inferences made by various interested parties to a conflict.

The ICTY, understandably, chose to believe Mesić and determined that his dubious, self-interested assertions constituted convincing evidence on which to convict Milošević. In June 2004, in their dismissal of the amici's acquittal

motion, the Milošević judges cited this Karadjordjevo meeting as decisive proof of Milošević's supposed membership of a "joint criminal enterprise" to commit genocide against the Bosnian Muslims. "In March 1991, during a secret meeting at Karadjordjevo, the Accused agreed with President Tudjman to the division of Bosnia and Herzegovina along ethnic lines and its annexation to Croatia and Serbia respectively, allowing the possibility for the Bosnian Muslims to live in an enclave." This went even beyond what the indictment had alleged. The sources the judges cite for this conclusive proof? Mesić, of course. And Ante Marković. Anything that failed to support the tale of the Karadjordjevo conspiracy had to be ignored. Thus the testimonies of Jović and Šarinić were firmly discounted.

### NEW OPPORTUNITY FOR NATO

In May 1993, a new avenue opened for the possible use of force against the Serbs. On April 16, the U.N. Security Council adopted Resolution 819, which ordered that Srebrenica and its surroundings "be free from any armed attack or any other hostile act." Then, on May 6, the Security Council adopted Resolution 824, which declared that, in addition to Srebrenica, five more cities – Sarajevo, Tuzla, Goražde, Žepa, and Bihać – would be deemed safe areas. Four weeks later, on June 4, came Resolution 836 mandating UNPROFOR to deter attacks against these safe areas. Paragraph 10 of this resolution authorized member states "acting nationally or through regional organizations or arrangements" – aka NATO – to take "all necessary measures, through the use of air power, in and around the safe areas ... to support UNPROFOR in the performance of its mandate." Through this resolution, NATO's mission, hitherto limited to monitoring the no-fly zone over Bosnia, became that of defending Muslim safe zones, which were also serving as bases for Muslim armed forces and weaponry. NATO had, in effect, become the Muslims' air force.

Boutros-Ghali was very apprehensive about this turn of events. He pointed out that UNPROFOR's role was that of peacekeeping. Now, the U.N. force was being asked to engage in peace "enforcement." The two tasks were by no means compatible. "To blur the distinction between the two can undermine the viability of the peace-keeping operation and endanger its personnel," he wrote. "Peace-keeping and the use of force (other than in self-defence) should be seen as alternative techniques and not as adjacent points on a continuum, permitting easy transition from one to the other."<sup>152</sup>

Boutros-Ghali had misstated the problem. UNPROFOR wasn't engaging in peacekeeping and peace enforcement. NATO had simply hijacked UNPROFOR and had pressed on it a war-making mission. NATO, now a combatant on the side of the Muslims, was demanding that UNPROFOR identify targets and provide intelligence about Serb threats to the "safe areas" with a view to facilitating bombing attacks. The U.N.'s humanitarian mission had required the "consent and cooperation of the parties," which in turn required from UNPROFOR "strict adherence to the peace-keeping principles of impartiality and transparency." The newly entrusted "safe areas" mission, on the other hand, required UNPROFOR to deal daily "with a party upon whom it is also expected to call air strikes in certain circumstances." The same went for sanctions. The U.N. had imposed sanctions on the Serbs. But the U.N.'s peacekeeping force was obliged to work with the consent and cooperation of the Serbs. "The result," the secretary-general complained, "is that Bosnian Serb leaders have now largely withdrawn their consent and cooperation from UNPROFOR, declaring that they are applying their own 'sanctions' to the United Nations in response to United Nations sanctions on them."<sup>153</sup> NATO had transformed a peacekeeping mission into a war-making mission.



## PEACEMAKING V. HUMANITARIANISM

*Bosnia and Croatia: June 1993 to December 1995*

In June 1993, the ICFY-sponsored negotiations were chugging along at a not terribly brisk pace. The Vance-Owen plan had been consigned to the history books; its replacement was the so-called Owen-Stoltenberg plan. (Stoltenberg took over from Vance as co-chairman of the ICFY after the signing in Athens.) However, Owen and Stoltenberg were only the go-betweens; the real initiators of the plan were Serbia and Croatia.

The plan, first drafted in June 1993, appeared to be something of a return to the aborted Cutileiro plan. Owen himself referred to it as the “union of three republics” plan. Out went the policy of “integration” (a “heart-rending” moment for Owen<sup>1</sup>): Bosnia was now envisaged as a de facto confederation among its three constituent nations, each of whom would have its own republic and its own constitution, executive, legislature, and judiciary. None of the three republics of Bosnia would be permitted to secede without the prior agreement of the other republics – the principle no one had bothered to observe during the dissolution of Yugoslavia. Sarajevo would be placed under U.N. administration for a period of two years; Mostar would be under the administration of the European Union<sup>2</sup>, also for a period of two years.

Izetbegović and his supporters were furious. This was not the unitary state they had been promised. A “confederation is not a state,” seethed Ganić.<sup>3</sup> When Milošević made the same argument in October 1991 in response to the Carrington plan, Serbia was threatened, and eventually slapped, with sanctions. Owen and Stoltenberg for their part insisted that the Muslims should be guaranteed at least 30% of Bosnia’s territory and be granted access to the River Sava in the north and the Adriatic in the south. In addition, the U.N.-designated “safe areas” had to be included within the Muslim-majority republic, including the three – Srebrenica, Žepa, and Goražde – that were behind Serb lines in eastern Bosnia. The road linking the three eastern enclaves to the central area of the Muslim-majority republic would also be part of the Muslim republic.

The Serbs were only prepared to allow Goražde to be linked territorially to the Muslim-majority republic. The Muslims were indignant at the 30%

offer, even though the area assigned to them included many of Bosnia's industrial regions. Muslim leader Fikret Abdić, who favored the plan, candidly observed, "We must be realistic and state the truth that the largest part of the industrial and production facilities were situated in the Muslim republic, so that this economic consideration cancels the territorial loss."<sup>4</sup> This was a point Owen and Stoltenberg also made. They informed Boutros-Ghali that "The Serb and Croat sides repeatedly referred to the fact that the Muslim-majority republic would contain most of the major population centers ... and also the majority of the industrial centers and natural resources, and that this justified the Serb-majority republic having a higher percentage of the territory than envisaged in the Vance-Owen peace plan."<sup>5</sup> Such crucial considerations were invariably ignored in the emotional media debate on percentages.

Journalists were aghast at these developments and bemoaned the coming "carve-up" of Bosnia. "Doomed President Tries to Halt Partition," screamed the headline above the story in the *Guardian*. The sub-heading was: "Whiff of treachery as Bosnian team heads for Geneva." "Muslims are suspicious, and are convinced the treachery is being aided and abetted by the Geneva mediators," the reporter announced breathlessly. The *Independent* accused Owen of plotting to oust Izetbegović in favor of the supposedly "flexible" Fikret Abdić "in order to win all-round acceptance for the plan to carve up Bosnia." Abdić, the reporter sneered, "was always a businessman first, a Muslim second [and I] ukewarm about the whole project to create an independent Bosnia." To Muslims, Abdić was nothing more than "a traitor and a stooge of Serbia's Slobodan Milošević and Croatia's Franjo Tudjman."<sup>6</sup> The *Guardian* described Abdić as "a wheeler-dealer and former leading communist." Abdić's apparent acceptability to Bosnia's Serbs and Croats, not to mention his enthusiasm for signing a peace agreement, automatically disqualified him as a possible president of Bosnia.

Izetbegović survived Owen's alleged coup plots and demanded additional "territory extending to the Adriatic Sea and that Muslim majority areas in the area of the River Drina, in the area east of Bihać and in Jajce, should be allocated to the Muslim majority republic, which should have a larger percentage of the national territory." Izetbegović presented Owen and Stoltenberg with a map laying claim to an additional 2.3% of the territory of Bosnia in eastern Bosnia and 1.7% east of Bihać, amounting to 4% in all.<sup>7</sup>

### BOMBING THREATS RENEWED

While these negotiations were taking place, the United States, eager as ever to facilitate a peace agreement, voted on June 29 in favor of a U.N. Security Council resolution that would have lifted the arms embargo on Bosnia – a policy strongly opposed by the nations contributing troops to UNPROFOR. The Security Council must not “deny the Bosnian Government the wherewithal to defend itself in the face of brutal aggression conducted by the Bosnian Serbs and their backers in Belgrade,” Madeleine Albright cried.<sup>8</sup> The resolution failed to win enough votes and would in any case have been vetoed by Britain.

Equally helpfully, the United States announced that even if a Bosnian settlement were reached, sanctions against Yugoslavia would remain in place. On August 9, 1993, State Department spokesman Mike McCurry said at a press conference that “it’s very hard to imagine there’d be any lifting of sanctions against Serbia any time soon.” Asked by a reporter to explain the basis for maintaining sanctions once a peace agreement had been secured, McCurry responded, “The same basis that they were employed in the first place. The sanctions were not just aimed at pressuring the Serbs to achieve political settlements. There are also other things referred to in the sanctions resolution itself, and I advise you to go back and take a look at it.”<sup>9</sup> McCurry didn’t bother to explain what these “other things” were, and the complaisant press corps didn’t press him.

Meanwhile, the Clinton administration again applied pressure on NATO to begin bombing. On July 31, 1993, U.S. Secretary of State Warren Christopher wrote to Boutros-Ghali informing him that, on August 2, the United States intended to ask its NATO allies to get ready to bomb Bosnian Serb targets “at times and places of NATO’s own choosing.” Though the bombing would be carried out in full coordination with the U.N., there would be no “need for a specific request from UNPROFOR or specific authorization from U.N. headquarters.” Christopher reconciled these dizzyingly contradictory assertions by claiming that sufficient authorization already existed under the resolutions passed by the Security Council. Boutros-Ghali disagreed and told Christopher that he couldn’t accept “military measures taken by the United States that exceeded what the Security Council, with full U.S. participation in the vote, had authorized in the resolutions.” Air strikes, he said, had “to be called in by the U.N. force commander on the ground and approved by the secretary-general in consultation with the Security Council.”<sup>10</sup>

Under the “dual key” system in place, NATO could not go into action without the authorization of the United Nations. And the United Nations wasn’t

too keen on authorizing bombing that would more than likely endanger the lives of its personnel. Moreover, given the possible loss of UNPROFOR lives as a result of NATO bombing, it was only reasonable that the man to whom the peacekeepers were ultimately answerable, the U.N. secretary-general, should have the final say on whether their lives should be put at risk. Frustrated, Washington turned its fury on Boutros-Ghali.<sup>11</sup> Explaining U.S. refusal to support his re-election to a second term, Albright told Boutros-Ghali that he had only himself to blame “for trying to control American military power. You used the ‘dual key’ to oppose NATO air strikes against the Serbs. Your stance was very badly perceived by military circles in Washington.”<sup>12</sup>

The ostensible justification for the sudden renewal of bombing threats was the need to lift the siege of Sarajevo. The siege of Sarajevo was, of course, an integral part of the Bosnian war. Boutros-Ghali’s reports had explained the reasons for the siege. It was tied to the presence there of Muslim armed forces. The siege could only end if the war ended. Ahead of the August 2 North Atlantic Council meeting, the administration began dropping hints that it was ready to bomb the Serbs without NATO, let alone U.N., authorization. Following what was described as an acrimonious meeting, NATO announced that it would “make immediate preparations for undertaking, in the event that the strangulation of Sarajevo and other areas continues ... stronger measures including air strikes against those responsible, Bosnian Serbs and others, in Bosnia-Herzegovina.” NATO would identify suitable targets and work out command-and-control arrangements for possible air strikes. However, contrary to the wishes of the Americans, NATO promised to stick to the letter of the U.N. resolutions, vowing that its actions would be under the authority of the Security Council and “in support of UNPROFOR in the performance of its overall mandate.” On August 9, NATO followed up with a statement warning that the bombing it had envisaged on August 2 would be undertaken only in “support of humanitarian relief” and should not to be taken as “a decision to intervene militarily in the conflict.”

Setting a pattern that was to become familiar in subsequent years, the Clinton administration told reporters that it didn’t agree with the North Atlantic Council’s interpretation of the relevant U.N. Security Council resolutions. There was no need to seek Boutros-Ghali’s permission to bomb. There was already a U.N. resolution on the books authorizing NATO to bomb the Bosnian Serbs whenever it wanted. U.N. Security Council Resolution 770, the Americans contended, allowed NATO to “use all means necessary to protect aid shipments to civilians in Bosnia.” Adopted on August 13, 1992, the resolution had called on all states “to take nationally or through regional agencies

or arrangements all measures necessary to facilitate in coordination with the United Nations the delivery by relevant United Nations humanitarian organizations ... of humanitarian assistance to Sarajevo and wherever needed in other parts of Bosnia and Herzegovina.”

That the Americans should suddenly be dredging up a one-year-old resolution was very interesting. The most recent resolution adopted by the Security Council, Resolution 836, the one that was supposed to prohibit attacks on “safe areas,” did not allow for any ambiguity: the U.N. secretary-general had to authorize any bombing attack. Even the Clinton administration conceded that. “Washington acknowledges that under Security Council Resolution 836, [a bombing] mission would require a request from the United Nations commander in Bosnia and the approval of the Secretary General,” the *New York Times* reported.<sup>13</sup> Consequently, the Americans had to rummage around among past resolutions to find one that appeared to suggest that a phone call to Boutros-Ghali could be avoided.

As always, a loudly proclaimed U.S. commitment to enforce a U.N. resolution oozed insincerity. Resolution 770 referred to “coordination with the United Nations” and to “delivery by relevant United Nations humanitarian organizations.” In other words, the United Nations and hence its chief were front and center – not NATO, and certainly not the United States. Above all, since the United States had pointedly refused to take part in the U.N. humanitarian operation, this sudden and touching determination to ensure the success of UNPROFOR lacked even a modicum of credibility.

U.S. bombing threats to save Sarajevo had the inevitable effect of undermining the ongoing negotiations over the Owen-Stoltenberg plan, much as Warren Christopher’s trip through Europe’s capitals in May in order to drum up support for “lift and strike” served to sabotage the Vance-Owen plan. Once again the United States had let it be known that it was ready to enter the war on behalf of the Muslims and that therefore there was no need for them to accept a plan they didn’t like. An exasperated Owen wrote to the E.U. foreign ministers:

Talk of wide use of air strikes at the present juncture is unhelpful and I would have preferred to have been negotiating without constant speculation in the press about this ... My biggest fear is not how the Serbs are reacting, but that such talk will encourage [Ejup] Ganić and others who want to continue with the war that the Americans are about to intervene. Ganić certainly is attempting to derail the negotiations and is hoping for air strikes.<sup>14</sup>

### TO ENSURE FAILURE

Surprisingly, though, toward the end of the summer an accord appeared to be in sight. On August 20, following a series of meetings in Geneva, an agreement was reached. The Bosnian Serb and Bosnian Croat assemblies accepted the deal. The Muslims did not. Talks resumed in Geneva, but broke down on September 1. The Muslims continued to ask for the additional 4% including territory extending to the Adriatic Sea. U.S. policy continued as before: it wouldn't endorse any peace plan but wouldn't avoid interjecting itself into the peace negotiations. The Clinton administration demanded that the Croats and Serbs cede to the Muslims all of the territory they had asked for. "If the settlement breaks down because of stubbornness, the intransigence of the Serbs or the Croatians, the world community will certainly hold them responsible," Warren Christopher said. The Serbs and Croats needed to show greater flexibility "to achieve the adjustments that the Bosnian government has asked for in order to find a more equitable settlement."<sup>15</sup> Clinton himself helpfully warned that "the NATO military option is very much alive."

To break the impasse, Owen and Stoltenberg invited the parties to meet on September 20 aboard the aircraft carrier HMS *Invincible* in the Adriatic Sea. In addition to the leaders of Bosnia's three national parties, Milošević, Tudjman, and Montenegro's Bulatović were invited to attend. At the talks, Izetbegović continued to insist that the Muslim-majority republic be given access to the Adriatic Sea. He also asked that the Croatian coastal town of Neum be turned over to the Muslims. Tudjman refused. Owen and Stoltenberg suggested that Croatia grant a 99-year lease for a port to be built at Ploče for the exclusive use of the Muslim-majority republic. Tudjman agreed to that. The Muslims and Croats agreed on the establishment of an exit to the sea for the Muslim-majority republic through the Croat-majority republic, and for the Muslim-majority republic to hold a tract of land on the Adriatic. The Croats and the Muslims also agreed on the creation of a port facility for the Muslim-majority republic that would be located between Višići and Čeljevo on the Neretva and would be capable of taking vessels transshipping from Ploče. In addition, the Serbs agreed to grant the Muslim-majority republic an additional area of land along the banks of the Drina River between Goražde and Višegrad.

The proposed agreement stipulated that no nation could secede from the confederation without the consent of all of the other nations. At one point, Izetbegović suggested to the Bosnian Serbs that if they were prepared to cede more territory to the Muslims, he would withdraw his objection to a unilat-

eral right of secession. The Muslims and Serbs signed a joint declaration that stated that Bosnia's three republics could "hold referenda after two years on whether their citizens wished to remain in the union ... on the condition that there was an agreement on territorial division between the republics."<sup>16</sup> As there was not the slightest likelihood that the Western powers would countenance a right to secession from Bosnia, the declaration was meaningless. In any case, a referendum on possible secession would only be possible in the event of prior agreement on territorial division – hardly a foregone conclusion, to say the least. Nonetheless, alarmed at the possibility that Bosnia might break up within a few years, the Western powers pressured the Croats to object to this accord.<sup>17</sup> The Croats obliged and duly came back to say that they could not accept the Serbs seceding from Bosnia on the basis of a bilateral agreement with the Muslims. All three of Bosnia's republics would have to agree to any secession.

The Bosnian Serbs and Croats accepted the so-called Invincible Package (named after the HMS *Invincible* on which it was negotiated). Izetbegović continued to demand 4% more territory. Support for his stance, according to Owen, was coming from "some Americans" who were "encouraging the Muslims to hold out for that 4%." Nonetheless, Izetbegović promised to present the agreement before an extended meeting of the Bosnian parliament scheduled for September 27. But on September 22, even as Owen and Stoltenberg were meeting in Brussels with the North Atlantic Council to discuss implementation of the settlement, Izetbegović was reported as saying that he was inclining toward rejection of the plan – "a position diametrically opposed to the one he had adopted ... less than twenty-four hours earlier," Owen wrote.

Bosnia's Croats and Serbs informed the co-chairmen that their assemblies had ratified the Invincible Package. Izetbegović reported that the Muslims' expanded assembly had not.<sup>18</sup> The assembly had rejected the package and demanded additional territory. "The Muslims had clearly chosen to continue with the war," Owen subsequently wrote, "believing that sanctions would soften up the Serbs and ... that they could defeat the Croats in central Bosnia."<sup>19</sup>

In frustration, Owen broke ranks from the prevailing consensus that blamed everything on the Serbs. He now vented his frustration at the Muslims. "The Union of three Republics was accepted in principle by the Bosnian Muslims ... but they refused to sign it without more territory," Owen wrote in a summary paper.<sup>20</sup> Clearly, the Muslims had decided to refuse further negotiations in order to get through the winter and launch a military offensive in the spring. Owen now called on the E.U. to pressure Izetbegović by holding out the possibility of lifting sanctions against Yugoslavia. "We must

not allow Milošević to believe sanctions against the Serbs cannot be lifted by his own actions, nor Izetbegović to believe that sanctions against the Serbs will remain irrespective of his own actions. The threat of early lifting of sanctions could be a powerful influence on Izetbegović to negotiate now,” Owen wrote on November 5 in a long paper for E.U. foreign ministers titled “Joint Action on the Former Yugoslavia.” Owen also urged sanctions against Croatia should the Bosnian Croats prove uncooperative. “The argument for not imposing them long ago, considering the proven presence of large numbers of regular Croatian troops in Bosnia fighting alongside the HVO [Hrvatsko vijeće obrane – the army of the Croatian Republic of Herzeg-Bosnia], is our supposed influence on their policy. Croatia is now conducting a vicious ethnic cleansing campaign in Croatia as well as in Bosnia.”<sup>21</sup>

The Europeans did not follow Owen’s advice. Opinion makers in Europe had for some time been fuming at Owen and Stoltenberg, accusing them of bullying the Muslims. “We were in the midst of a propaganda war,” Owen complained, “and its main theme at the time was that the Co-Chairmen were forcing Izetbegović to negotiate and compromise away his principles.”<sup>22</sup> E.U. leaders took this opportunity to distance themselves from the ICIFY co-chairmen.

Though winter was approaching, the Western powers refused to apply pressure on the Muslims to settle. In fact, they went out of their way to sound as non-committal as possible. Germany’s foreign minister, Klaus Kinkel, wouldn’t go beyond an “appeal to the parties to reopen the negotiations.” On October 7, 1993, Izetbegović went before the U.N. General Assembly and, reprising the role of Emperor Haile Selassie, appealed, in soaring terms, to the world to help him defeat the peace plan. The Bosnians were being victimized, he cried, this time not by the Serbs but by Owen and Stoltenberg. Their peace plan legitimized genocide; it was ramming “ethnic partition and apartheid” down his throat. The U.N. Security Council needed to take a look at the “plan prepared by Lord Owen and Mr. Stoltenberg to determine its consistency or inconsistency” with the U.N. Charter.<sup>23</sup> The ICIFY co-chairmen, he declaimed, were asking him to “choose between a just, defensive war and an unjust peace ... Any peace plan that makes no provision for a viable Bosnian State, that does not address even the most basic needs of the victim and that does not provide the necessary measures for real implementation and durability is, in the end, not a plan for real peace.” There were no denunciations of Izetbegović for obstructing peace.

The days of the Owen-Stoltenberg plan were numbered. In early November, the European Union distanced itself from the plan, without abandon-

ing it altogether. On November 7, Kinkel and Alain Juppé, France's foreign minister, wrote a letter to Belgium's foreign minister, Willy Claes, who was then serving as president of the Council of European Union. The ministers warned that if the draft constitution worked out on the HMS *Invincible* "allows one or two constituent republics of the [Union of Republics] to secede from it, such an outcome should not be encouraged."<sup>24</sup>

The Muslims, the foreign ministers added, should be granted the extra 3% to 4% of territory they had asked for. If, after that, the Muslims "remain unwilling to sign the peace package, it will have to be made clear to the leaders in Sarajevo that military options do not have the slightest chance of success and that they would thereby risk losing the support of the international community." Now, 3% to 4% of Bosnia's territory was by no means an inconsiderable request, particularly as the territory the Muslims were asking for had already all been assigned to the Serbs. The outcome Kinkel and Juppé were seeking was obvious: if, as seemed likely, the Serbs balked at this request, they would once again reprise their role of obstacle to peace. The foreign ministers' professed concern about the Muslims "losing the support of the international community" was disingenuous. Since the Muslims were widely taken to be the victims, not to mention the majority population of Bosnia – the only people who merited the designation "Bosnians" – it was hardly likely that the "international community" would suddenly pressure them to settle for only 33.3% of Bosnia.

Kinkel and Juppé made a show of seeking the cooperation of the Serbs by suggesting that U.N. sanctions against them might be lifted "step by step." However, the likelihood of this happening was slim. Before sanctions could be lifted, the Serbs would have to agree not only to a package on Bosnia but also to a "modus vivendi in the occupied areas of Croatia." (The use of the word "occupied" handily demonstrated the impartial nature of this E.U. intervention.) Kinkel and Juppé also brought up the issue of Kosovo. Disingenuously, the two foreign ministers demanded the re-establishment of "widespread autonomy." The Serbs, they warned, "cannot refuse the Kosovo Albanians what they are demanding for the Serbian ethnic group in the Krajina." As the foreign ministers well knew, national self-determination, not autonomy, was at issue in Croatia.

On November 29, Claes announced what came to be known as the E.U. Action Plan. The Europeans had now firmly aligned themselves with the Americans. The Muslims had to be given what they had asked for, and the Serbs had "to make the necessary territorial concessions ... in the order of magnitude of the demands made by the Bosnian Presidency on the eve of the

meeting on board HMS *Invincible*.”<sup>25</sup> In addition, the Serbs had to reach “a *modus vivendi*” in Krajina and to reopen the airport at Tuzla. In return, the E.U. promised, it would “work towards a gradual, conditional suspension of the sanctions” against Belgrade.<sup>26</sup>

But, the E.U. warned, “the progressive suspension of sanctions will only come about as the implementation of a peace settlement in Bosnia Herzegovina and the acceptance and the implementation of a *modus vivendi* in the UNPAS in Croatia make progress.” There was no talk of suspension of sanctions against the Bosnian or Croatian Serbs. The suspension promise sounded vague and non-committal. However, by demanding a prior “*modus vivendi*” in Croatia (whatever that meant), the E.U. had actually inserted an additional requirement that the Serbs would have to fulfill. This was highly prejudicial. Sanctions had been imposed on Yugoslavia on account of the war in Bosnia, not on account of the war in Croatia, which was already over by May 30, 1992. A *modus vivendi* requires two partners. Since Croatia had not been subjected to any sanctions, it had very little incentive to cooperate with the Krajina Serbs in order to get sanctions against the Serbs lifted. “The concept is that in return for greater territorial withdrawal by the Serbs and a flexible attitude by the Croats, we will consider suspending, not abolishing, the sanctions against Serbia-Montenegro,” said British Foreign Secretary Douglas Hurd, enunciating the usual balanced E.U. approach. The Croats had to show flexibility but they would suffer no penalties if they didn’t.

It was a familiar routine: threats to tighten – or promises to suspend (only conditionally of course) – sanctions on Serbia so that Milošević would exert pressure on the Bosnian Serbs (and the Krajina Serbs) to make concessions. But the E.U.’s sanctions relief offer was a transparent piece of legerdemain. First off, Washington had already made it clear that there was little prospect of the United States signing off on any U.N. suspension of sanctions. More important: the suspension of sanctions was tied to the implementation of a peace agreement. So, if the Serbs made the appropriate concessions and the Muslims turned them down as insufficient, sanctions would remain in place. The Muslims had rejected the HMS *Invincible* Package and, believing themselves to be getting stronger militarily while the Serbs were getting weaker, they would have every incentive to turn down whatever deal Owen and Stoltenberg negotiated. The worst punishment the Muslims faced was insincere E.U. finger-wagging about how “continuation of the war risks calling into question the support of the international community.” The Muslims had little reason to worry on that score. As Owen pointed out ruefully, “E.U. pressure on the Muslim leaders would work” only “provided the U.S. stayed

on the sidelines rather than as in the past encourage the Muslims to hold out for better terms.”<sup>27</sup> This was rather unlikely since the Clinton administration had consistently asserted that, as the Muslims were the victims, it would have no part in pressuring them to accept an agreement.

Despite this, Owen and Stoltenberg went back to the parties yet again in order to squeeze that extra 3% to 4% out of the Serbs. But on December 20, as is its wont, the E.U. upped the ante. The Serbs were ordered to make territorial concessions, grant the Muslims access to the Sava at Brčko, and hand over “more territory in central Bosnia and round the eastern enclaves.” They also had to offer a “stable link between the enclaves and the main Muslim land at Sarajevo.” Crucially, the Serbs were told to renounce any talk of partition of Sarajevo. If the Serbs refused to show the requisite flexibility, the E.U. warned, sanctions would not only remain in place, they would be reinforced. So, again Milošević was under threat even though he had accepted the E.U. plan. As for the Muslims, “they should be told that E.U. is taking up their legitimate demands to have a third of Bosnia as a viable territory with a stable link to the Eastern Bosnian enclaves and with access to sea and to Sava.”<sup>28</sup>

The E.U.’s sudden demand on Sarajevo caught Owen by surprise. He doubted that the Serbs would simply give up on Sarajevo without getting something in return. The Serbs considered Sarajevo as much their city as the Muslims did. Karadžić responded to the latest E.U. statement by rejecting U.N. administration for Sarajevo. He wanted partition with the inner city going to the Muslims and the outer suburbs to the Serbs.

On December 21, the Serbs and Croats presented a joint proposal which they said provided Muslims with 33.3% and Croats 17.5% of Bosnia. Izetbegović continued to insist on access to the Adriatic at Neum. Following further meetings in January 1994, the land offered to the Muslim-majority republic was increased to 33.56%, including the partition of Sarajevo between Muslims and Serbs on a 2:1 basis. In the alternative, the Serbs accepted U.N. administration of Sarajevo for two years, on condition that they would be allowed to leave the union of three republics.<sup>29</sup>

There was also a proposal for the construction of a port on the Neretva River near Čeljevo, inland from the Adriatic, for the Muslim state. This would have been in addition to the proposed 99-year lease of a facility in the Croatian port of Ploče on the Adriatic, from which ships could unload cargo for transfer to the river port. Izetbegović, however, insisted on changes to the map so that the land allocated to the Muslim-majority republic would include “areas in eastern and western Bosnia where the Muslims had been in the majority before the outbreak of the conflict, as well as certain areas in central Bosnia.”<sup>30</sup>

The Bosnian Croats flatly rejected Izetbegović's demands for areas in central Bosnia. The co-chairmen suggested an arbitration procedure to break the impasse. The disputed territory would be referred to an arbitration commission that would make recommendations to the U.N. Security Council "after a peace agreement had been implemented and forces withdrawn to the provisional boundaries." The Bosnian Serbs and Bosnian Croats both accepted the procedure. Izetbegović rejected it, claiming that "too many areas of importance to the Muslim-majority republic would be left unresolved."

On January 19, Bosnian Serb and Bosnian Croat leaders issued a joint statement, stating that they were ready to sign a lasting peace agreement and that there were no outstanding issues between them that could not be resolved peacefully. The statement also called on the Muslims to "join in the immediate establishment of peace throughout the territory of Bosnia-Herzegovina."<sup>31</sup> The Muslims weren't too interested. They had calculated, not unreasonably, that the longer the war dragged on, the greater the likelihood of U.S. and NATO intervention.

#### THE DEMISE OF OWEN-STOLTENBERG

A further meeting was scheduled for February 10 in Geneva. However, as in May 1992, fate intervened to destroy a peace plan. In January 1994, even as negotiations were continuing, NATO and the United States became more actively engaged in fighting the Serbs. On January 11, following a two-day summit, NATO announced that, in accordance with its August 2 and August 9, 1993 decisions, the alliance was ready "to carry out air strikes in order to prevent the strangulation of Sarajevo, the safe areas and other threatened areas in Bosnia-Herzegovina."<sup>32</sup>

Then, on February 5, a massive explosion shook the Sarajevo marketplace and killed 68 people. The Muslims immediately claimed that the cause of the explosion was a Serb mortar attack. The Serbs denied it. Just as in May 1992, the United Nations was unable to establish conclusively who was responsible, particularly as the Muslims had removed key pieces of evidence from the site. Without waiting for an investigation, the Western media echoed Muslim claims and indulged in yet another orgy of furious denunciations of the Serbs.

On February 6, Boutros-Ghali wrote to the secretary-general of NATO asking him to "prepare urgently for the use of air strikes to deter further such attacks." He demanded that the North Atlantic Council authorize the

commander-in-chief of NATO's Southern Command "to launch air strikes, at the request of the United Nations, against artillery or mortar positions in or around Sarajevo which are determined by UNPROFOR to be responsible for attacks against civilian targets in that city." NATO responded immediately, saying it would be delighted to oblige.

Air strikes of course meant air strikes against the Serbs. However, Rose, Boutros-Ghali's man on the spot, was unconvinced about Serb culpability for the Markale marketplace massacre. "Preliminary examination of the site by French military engineers indicated that the proximity of high buildings around the market place made it impossible for a mortar shell to have followed a low-angle trajectory and land where the explosion took place," he wrote. "An international team of experts finally agreed that a mortar had probably fired the shell, but that it was not possible to identify the exact distance from the firing point."<sup>33</sup> The official Dutch government report on Srebrenica characterized the coverage of the February Markale attack as yet "another example of misleading information." The report said:

Eleven artillery specialists subsequently spent nine days studying the shell attack. The official final assessment was that the attacks were executed by the VRS [Vojska Republike Srpske – Army of the Serbian Republic of Bosnia and Herzegovina], but there were serious doubts about this within the Western intelligence community. Various staff of intelligence and security services from Canada, the UK, Denmark, Sweden, Norway, Belgium and the Netherlands established independently of each other that this was an act by the ABiH [Armija Republike Bosne i Hercegovine – Army of the Republic of Bosnia and Herzegovina] to show the Bosnian Serbs in a bad light.<sup>34</sup>

Ten days after writing to NATO demanding air attacks on the Serbs, Boutros-Ghali informed the president of the U.N. Security Council that the team investigating the market bombing had concluded that it was impossible to determine who was responsible:

The distance of origin of fire clearly overlaps each side of the confrontation line by 2,000 metres. Both parties are known to have 120 mm mortars and bombs to go along with them. The Team has no reason to believe that either party does not have access to the type of ammunition reported in paragraph 12 of the report. There is insufficient physical evidence to prove that one party or the other fired the mortar bomb. The mortar bomb in question could, therefore, have been fired by either side.<sup>35</sup>

A ballistics expert in Zagreb, Owen wrote, “had studied a map of likely trajectory patterns produced by U.N. investigators in Sarajevo and believed the angle at which the mortar had hit the roof of the market stall ... indicate[d] that the mortar had been fired from a Bosnian army position. When this highly charged information reached the U.N. in New York [on February 8] everything was done to clamp down on the number of people who saw it so as to reduce the chance of a press leak.”<sup>36</sup> However, absence of definitive proof that the Serbs weren’t responsible was taken to be conclusive proof that the Serbs were indeed responsible.

NATO demanded that the Serbs withdraw their weapons to more than 30 kilometers from Sarajevo. Surprisingly, it was France that now took the lead in the calls for bombing. “Yugoslavia is a test of our honor and even a test of the European Union,” declared foreign minister Juppé. Air strikes would not suffice, though; something had to be done to end the siege of Sarajevo. “France would like an ultimatum to be set, a deadline set for the lifting of the siege,” Juppé announced. “We have to show that, if necessary, we are prepared to use air strength, carry out air strikes. France, with its U.N. troops in the area, is prepared to assume such a responsibility.”<sup>37</sup> He demanded a demilitarized zone of 30 kilometers. Once again, policymakers were in the realm of issuing ultimatums that were little more than sound-bites for the evening news. The French were now adopting the American strategy: tilt the military balance toward one side and proclaim this to be a step toward peace, end one battle but intensify another and dub this a test of humanitarian resolve.

Juppé’s intervention was baffling. Two weeks earlier, during a meeting with Christopher, he had berated the United States for failing to pressure the Bosnian Muslims to make peace.<sup>38</sup> Doubtless, this was all part of a deft French maneuver to get the United States more actively involved in the Balkans. But Juppé’s demands for a 30-kilometer exclusion zone could not be taken seriously. At a meeting of E.U. foreign ministers, it was left to Owen to remind him that Serbs too had security concerns. “Those parts of Sarajevo which the Serbs controlled,” Owen explained, “would not give up heavy weapons unless they had negotiated safeguards ... against being overrun by superior numbers of Muslim infantry.”<sup>39</sup> That would require detailed negotiations.

However, the role of Europe’s moral conscience was too good to pass up. Now in full cry, Juppé demanded that NATO also break the sieges around the “safe areas” of Tuzla and Srebrenica. “We have to put land forces in place that would allow planes to land” at Tuzla airport, Juppé said. “If the Serb batteries get in the way, they’ll be destroyed.”<sup>40</sup>

In the end, NATO plumped for a narrower heavy weapons exclusion zone. On February 9, NATO issued an ultimatum to the Bosnian Serbs: they had 10 days either to withdraw all of their heavy weaponry to more than 20 kilometers from the center of Sarajevo or to place them under UNPROFOR control. NATO promised to “support UNPROFOR in carrying out its task of identifying heavy weapons that have not be withdrawn or regrouped in conformity with these decisions.” Any heavy weaponry not under UNPROFOR’s control that was found within the Sarajevo exclusion zone would “be subject to NATO air strikes.” This was a heavy blow for the Serbs. Tanks and artillery had offset their disadvantage in infantry numbers. Serb weaponry would now have to be located in places where they would be convenient targets for NATO aircraft.

NATO had now imposed a new task on UNPROFOR. The U.N. force was supposed to monitor Serb artillery and communicate its findings to NATO headquarters with a view to facilitating bombing. Such an endeavor was hardly compatible with a peacekeeping mission’s two essential requirements: first, that it work for peace and second, that it maintain strict neutrality. Helping NATO was not something that had been envisaged in any of the U.N. Security Council resolutions. The NATO powers naturally did not bother to seek a new Security Council resolution.

Prudently, NATO made no mention of the marketplace-bombing incident in its February 9 statement. This “was never commented on by the press,” Owen observed. It “was an indication that some within NATO had already been tipped off about the need for the decision to be a free-standing one, not linked to any particular incident.”<sup>41</sup> Thus NATO leaders and the press were more than happy to create the impression – an impression they knew to be false – that the Serbs had been fingered as the perpetrators of the market massacre.

Furthermore, NATO, at U.S. urging, had avoided tying its bombing threat to any peace settlement. There was a good reason for this. The only plan on the table was the agreement Bosnia’s Serbs and Croats had accepted in January and which Washington didn’t much like. Besides, the Clinton administration was at that very moment cajoling the Croats and Muslims into forging an anti-Serb military alliance. A spring offensive was in the works. The last thing the Americans wanted was a peace settlement. Owen’s plea that “if we are to use air power in Sarajevo to enforce the exclusion zone it must also be in the context of enforcing a settlement” was resolutely ignored.<sup>42</sup>

The Owen-Stoltenberg plan was now as dead as the Vance-Owen and the Cutileiro plans. The United States had urged the Muslims to hold out for more, and the Muslims decided that their interests would be best served

if they abandoned the ICFY process altogether and banked on Washington coming through for them. This was to prove a costly blunder. Not only would the war go on for another two years, with Srebrenica still ahead. Most damagingly for Izetbegović, the priorities of the Clinton administration were to change. Following the November 1994 midterm debacle, Clinton decided that re-election in 1996 was out of the question unless Bosnia was out of the headlines. Clinton's likeliest opponent, Senate Majority Leader Bob Dole, was one of most ardent champions of "lift and strike" on Capitol Hill. He threatened to tag Clinton as leader of an America at once immoral and ineffectual, a tactic Clinton himself had employed very successfully against President George H.W. Bush in 1992. Clinton resolved on a course of action he had hitherto avoided. He would apply pressure on the Muslims to settle.

As Owen wrote, "The Bosnian Muslims had on offer by December 1993 a viable republic within Bosnia-Herzegovina which they could defend with their own troops ... The one essential element missing was U.S. support when it was needed ... particularly in offering a NATO guarantee for the boundaries of the Muslim republic."<sup>43</sup>

### THE MUSLIM-CROAT ALLIANCE

On February 23, the Muslims and Croats signed a ceasefire agreement. Six days later, on March 1, the Muslims and Croats signed an agreement in Washington establishing a federation between them within Bosnia, and the outline of a preliminary agreement for a confederation between Croatia and the Muslim-Croat federation. On February 28, for the first time in its history, NATO was involved in armed action. It shot down four Serb planes, claiming they were violating the no-fly zone even though the planes were on a mission to bomb a Bosnian army munitions plant.

The Croat-Muslim federation had been sponsored by the United States. Given that the alliance envisaged the pooling of Muslim and Croat armed forces, its creation was clearly directed against a third party. However, since the federation was somehow supposed to be "leveling the playing field," the media hailed it as a stepping-stone toward peace. In forging the alliance, Washington was hoping it could defeat the Serbs militarily without having to introduce any troops of its own. The Muslims and Croats would do the fighting; NATO would provide the air cover. Predictably, when it came to the Croat-Muslim federation, the United States happily embraced a principle that it had discounted when Bosnia was seeking to exit Yugoslavia. "Decisions that con-

cern the vital interest of any of the constituent peoples shall require [in the Legislature] the approval of a majority of the Bosniac representatives and of a majority of the Croat representatives ... Approval of the Constitution shall require consensus between the delegation of the Croat people, comprising all representatives of Croat nationality, and the delegation of the Bosniac people, comprising all representatives of Bosniac nationality.” On March 3, Tudjman stated on Croatian television that, in return for his support for the creation of the Muslim-Croat federation, Clinton had promised him “the return of Serb held territory.”<sup>44</sup> The implication of his words was clear: the United States would support any Croatian military offensive against the UNPAS in Croatia.

Despite the creation of a contiguous Muslim-Croat area in western and central Bosnia, Muslims refused to give up their claims on the eastern enclaves deep in Serb territory. The Muslim-Croat alliance not only finished off the union of three republics plan, it also ended any prospect of a Serb-Croat deal that would apply to both Bosnia and Croatia. But the alliance did nothing to bring the war in Bosnia to an end. In fact, it made peace even less likely. The creation of this anti-Serb bloc was hardly likely to persuade the Serbs to join a state that was now explicitly dominated by an alliance of two of its three constituent nations. Owen for one believed that it was “unrealistic to expect the Serbs to sign up for a Union or Federation. If we are to get an overall settlement we need to seriously address the question of whether now is the time to let the Serbs go their own way – almost certainly to join with Serbia itself.”<sup>45</sup>

The constitution of the Muslim-Croat federation was remarkable in stipulating that Bosniacs and Croats were the constituent peoples of the federation. In addition, while the agreement envisaged a future confederation between Croatia and the Muslim-Croat federation, a similar confederation between Serbia and the Bosnian Serbs was flatly ruled out by the Western powers. The confederation contradicted all of the loudly proclaimed commitments to a sovereign, independent, unitary state of Bosnia. The decision on confederation had been taken by only two of Bosnia’s three constituent nations – scarcely a demonstration of sovereignty and democracy in action. Revealingly, the map of the federation contained large chunks of territory that were then under Serb control. The federation had earmarked for itself about 58% of Bosnia – something the Serbs were hardly likely to overlook.<sup>46</sup> With typical disingenuousness, the United States claimed that since the map was not its responsibility it had no mandate to interfere in territorial delimitations.

Seeking to help the peace process along as much as it could, the United States dispatched Madeleine Albright and Chairman of the Joint Chiefs of

Staff John Shalikashvili to Sarajevo to inaugurate the new U.S. embassy there. Evoking President John F. Kennedy's 1961 declaration in Berlin, Albright on March 30 told the crowd, "Ja sam Sarajevka." ("I am a Sarajevan.") But Albright wasn't done yet. For good measure, she escalated the hyperbole: "America's future and your future are inseparable."<sup>47</sup> She referred to Sarajevo as the "undivided capital of the independent state of Bosnia-Herzegovina," a key issue that was very much under negotiation at that moment.

### THE CONTACT GROUP

The ICFY was now effectively replaced by the so-called Contact Group consisting of representatives of the Russian Federation, the United States, and designees from the ICFY representing the United Nations and the European Union. The ICFY designees were France, Germany, and the United Kingdom. The Europeans' wish to have the Americans involved in the drafting of maps of Bosnia was finally fulfilled. It was to be a dubious triumph. The group held its first meeting on May 25 and promised to have a map ready soon for the allocation of Bosnian territory on the basis of 51% for the Muslim-Croat federation and 49% for the Bosnian Serbs. The split was based on the Owen-Stoltenberg and E.U. Action plans, according to which the Muslims would have 33.5% of Bosnia and the Croats 17.5%. This 51%-49% allocation of Bosnia was now set in stone, for no particular reason other than that the Serbs had to be seen to be getting less than 50%.

The role the U.S. would play in Contact Group deliberations was odd to say the least. Washington was to be involved in the map-drafting even as it insisted that it could not support any peace agreement that would involve Muslim loss of land. There could be no rewarding of ethnic cleansing, and Washington would do nothing to discourage Muslim forces from launching attacks. The Muslims could not but conclude that Washington was ready to help them win control over the whole of Bosnia. "The United States says that its objective is to end the war through a negotiated settlement, but in reality what it wants is to influence the outcome in favor of the Muslims," General Charles Boyd wrote.<sup>48</sup> As a member of the Contact Group, the United States accepted that there could be no peace in Bosnia without some form of partition. Yet the administration insisted that the Muslims retain their enclaves deep inside Serb-held territory and rejected proposals, accepted tentatively by both Serbs and Muslims, that the enclaves be exchanged for territory around Sarajevo.

The Clinton administration continued to argue that its preference was for “lift and strike.” Lifting the arms embargo would enable the Muslims to arm themselves while NATO air strikes against Bosnian Serb artillery would enable the Muslims to recapture lost land. Military experts viewed this strategy with skepticism. UNPROFOR chief Rose considered “lift and strike” more “propaganda ... than reality.” The Muslims, he wrote, were “in no military position to defeat the Serbs in battle, no matter how many weapons were parachuted into Bosnia.”<sup>49</sup> Their strategy was always the same: “Attack on all fronts,” then retreat into enclaves “amid scenes of appalling suffering,” then call on the “U.N. and NATO to bomb the Serbs.”<sup>50</sup>

Lifting the arms embargo on the Muslims would inevitably mean lifting the arms embargo against the Serbs. The Russians could hardly be expected to sit back and deny arms to the Serbs while the Serbs’ adversaries were openly receiving arms. And NATO could not very well send weapons to the Muslims and continue to patrol the Adriatic to make sure weapons weren’t reaching the Serbs, all in the name of enforcing a U.N. resolution. The Americans assumed that the Serbs would back down in the face of NATO aerial attacks. Either that or the Serbs would accept a situation in which their opponents grew steadily stronger while they continued to grow weaker. Neither outcome seemed likely. As U.S. army intelligence analyst John Sray wrote at the time:

The BSA [Bosnian Serb Army] possesses the capability to interdict all the major airfields and lines of communication into Bosnia. Any attempt to deliver sophisticated heavy weapons systems will necessitate a large commitment of American ground and air forces to secure these areas. Furthermore, Bosnian Muslim troops would prove incapable of employing these weapons without extensive training. Who will guarantee the defense of the Bosniac government while this instruction takes place? (Certainly, it is ludicrous to believe that the BSA will sit on the sidelines and permit arms deliveries and training to occur.)<sup>51</sup>

An end to the arms embargo would have led to UNPROFOR’s immediate withdrawal with the consequence that the Muslims would have to face the Serbs on their own. To be sure, Izetbegović may have figured that in such an eventuality NATO would be drawn into the war more directly to fight alongside the Muslims with ground troops. However, this was a very distant prospect on which to base a strategy.

It was precisely because of the absurdity and unpopularity of the “lift and strike” plan and because of Washington’s failure to persuade its allies of the plan’s efficacy that the Clinton administration was forced to resort to the clandestine arming of the Muslims with, as we shall see, disastrous consequences for the purported beneficiaries. “By turning a blind eye to these arms deliveries while screeching at Belgrade to stop whatever still continues across the Drina to the Bosnian Serbs, the United States does two things: one, it disqualifies itself as the fair and balanced intermediary in the peace process, and two, it sends a powerful signal to the Muslims that a military solution is acceptable and perhaps preferred, notwithstanding solemn public statements in support of the diplomatic process,” General Boyd wrote.<sup>52</sup> The arms drops into Bosnia may have been a secret as far as the U.S. public was concerned; they were not a secret to the Serbs who could not but grow alarmed at the sight of nightly drops of sophisticated weaponry that would soon be turned against them. It led to the Serb decision in the spring of 1995 to terminate the eastern enclaves.

#### THE CONTACT GROUP PLAN

The Contact Group’s plan wasn’t expected to appeal to the Serbs. In fact, it is hard to avoid the conclusion that the plan had been crafted with a view to securing Serb rejection. The principle appeared to be to allocate to the Serbs only what the Muslims and Croats weren’t interested in staking a claim to. To the federation went Sarajevo as well as all of the safe areas, including the eastern enclaves. The enclaves, in addition, were to be linked to the federation by roads traversing Serb republican territory. Brčko was also assigned to the federation. This was a significant move since it meant that the two Serb regions that would comprise the territory of the Serbs – one in eastern Bosnia and the other in western Bosnia – would essentially be cut off from each other. The eastern bank of the Drina around Goražde also went to the federation. On top of that, the Serbs were ordered to join a union dominated by two of the three constituent nations, a union from which they could not secede without the others’ consent.

Owen for one was doubtful that the Serbs could accept the plan. “We believed that the allocation of a substantial part of Brčko and the east bank of the Drina around Goražde and a part of Višegrad to the Federation, along with Doboj and Jajce and other sensitive changes ... would remain a major obstacle to Serb acceptance.”<sup>53</sup> The deal could have been made palatable to

the Serbs had they been offered the possibility of secession following a referendum. After all, that's what the Serbs and the Muslims had agreed on bilaterally during the HMS *Invincible* talks. But the Contact Group insisted that there could be no secession without the mutual agreement of both entities. Moreover, the Contact Group refused to entertain any discussions about a future constitution until both sides had agreed to the map. Like the Clinton administration, the Contact Group was now behaving as if the Muslims were the likely victors of the war in Bosnia.

On June 25, Owen and Stoltenberg flew to Belgrade and outlined the Contact Group map to Milošević. While negotiation was out of the question, the co-chairmen suggested that it might be possible to arrange an exchange of territory in eastern Bosnia for Sarajevo. However, the Serbs would then have to renounce "their claim to virtually the whole city."<sup>54</sup>

On July 6, the Contact Group presented its proposal to both sides and demanded a response within two weeks. But only one response was acceptable: the plan had to be agreed to as it was. No modification was permissible. Peculiarly, the Contact Group outlined three scenarios and described how it would act in each case. The scenarios revealed a great deal about what the Contact Group, under U.S. pressure, was seeking to achieve with its plan. Scenario one: if both sides agreed, the Contact Group promised reconstruction and resettlement aid for the Muslim-Croat federation and "suspension of sanctions geared to implementation of the territorial settlement" – but no reconstruction and resettlement aid – for the Serbs. Scenario two: if the federation rejected the plan but the Serbs accepted it, then the proposed reconstruction assistance would be "put in jeopardy." This would be accompanied by an "easing of sanctions on the Serbs," continuation of the arms embargo, and exclusion of Muslim-Croat forces from territory from which the Bosnian Serbs withdrew in accordance with the Contact Group map. Scenario three: if the federation accepted and the Serbs refused, then sanctions would be tightened, exclusion zones extended and a "lifting of the arms embargo could become unavoidable." UNPROFOR, the Contact Group suggested, would then likely be withdrawn.<sup>55</sup>

The Serbs were, of course, expected to reject the plan, in which case scenario three would automatically go into operation. The Americans didn't bother to conceal their delight at this reversal on the part of the Europeans. Clinton national security adviser Anthony Lake gleefully announced that in the event of the anticipated Bosnian Serb rejection, "the pressures at the Security Council for a multilateral lifting of the arms embargo would be irresistible."<sup>56</sup> This was the familiar good cop/bad cop routine. The Americans

had been demanding the lifting of the arms embargo; the Europeans had been seeking to restrain them. Now the Europeans were saying that, having done their best for two years, they couldn't hold the Americans back any longer. It is unlikely that the Europeans seriously believed that an end to the arms embargo would significantly alter the balance of forces in favor of the Muslims. They knew that the Muslims weren't suffering from any shortage of weaponry. Talk about UNPROFOR withdrawal could only mean one thing: it was not arms for the Muslims that Serbs were being threatened with; it was NATO bombs.

At the end of July, the Muslims and Croats accepted the Contact Group plan, as did Croatia and Yugoslavia. The Bosnian Serbs balked, however. The map, they said, could serve as a basis for further negotiations but could not be the final outcome. As Owen had foreseen, a crucial sticking point was Brčko. The Bosnian Serbs held a referendum on the Contact Group's proposal and rejected it almost unanimously.

Though the Bosnian Serbs' rejection of the Contact Group plan came as no surprise, it was nonetheless greeted by the usual chorus of outrage, condemnations, and calls for tighter sanctions or bombing or, preferably, both. The same editorialists who only a few months earlier had savaged a possible peace agreement on the grounds that it was supposedly sanctioning a "carve-up" of Bosnia, now railed at the Serbs for – once again! – choosing war over peace. The Bosnian Muslims had, of course, suffered no adverse consequences following Izetbegović's rejection of the HMS Invincible Package and of the E.U. Action Plan, even though the Bosnian Serbs and Bosnian Croats had accepted both. Nor had the Security Council, back in 1992, voiced any condemnation of the Muslims for their rejection of the Cutileiro plan that would almost certainly have averted war in Bosnia.

Overlooking Izetbegović's torpedoing of the earlier peace agreements, Western policymakers were once again in full throttle, rounding on the Serbs as the recalcitrant party. Owen, who had foreseen the rejection, now took the lead in calling for unremitting pressure on the Serbs. Doubtless, Owen, having been marginalized by the Contact Group, saw this as a golden opportunity to become relevant again. Milošević had to be squeezed yet again, Owen cried, so that he would bring the Bosnian Serbs to heel. Milošević, who had accepted the Contact Group plan, had to be told, Owen informed the E.U., "that we expect him to act against the Bosnian Serbs, and that if he does not deliver, we will take further action against him."<sup>57</sup> On July 31, the Contact Group announced that proposals would be placed before the Security Council to "extend sanctions" against the FRY and to "tighten enforcement of the

existing sanctions regime.” So, once again, Yugoslavia, though supportive of every international peace plan since 1992, was about to be hammered with tighter sanctions. However, the Contact Group disingenuously added, should the Bosnian Serbs accept the Contact Group map, a draft resolution suspending sanctions would be submitted to the Security Council. There was a caveat, though: sanctions against Yugoslavia would be suspended but not those targeting the Bosnian and Croatian Serbs. In any case, it was beside the point. The Clinton administration had given no indication that it would go along with an agreement to suspend sanctions.<sup>58</sup>

Action against Milošević, Owen outlined, should involve the closing of the Serbia-Macedonia border. That would hurt Serbia’s economy very nicely. Unfortunately, he admitted, it would also hurt Macedonia, and the West needed to isolate the Serbs, not create allies for them. Owen therefore urged dangling some carrots before the Macedonians. President Gligorov “has to be granted generous financial support immediately.” Owen also urged adoption of a U.N. Security Council resolution demanding a stop to oil production in the Djeletovci area in the eastern UNPA in Croatia. This oil moved along a pipeline under the Danube for refinement in Serbia. Owen demanded that UNPROFOR be given all necessary powers “to ensure that no oil passes down the pipeline.” If it turned out that UNPROFOR lacked the military capability to close down the pipeline, then the E.U. should advocate “withdrawal of UNPROFOR, so as to free us up to use air power and to tilt the balance in favor of the Croatian army within the borders we have recognized for Croatia, and for the Bosnian Government army in Bosnia and Herzegovina.” Unless Milošević could be persuaded to act against the Bosnian Serbs, the West would have no option but to remove the U.N. from both Croatia and Bosnia and adoption of “a lift and strike policy before the winter closes in and the weather makes air strikes less effective.”<sup>59</sup> This, of course, was the position of the Clinton administration, one that Owen had vehemently denounced in the past and was to do so in the future. Interestingly, even as Owen was advocating withdrawal of the U.N. from Croatia and Bosnia in order to facilitate bombing, he was demanding the insertion of the U.N. into Kosovo. Whether such an action would make bombing of the Serbs more or less likely only a mind of Owen’s labyrinthine complexity could figure out.

Bizarrely, Owen was advocating intensification of the war in Croatia – this, four months after the signing of a ceasefire agreement between Zagreb and the Croatian Serbs. Indeed, two weeks earlier, Owen himself had boasted to the U.N. Security Council about his role in facilitating that ceasefire. The agreement, which came into effect on March 29, 1994, was, he explained, part

of a “three-phased approach of cease-fire, followed by economic confidence-building measures, leading finally to negotiation of the political questions.”<sup>60</sup> The ceasefire, moreover, had proved to be surprisingly successful. According to Boutros-Ghali, writing on September 17, 1994, UNPROFOR had by the end of May “reported almost total compliance, characterized ... by a general cessation of hostilities, withdrawal of forces beyond fixed lines of separation and the placement of heavy weapons in agreed storage sites.”<sup>61</sup> In fact, on December 2, 1994, Owen boasted that this ceasefire agreement had “brought active hostilities between Croatian Government forces and Croatian Serb forces to an end. The cease-fire, which is still largely respected, has stopped the deaths and destruction that were commonplace before.”<sup>62</sup> It was this agreement that Owen now wanted to see abrogated in response to a Bosnian Serb rejection of a Contact Group plan which he himself had considered to be deleterious to Serb interests.

Here then was the purest expression of humanitarian interventionism. While Owen was seeking plaudits for having secured one ceasefire, he was urging termination of that same ceasefire in order to achieve a ceasefire somewhere else. You start one war in order to terminate another war. Alternatively, you terminate one war (the Muslim-Croat war) in order to exacerbate another war (the Muslim-Serb war). You threaten Milošević with tighter sanctions (and perhaps more) in order to compel him to push the Bosnian Serbs to accept a deal that you know to be bad. And if all of that doesn't work, then you threaten to use military force in order to “tilt the balance” in favor of your clients. In the name of stopping ethnic cleansing, you help Muslims and Croats (and later Kosovo Albanians) carry out their own ethnic cleansing.

### ISOLATING BOSNIA'S SERBS

Having signed on to the Contact Group plan, Yugoslavia also accepted the group's demand that it impose sanctions against the Bosnian Serbs. On August 4, 1994, Yugoslavia announced that it would close its border with Bosnia for all shipments other than “food, clothing and medicine.” In addition, Yugoslavia would “break off political and economic relations with Republika Srpska” and “prohibit the stay of the members of the leadership of the Republika Srpska” in Yugoslavia.<sup>63</sup> Belgrade's actions were odd, given that Milošević had told Russian Foreign Minister Andrej Kozyrev on July 6 that the Contact Group plan failed to meet the “legitimate demands of the Serbs.”<sup>64</sup>

In applying pressure on Serbia to force it to bring the Bosnian and Croatian Serbs to heel, the U.S. and the E.U. were giving up even the pretense that the Serbs of Yugoslavia were not one nation. E.U. documents, for example, refer to "Serbs" without ever distinguishing among them: the Serbian Serbs were Serbs; the Bosnian Serbs were Serbs; the Croatian Serbs were Serbs. And, as Serbs, they were expected to take their marching orders from Milošević, the supposed leader of the Serbs. The Western powers' bizarre reasoning went something like this: we accept that Bosnian Serbs are Serbs, not Bosnians, and that Croatian Serbs are Serbs, not Croatians. Now we can justify our policy of squeezing Milošević in order to force him to ram our plans down the throats of the Bosnian and Croatian Serbs. By accepting our plans, the Serbs will finally accept what we have just denied, namely, that they are not Serbs, but Bosnians or Croatians. The Western powers were ready to accept reality in order to force someone else to deny reality.

To ensure Yugoslavia's compliance with the sanctions regime, the ICFY dispatched a mission to monitor its border with Bosnia. The task of the mission was to "control the effective delivery of humanitarian assistance at designated crossing-points." It would report to the secretary-general on "the implementation of the border closure." It could stop any vehicle crossing the border. The mission was permitted to go anywhere in Yugoslavia, with Belgrade even providing the helicopters.

According to the secretary-general's report, the mission verified that the FRY government was "taking every action to seal off the border" with Bosnia.<sup>65</sup> On October 3, Owen and Stoltenberg again confirmed that Belgrade "is meeting its commitment to close the border between the Federal Republic of Yugoslavia (Serbia and Montenegro) and the areas of the Republic of Bosnia and Herzegovina under the control of the Bosnian Serb forces."<sup>66</sup> The mission was to make the same certification every month through the end of 1995. In return for so much compliance, some sanctions against Yugoslavia were partially lifted. Planes could land in Belgrade, ferries could operate in the Adriatic, and sporting contacts were restored. The Americans were unhappy about this turn of events. Albright claimed that she had evidence, which she resolutely failed to provide, that the Yugoslav-Bosnia border hadn't been sealed.

The plan to isolate the Bosnian Serbs ran into trouble almost immediately. While Yugoslavia had agreed to stop oil shipments to the Bosnian Serbs, it continued to provide oil to the Croatian Serbs, who, like their Bosnian countrymen, were subject to international sanctions. The ICFY now faced a dilemma. If it refused to permit Yugoslav exports of oil to the Krajina, Belgrade might refuse to cooperate altogether with the Bosnia sanctions regime. If, on

the other hand, it permitted the oil exports, the ICFY risked being tagged as aiding and abetting the violation of U.N. resolutions. Croatia took the opportunity to lodge a protest with the U.N. Security Council; it accused the ICFY of “biased and illegal action” and threatened to end UNPROFOR’s mandate in Croatia. By sanctioning oil and other non-humanitarian shipments from Yugoslavia to the Croatian Serbs, Zagreb complained, the ICFY was not only violating Resolution 820 but “jeopardizing the sovereignty of the Republic of Croatia over its own territory.”<sup>67</sup>

Owen responded by citing legal advice he had received, according to which Croatia’s authorization was needed “for imports to, exports from and transshipments through the [UNPAS] only for the purpose of ensuring that no goods prohibited in respect of the [FRY] ... are imported to, exported from or transshipped through those areas of the Republic of Bosnia and Herzegovina under the control of the Bosnian Serb forces without proper authorization from the Government of Bosnia and Herzegovina.” In other words, Croatia’s authorization was only required for the transshipment of goods through the UNPAS that were bound for the Bosnian Serbs or to Yugoslavia.

Besides, Owen explained, the whole point of Yugoslavia closing its border with Bosnia was to persuade the Bosnian Serbs to accept the Contact Group plan. That objective would surely have been undermined had the Yugoslav government “pursued policies that could have thrown the Croatian Serbs into the arms of the Bosnian Serbs.” However, he sympathized with Croatia. It was precisely in order to split the Croatian Serbs from the Bosnian Serbs that he and Stoltenberg had pressed “for the conclusion of an economic agreement between the Croatian Government and the local Serb authorities which could enable the UNPAS to be supplied with oil from within the Republic of Croatia.”<sup>68</sup> The establishment of a joint commercial oil company would solve the problem of oil transiting into the UNPAS.<sup>69</sup>

Croatia’s powerful friends, particularly Germany and the United States, weren’t having any of this and immediately pressed the U.N. to crack down on the Krajina Serbs. Germany’s ambassador to the U.N. denounced the oil shipments as having “facilitated military activities of the Krajina Serb forces.” Croatia’s Serbs must be told that “any political concept more far-reaching than regional autonomy in Croatia is unrealistic.” Albright ridiculed Owen’s argument, though without mentioning him by name:

There have been suggestions made ... that the provisions of paragraph 12 of resolution 820 (1993) do not apply to shipments from Serbia and Montenegro to Serb-held territory in Croatia. This contention is obviously inconsistent

with the Council's previous decisions ... Tolerating illegal transshipments to the [UNPAS] in Croatia without an assurance that these goods would not find their way back into Bosnian Serb-controlled territory undermined the logic of the border closure. There can be no doubt that these illegal transshipments were an obvious contravention of the letter and spirit of our resolutions.<sup>70</sup>

Albright obviously didn't need to ascertain whether goods from Yugoslavia going to impoverished Krajina were being transferred to Bosnia. She just assumed that that was the case, and that was all there was to it.

Owen was right about one thing. Milošević had closed the border with Bosnia in order to pressure the Bosnian Serbs to accept the Contact Group plan. He had not been asked, and Contact Group members knew he had not been asked, to commit himself to a ban on goods reaching the Krajina Serbs. While Milošević may have preferred "oil to reach the Croatian Serbs directly from Croatia," Owen argued that there was no way the Serb leader would "countenance a situation where the Croatian Serbs could be cut off without oil."<sup>71</sup> Once again, the Europeans and the Americans had surreptitiously introduced demands relating to Croatia into peacemaking in Bosnia. The Germans and the Americans, Owen complained, were engaging in "subterfuge."

As usual, the United States prevailed. On January 12, the U.N. Security Council passed a new resolution targeting Yugoslavia for assisting its fellow Serbs in Croatia. Resolution 970 reaffirmed that the requirements of Resolution 820 that any "import to, export from and transshipment" of non-humanitarian goods through the UNPAS and areas of Bosnia "under the control of Bosnian Serb forces" could take place only if authorized by the governments of Croatia and Bosnia. On the very same day, Croatia announced that it would not permit renewal of UNPROFOR's mandate.

The Contact Group now decided to squeeze the Bosnian Serbs even further. Already under pressure from Belgrade, the leadership in Pale was subjected to tighter U.N. sanctions. Resolution 942, adopted on September 23, 1994, not only ordered the Serbs to accept the Contact Group plan "unconditionally and in full," it also called on all states to "desist from any political talks with the leadership of the Bosnian Serb party as long as that party has not accepted the proposed settlement in full." In addition, states were obligated to find out about and put a stop to any and all economic activity that involved the Bosnian Serbs. Impermissible was any economic activity

by any entity, wherever incorporated or constituted, which is owned or controlled ... by: (a) any person in, or resident in, or any entity, including any

commercial, industrial or public utility undertaking, in those areas of the Republic of Bosnia and Herzegovina under the control of Bosnian Serb forces, or (b) any entity incorporated in or constituted under the law of those areas of the Republic of Bosnia and Herzegovina under the control of Bosnian Serb forces.

All assets owned by anyone with any connection to the Bosnian Serbs had to be frozen. Adding insult to injury, the Security Council ordered these frozen assets to be turned over to the Bosnian government. In addition, all states had to deny entry to Bosnian Serb leaders into their territories.

Interestingly, while the Security Council declared that the prohibition did not apply to humanitarian goods bound for Bosnian Serb held territories, it nonetheless insisted that states would have to find out about and report to the U.N. the “source of funds from which payment is to be made.” Since such a source would automatically be frozen by order of the Security Council, humanitarian aid was thus turned into a mechanism for seizure of yet more Serb assets.

### THE END OF THE CEASEFIRE

On December 31, 1994, a four-month ceasefire in Bosnia went into effect. For some time the United Nations had been seeking to negotiate such a ceasefire. The Muslims did not want one because they believed it would freeze in place a militarily disadvantageous position. They would only agree to a one-month ceasefire. Eventually, thanks to the intervention of former President Jimmy Carter, they agreed to four months but made it clear that any extension would be unacceptable unless the Serbs fully accepted the Contact Group plan. The four-month cessation of hostilities should have been a wonderful opportunity for vigorous and imaginative diplomacy. An agreement between Serbs and Muslims to exchange territory could well have brought the war to an end. Owen considered it

most unwise for the Bosnian Muslims not to have started to discuss swapping Žepa and Srebrenica for land around Sarajevo. But only the U.S. had any influence on [Bosnian Muslim leaders], and they seemed reluctant to exercise it ... At any time during those months it would have been possible to negotiate swaps whereby these enclaves would have been given up in return for land which the Muslims wanted around Sarajevo. The U.S. and Germany on the

Contact Group were afraid to negotiate and the Bosnian Muslim leaders, as so often in the past, unwilling to compromise. I remain of the view that it was grossly irresponsible not to have conducted negotiations in the spring of 1995.<sup>72</sup>

Instead, the Western powers, stubbornly clinging to their belief that the key to peace was Milošević, devoted their energies to the project of securing a permanent split between Milošević and Karadžić. The international community, which, during the past three years, had applied sanctions against Yugoslavia in order to force it to ditch the Serbs of Bosnia and Croatia, decided that gentler treatment might induce Belgrade to be more cooperative. In return for recognizing Bosnia, Milošević would be promised a suspension of sanctions against Yugoslavia. If Milošević were to recognize Bosnia, the policymakers believed, Karadžić would have no choice but to give up.

Milošević, needless to say, was hardly likely to walk into such an obvious trap. While he was ready to accept the borders of Bosnia, he wasn't prepared to accept the Izetbegović regime as the legitimate government of Bosnia. Recognizing Izetbegović as representative of all Bosnians would mean conceding on the very issue over which the war had been fought in the first place. The Serbs would be surrendering their claim that Yugoslavia had been a union of nations – not republics – each one of which had an equal right of self-determination. The Serbs would be handing victory to the Muslims at a time when they were far from winning the war. Milošević was always unlikely to make a concession of this magnitude without getting an awful lot in return – not just the lifting of sanctions, but territorial concessions in Eastern Slavonia (which bordered Serbia), an end to pressure over Kosovo, and resolution of other issues that had been left to linger since Badinter, such as Yugoslavia's membership in international institutions.

Yet, as it turned out, throughout those four months of negotiations, the international community failed to offer Milošević anything more substantial than a promise of temporary suspension of sanctions. Washington instructed Robert Frasure, who had taken over from Charles Redman as U.S. representative on the Contact Group, to offer Belgrade a suspension of sanctions, one that could be reimposed at any time at the request of one of the five permanent members of the Security Council. Reimposition could only be overturned by an affirmative vote of the whole council. There was a catch here, too. The permanent member that had sought the sanctions reinstatement could veto the council's affirmative vote. There were no prizes for guessing which permanent member would be the most likely to make such a request and to veto the subsequent council vote.

The “talks foundered on one thing,” a State Department spokesman proudly explained in May 1995, “and that is that Serbia is insisting on a lifting of sanctions and the U.S. and the contact group position was and is that there can be a suspension of sanctions but not a lift. That offer is still on the table.”<sup>73</sup> This wasn’t quite true. Milošević had accepted suspension of sanctions rather than their termination. However, he insisted on two conditions: first, a suspension had to last for at least one year; second, it could not be reimposed without an explicit recommendation to that effect from the U.N. secretary-general. The Clinton administration flatly rejected this.

Without such restrictions, Milošević, understandably, had every reason to expect the return of sanctions the moment a peace agreement was signed and the Americans had no further use for him. (This is in fact what happened when, two years after Dayton, the Americans turned their attention to Kosovo.)

The Carter-negotiated cessation of hostilities agreement was observed spasmodically. Muslims regularly breached the ceasefire. But it was only the Serbs’ response to these breaches that elicited NATO threats to use force. Following one notable ceasefire violation in March, the *New York Times* reported that, “The United Nations today threatened air strikes in Bosnia and international diplomats pleaded for peace as the Bosnian Government pursued a successful weeklong offensive and Bosnian Serb forces responded by shelling towns including Sarajevo.”<sup>74</sup> In other words, air strikes would be directed against the Serbs even as “the Bosnian Government pursued a successful weeklong offensive.” The U.N. statement had been issued in response to Bosnian Serbs shelling Tuzla, Goražde, and Sarajevo, which, as the *Times* pointed out, had come in “response to the week-old offensive by the Muslim-led Bosnian Government that shattered a cease-fire not due to expire until May 1.” In addition, “The Bosnian Army has seized about 35 square miles of territory from the Serbs in recent fighting, including an important communications tower in central Bosnia. Its advance has caused the flight of several thousand Serbian refugees.” Under relentless pressure from the United States, the United Nations had taken to treating Serb “shelling” as unprovoked attacks against civilians.

The Contact Group had now put itself into an absurd position: it refused to entertain changes to the proposed map, it refused to urge the Muslims to exchange the (indefensible) eastern enclaves for territory around Sarajevo, it refused to grant the Bosnian Serbs the same rights to confederation with the FR Yugoslavia as the Bosnian Croats had with Croatia, it refused to pressure the Muslims to continue to observe the ceasefire. To top it off, the Contact Group

expected the Serbs to sit still and wait for the upcoming Croat-Muslim spring offensive.

In truth, the Western powers' desire to press for a settlement was in inverse proportion to their misplaced confidence in the military outlook for their clients. "The United States ... watched approvingly as Muslim offensives began this spring, even though these attacks destroyed a cease-fire Washington has supported ... [T]he impact of U.S. action has been to prolong the conflict while bringing it no closer to resolution," General Charles Boyd wrote in the fall of 1995.<sup>75</sup>

In May 1995, Boutros-Ghali noted with surprise the curious absence of pressure from the West to secure peace in Bosnia. "International efforts to mediate a negotiated solution seem to have come close to a standstill," he wrote. "It is, for instance, more than 16 months since there was a round of negotiations at which all the Bosnian parties were present."<sup>76</sup> Owen noted that most of his peace-making efforts from 1993 on were to no avail: "All through 1994 and until I stepped down in June 1995 Stoltenberg and I urged resuming direct talks but they were vetoed by the Americans and the Germans."<sup>77</sup> This was in line with the U.S. and German strategy of refusing to engage in peace talks until the Serbs had suffered defeat. The Contact Group had taken a gamble on the supposedly brightening prospects for the Muslims. It turned out to be a miscalculation of staggering ineptitude.

The resumption of hostilities was a near certainty. Izetbegović made it clear that he had no intention of extending the ceasefire. "We cannot accept a formal extension of the cease-fire because there is a danger of the gradual legalization of the status quo, which would be damaging to us," he said.<sup>78</sup> The only circumstance in which he would consider extending the ceasefire would be if Serbia or Yugoslavia recognized Bosnia. Izetbegović's determination to resume the fighting was met not with threats of sanctions but sympathetic understanding. Peace on the basis of the status quo would mean victory for the Serbs. Therefore, the war had to go on. As newly appointed assistant secretary of state for European and Canadian Affairs Richard Holbrooke explained:

The Bosnians never agreed to an indefinite cease-fire because they believe that it would legitimize forever the 70/30 division of a country which now exists between them and the Bosnian Serbs. The phrase they often use is 'Cyprusization' to describe the way Cyprus was divided first on the basis of a cease-fire line, and now 21 years later, a hard Berlin Wall across the middle of Cyprus. They don't want that ... So, when the 4-month cease-fire was negotiated with

assistance from Jimmy Carter at the end of December, it was the Bosnian Serbs, revealingly enough, who offered an indefinite ceasefire. It was the government in Sarajevo that said very limited in duration, and finally, 4 months was the arrangement. Now, those 4 months are running out. The Bosnian Serbs have refused categorically to accept the Contact Group plan as the starting point for negotiation.<sup>79</sup>

This was typical Holbrooke lying. The Serbs had accepted the Contact Group plan, but as “a starting point for negotiation.” It was the Contact Group that had insisted on a take-it-or-leave-it approach. The wording of U.N. Security Council Resolution 942, adopted under Contact Group pressure, was unambiguous on this score: the Bosnian Serbs had to accept the Contact Group plan “unconditionally and in full.”

The media happily played along with the well-worn story of obstructionist Serbs and weary international mediators. Yet even a casual perusal of the contemporary public record would have revealed the tale to be untrue. For example, in their July 1995 report to the U.N. Security Council, Owen and Stoltenberg had revealed that on March 23, following a meeting with Bosnian Serb leaders, the two co-chairmen had agreed to a Serb demand that the words “acceptance of the peace plan” be dropped as a condition of future negotiations.<sup>80</sup> Subsequent to that meeting, Owen and Stoltenberg wrote a letter to Karadžić spelling out the arrangement that had been agreed upon:

Negotiations with the aim of achieving a comprehensive settlement in Bosnia and Herzegovina on the basis of equitable and balanced arrangements will resume in early April. These negotiations, which will be conducted by the Contact Group, will be on the basis of the peace plan of the Contact Group as a starting point leading to a comprehensive peace settlement, and will last for two months.

Karadžić responded: “Thank you for your letter, of which we have taken note. We accept the basis for negotiations proposed by the Contact Group as explained in your letter of 23 March 1995. We are ready to discuss an extension of the cessation-of-hostilities agreement to cover these negotiations.” In other words, Owen and Stoltenberg confirmed for Boutros-Ghali that the Serbs were ready to negotiate on the basis of the Contact Group plan but would not accept it unconditionally. The Serbs also expected the ceasefire to continue during the negotiations. Neither the Muslims nor, more importantly, the Americans had any interest in extending the ceasefire.

### RAPID REACTION

No sooner did the ceasefire end on May 1 than the calls for NATO bombing started up again. On May 22, 1995, Bosnian Serbs removed two heavy weapons from a weapons collection point. On May 24, heavy fighting took place around Sarajevo: the Serbs fired heavy weapons from within a number of weapons collection points. The Muslims fired back from various positions within Sarajevo. "Bosnian Serb forces removed three more weapons from weapons collection points," the secretary-general reported. The Serbs were ordered to return the heavy weapons. On May 25, NATO launched a bombing attack, citing the Serbs' failure to meet the deadline for the return of the weapons. NATO's targets were two bunkers within an ammunition dump near Pale. The next day, NATO bombed the six remaining bunkers in the Pale ammunition dump. The Bosnian Serbs responded by taking 199 U.N. military observers into custody in order to use them as human shields to deter further NATO attacks.

The seizure of the U.N. personnel infuriated Boutros-Ghali. Though understandably angry with the Serbs, he was also annoyed with Western supporters of the Bosnian Muslims. Their bravado from a safe distance had imperiled the lives of U.N. peacekeepers. The closer the tie between the U.N. and NATO, he had complained a number of times in the past, the more UNPROFOR would come to be seen as a belligerent in the war. Nominally a peacekeeping operation, UNPROFOR had gradually evolved into something akin to the Bosnian Muslims' auxiliary force. Originally envisaged as protector of UNHCR convoys delivering humanitarian relief, UNPROFOR had, since April 1993, become the defender of the Muslim safe areas even when these towns served as bases from which the Bosnian government launched armed attacks against Serbs. The Western humanitarian alliance with Sarajevo had recklessly endangered the lives of the true humanitarians, namely, United Nations personnel. "UNPROFOR's mandate to deter attacks upon the safe areas requires it to react to Serb actions, irrespective of whether the Serbs are responding to offensives launched by the other side," Boutros-Ghali pointed out. "When they are doing so, however, the impartiality of UNPROFOR becomes difficult to maintain and the Force is seen as a party to the conflict, with resulting risks to isolated United Nations personnel."<sup>81</sup>

Using force against only one party, the secretary-general went on, "alters that party's perception of the neutrality of UNPROFOR, with the risk that its personnel and those of other United Nations agencies come to be identified with the use of force and perceived as a party to the war. Being widely

dispersed, they become extremely vulnerable to obstruction, detention and other forms of harassment.”<sup>82</sup> While NATO pilots were in no danger from the Bosnian Serbs’ rudimentary air defenses, UNPROFOR personnel weren’t so fortunate. The Serbs, unable to hit back against NATO aircraft, were able to take out their frustration on U.N. peacekeepers who appeared to be in cahoots with NATO. Mladić had warned Morillon in 1993 that if NATO were to attack the Serbs “while they were defending themselves against aggression emanating from the enclaves, the VRS would treat UNPROFOR as an enemy.”<sup>83</sup>

Following the U.N. hostage-taking, a number of European governments grew alarmed that public pressure might force the withdrawal of the United Nations from Bosnia. In response, they suggested the establishment of an armed combat force that would be available to help out UNPROFOR should it get into trouble again. On June 7, France, the Netherlands, and Britain went to U.N. headquarters in New York and suggested reinforcing UNPROFOR with a rapid reaction capability. Such a force, Boutros-Ghali wrote on June 9 to the president of the Security Council, would “reduce the risk that increasing casualties and harassment might cause the troop-contributing Governments and the Security Council to consider withdrawal.”<sup>84</sup> This rapid reaction force would comprise 15,000 men, of whom 2,500 were already in place. In other words, 12,500 additional troops were needed.

While the idea of beefing up U.N. capability in Bosnia sounded fine on paper, its mission was bound to be as ambiguous and as contradictory as that of UNPROFOR. The publicly stated rationale was prevention of debacles such as the one that followed NATO’s May 25 bombing. The rapid reaction force would protect UNPROFOR from hostage-taking. However, NATO officials announced that the force would be expected to do a lot more than that. It could be used, for example, to break the siege of the “safe areas.” Such a course of action would, of course, significantly shift the military balance in favor of the Muslims and would lead to direct military confrontation between Serbs and the United Nations. Such an outcome might please NATO but would do nothing for the U.N. General Rupert Smith, who had succeeded Rose as UNPROFOR commander and was much more sympathetic to NATO requests than his predecessor had been. Smith embraced the idea of using this force “to open corridors to the Bosniac-held enclaves, including not only Sarajevo but also Srebrenica, Žepa and Goražde.” Smith, according to Boutros-Ghali, took the view that if the rapid reaction force would not be used “to open such corridors, he would rather not have it at all.”<sup>85</sup>

Smith’s position was sharply at odds with that of his bosses. General Bernard Janvier, UNPROFOR’s overall commander in Bosnia and Croatia, argued

that the reaction force should be used only to help UNPROFOR defend itself, not to open corridors to the “safe areas.” It wasn’t up to UNPROFOR to impose a political solution such as the creation of a corridor. Yasushi Akashi, the U.N. secretary-general’s special representative in Yugoslavia, agreed, insisting that the force “should be used according to peacekeeping principles, using force only in self-defense.” Akashi even objected to the name “rapid reaction force,” arguing that it was “too confrontational.” He preferred the term “theatre reserve.”<sup>86</sup>

While the United States might have been expected to favor the introduction of additional military capability into Bosnia, it was less than keen on a plan that would result in a larger rather than a smaller U.N. presence. The Clinton administration, still wedded to “lift and strike,” didn’t want to see a strengthened U.N. presence in Bosnia. The “lift and strike” strategy entailed withdrawal of U.N. peacekeepers, NATO attacks on the Serbs, and eventual Muslim military victory. Publicly supportive of the European proposal, Albright nonetheless rushed to explain that no extra funding would be forthcoming from the United States. During the June 16 Security Council debate on the issue, Albright announced that the United States would refuse to incur “any direct financial obligation” for any expansion of UNPROFOR. In “a time of serious budgetary cutbacks we are not now prepared to pay the lion’s share of the cost of expanding this Force.”<sup>87</sup>

Albright wanted to see UNPROFOR gone from Bosnia. With the peacekeepers out of the way, the Europeans would no longer have an excuse to thwart U.S. policy. On June 21, she presented a policy paper within the administration. She proposed that Washington press its “Allies to concede that UNPROFOR would withdraw, thus sparking its immediate departure. The international community would lift the arms embargo against the Bosnian Government, and NATO would follow up with airstrikes to protect Muslim-held territory.”<sup>88</sup> Of course, the Bosnian Serbs had to be prevented from acquiring arms. She was therefore ready to bite the bullet and offer Milošević a temporary relief from sanctions in return for his cutting the Bosnian Serbs adrift. (Albright seemed happily oblivious to the reality that Milošević had already rejected repeated entreaties to abandon Bosnia’s Serbs in return for a temporary suspension of sanctions.)

### HIJACKING THE U.N.

On July 21, leaders of the 16 countries contributing to the U.N. mission in Bosnia gathered in London to discuss what to do next. Srebrenica and Žepa

had fallen to the Serbs and, as a result, the Contact Group map was now in tatters. Once again, U.S. officials went into the meeting demanding more – and more intense – NATO bombing of the Serbs. “To be effective it [the air campaign] has to be major, that is, what military people call disproportionate use of air power,” said U.S. Defense Secretary William Perry.<sup>89</sup> And once again, U.S. officials rejected calls for a U.N. resolution to authorize the bombing. The London conference promised a “substantial and decisive response” should the Bosnian Serbs attack Goražde but did not specify what this might entail. “There was strong support for ... the use of air power, but there was also great concern expressed. Countries are conscious of the serious risks involved in this course of action,” explained British Foreign Secretary Malcolm Rifkind as he read out the conference statement.<sup>90</sup>

Typically, U.S. officials, purporting to speak on behalf of the conference, immediately delivered a message that went far beyond anything agreed on in London. “The Bosnian Serb leaders are now on notice that an attack against Goražde will be met by substantial and decisive air power,” announced U.S. Secretary of State Warren Christopher as soon as the meeting ended. “Any air campaign in Goražde will include significant attacks on significant targets. There will be no more pinprick strikes.”<sup>91</sup> The London conference had decided on nothing of the sort.

Crucially, U.S. officials left London claiming that the conference had decreed the U.N.-NATO dual key system to be at an end. Henceforth, NATO could launch air strikes without authorization from the U.N. secretary-general. NATO alone would decide whether, when, or where to bomb. “It will no longer be a convoluted, Rube Goldberg type organizational chart, where you have to check 32 boxes before you can decide that airstrikes are necessary,” a State Department spokesman explained. NATO bombing would still “be a joint U.N.-NATO decision,” but it would be kept “in military hands as these decisions should be.” Rube Goldberg was out, but doublespeak was very much in.

Boutros-Ghali, needless to say, strongly disputed the U.S. interpretation of what was decided on in London. “The secretary general holds the key at the United Nations for the authorization of air strikes. I can’t be clearer than that. Now, he may decide to delegate it to Akashi, he may decide to delegate it to his generals,” his spokesman Afmad Fazi told the media.<sup>92</sup> To this, the State Department retorted with the sneer, “The United Nations is in a fairly precarious state in Bosnia. The United Nations has not met its commitment to protect the people of Srebrenica.”<sup>93</sup>

Having taken this bold leap in interpretation as to what was decided on in London, the United States unhesitatingly strode forward to take the next,

even bigger, leap. Not only was NATO under no obligation to seek U.N. authorization for the use of force in Goražde, NATO no longer needed anyone's authorization to use force on behalf of *any* "safe area." It would be up to the U.N. commanders on the ground to call in NATO. If they thought air power was needed at any of the enclaves

then that decision could be made by the North Atlantic Council. It would not have to be referred back to a London type conference. The London conference has already met and made the decision. It would not have to be referred to the United Nations Security Council because there is clearly existing authority in the Security Council that would allow NATO air power to be deployed. So, it's just a question of going to the North Atlantic Council. Now we have a lot of experience for many decades in the North Atlantic Council. It's a group that does function quite well. It's a group of like-minded countries, and we think it's probably the best way to, the best place to put this decision-making.<sup>94</sup>

On July 26, Christopher called Boutros-Ghali and informed him that the "London Conference represented the leading participants in the U.N. as far as Europe was concerned, and [that] he [Boutros-Ghali] shouldn't stand in the way of NATO taking action if there were another safe area attacked."<sup>95</sup>

Richard Holbrooke announced that the dual-key arrangement was at an end whatever Boutros-Ghali may say about the matter. Indeed, as far as Washington was concerned, even NATO hadn't gone far enough:

The civilian side of the dual-key on the UN is no longer in place in regard to the Goražde and the area around Goražde and threats to Goražde. That is a critical aspect of the NAC decisions. From the United States point of view, we would like to eliminate the civilian side of the dual-key across the board in the war theater. And we will continue to work for that ... This is the NATO decision. The United States and its NATO allies have made this decision. This is the rules of engagement under which we believe we must operate, and that is how it's going to be ... We believe that the rules of engagement that we are now applying to the Goražde area, should be applied nationwide, and we are going to continue, in fact we are at this moment continuing the work towards that goal.<sup>96</sup>

Assigning to "U.N. commanders on the ground" the responsibility of calling in NATO was an intriguing innovation. U.N. commanders were acting under the authority of the U.N. secretary-general to enforce Security Council resolutions and receiving their salaries from the United Nations. The suggestion

that, henceforth, NATO would take into account their views but not those of their chief, Boutros-Ghali, amounted to usurpation of U.N. control over a U.N. mission.

Predictably, NATO adopted the U.S. interpretation of what had been agreed on in London rather than what had actually been agreed on. On July 25, four days after the Lancaster House meeting, NATO announced that it had “approved the necessary planning to ensure that NATO air power would be used in a timely and effective way should the Bosnian Serbs threaten or attack Goražde.” In addition, military authorities had been asked “urgently to formulate proposals on how this planning could be applied to the other Safe Areas, in view particularly of the current very serious situation in Bihać.”

This alarm over the alleged imminent fall of Bihać was surprising given the frenetic NATO claims that the Serbs were about to overrun Goražde, located on the other side of Bosnia hundreds of miles from Bihać. And, NATO went on, “There is a strong feeling among Allies that such operations, once they are launched, will not lightly be discontinued.”<sup>97</sup> Nonetheless, doubtless out of deference to the opinions of its lesser members, NATO made no reference to its unilateral termination of the dual-key arrangement.

By issuing this statement, NATO had not only usurped the United Nations but also the Contact Group. Group members had not agreed on the need for bombing, and it wasn’t just the Russians who weren’t on board. As the *New York Times* reported, “the United States, Britain and France, the three countries with the people and equipment to carry out a threat, basically went out on their own and issued [the statement]. But they had to circumscribe the threat to Goražde to find common ground even among themselves. France had been arguing that air strikes without ground reinforcements are ineffective; Britain remained worried about the hostage-taking that occurred before.”<sup>98</sup>

NATO, taking its cue from Washington, announced that the threat to bomb did not apply solely to Goražde but to every other “safe area,” particularly Bihać. On August 1, NATO declared that though it was “particularly concerned by the very serious situation in Bihać,” it had “approved the necessary planning to deter attacks by any party ... on the Safe Areas of Bihać, Tuzla and Sarajevo.” Any military preparations “judged to represent a direct threat to the U.N. Safe Areas ... will be met with the firm and rapid response of NATO’s airpower.” As usual, out of deference to the opinions of its more legally fastidious members, NATO explained that its actions were “in support of the United Nations. We continue to support the presence of the U.N. forces in the Former Yugoslavia. Our actions are intended to underpin the search for a political settlement.”<sup>99</sup>

NATO's mention of Bihać on August 1 was a significant development. Croatia was about to launch Operation Storm to seize the Krajina and drive out the Serbs. Tudjman's justification for the attack, one that was to be repeated a number of times in the coming days by his Washington sponsors, was the alleged Serb threat to Bihać, which, in turn, posed a supposedly existential threat to Croatia.

NATO now upped the ante, announcing brand new rules of engagement that went far beyond protection of UNPROFOR personnel or even defense of the "safe areas." NATO now referred to something it called a "zone of action." This was the "safe area" plus a lot of the area surrounding it. "Any attack on the safe areas from within the zones of action could in future lead to extensive airstrikes," NATO said, "including direct bombing of troop concentrations." The zones of action could be as large as 50-100 square miles. NATO bombers could attack "reinforcing troops making their way towards a safe area." NATO could bomb "even further away if it can be shown that a target, such as a centralised radar centre, poses a significant threat to NATO aircraft."<sup>100</sup> Moreover, NATO officials suggested in background briefings to reporters that any Serb artillery attack on Sarajevo would be dealt with by the U.N. Rapid Reaction Force, and not just by air strikes.

NATO was now an overt combatant in the Bosnian war. However, a mechanism still needed to be put in place to trigger NATO into action. A simple request from Izetbegović might suffice in Washington but not in Europe. Following the London conference, NATO assigned to UNPROFOR commander Rupert Smith the role of NATO summoner-in-chief. Washington's eagerness to grant him this role was easy to explain: Smith, unlike any of his UNPROFOR predecessors, was highly attuned to NATO's needs. Smith, according to the State Department,

would work together with Admiral Leighton Smith, who is the NATO commander in Naples, who has direct command of NATO air force in the region ... And so, if General Rupert Smith decides that an attack on Goražde must be repelled by NATO airpower, he would request that from Admiral Leighton Smith in Naples, and the two of them would be the focus of the coordination, rather than have a system whereby you've got those two individuals, but you also have civilians in Zagreb, civilians in New York, and a host of others.

The references to Zagreb and New York were obviously meant as swipes at Akashi, who was based in Zagreb, and Boutros-Ghali, who was based in New York. In the past, explained State Department spokesman Nicholas Burns,

later to serve as President George W. Bush's ambassador to NATO and under-secretary of state for political affairs, "what often happened, is that the UN commanders would make a decision that forces had to be buttressed by air-power and some of those decisions were countermanded by civilians sitting far away. And frankly, the United Nations has come to the point in Bosnia where its lifespan is going to be severely limited if it just continues business as usual." This was the kind of story that always goes down well in Washington; it had little connection to the truth. U.N. commanders did not desperately try to call in NATO bombers only to have their requests denied by Boutros-Ghali in New York and Akashi in Zagreb. In his book, General Michael Rose recounted numerous occasions on which he had to plead with U.N. officials to call off NATO bombing plans.

#### OPERATION DELIBERATE FORCE

On August 29, NATO, under U.S. pressure, launched a massive bombing campaign against the Bosnian Serbs which was to be known as Operation Deliberate Force. On August 28, yet another explosion devastated the Sarajevo marketplace. Thirty-four people were killed. Within the hour, an UNPROFOR spokesman announced that the Serbs were responsible for the attack. The media were in full cry: Serbs were vicious animals who deserved no mercy from NATO. Less than 39 hours after the explosion, NATO launched its most devastating attack yet on the Bosnian Serbs. The bombing went on for two weeks and inflicted heavy losses on the Serbs. "Holbrooke felt that this horrible tragedy created a valuable opportunity to bolster U.S. credibility," according to the State Department history of the 1995 peace negotiations.<sup>101</sup>

Preliminary investigation of the incident, however, had once again proved to be inconclusive. This time U.N. officials went public with their skepticism. Colonel Andrei Demurenko, Russian chief of staff of UNPROFOR's Sector Sarajevo, carried out an investigation and expressed doubts that the Serbs had fired the mortar shell. He said it was practically impossible to hit a 9-meter wide street with a mortar from a range of three to four kilometers, the distance between the marketplace and the nearest Serb artillery position. The chance of a mortar shell hitting such a target was one in a million, he explained. Basing his calculation on the claim that this was a 120-millimetre shell and on the angle of the shell's impact on the street surface, Demurenko insisted that there were only four possible Bosnian Serb positions from where a mortar could have been fired. Demurenko visited the four possible sites

and ruled out each one of them. The possible locations included a forest and a rocky slope, neither of which was conducive for the placing of a mortar. Locations also included a clear meadow where, however, Demurenko found no traces of firing or gunpowder. In addition, Demurenko pointed out, U.N. artillery reconnaissance didn't hear the sound of the mortar shell either at the moment it was fired or later, when several more shells blasted in the center of Sarajevo.<sup>102</sup>

In 2002, the official Dutch government report on Srebrenica also expressed concern about UNPROFOR's rush to judgment: "American intelligence officers admitted that the ABiH had taken responsibility for this incident ... Even the most important British policy body in the field of intelligence, the Joint Intelligence Committee (JIC), came to the conclusion that the shelling of Sarajevo market was probably not the work of the VRS, but of the Bosnian Muslims."<sup>103</sup> Writing in the *Nation* in October 1995, veteran *New York Times* reporter David Binder wrote, "The crucial U.N. report on the market massacre is classified secret, but four specialists – a Russian, a Canadian and two Americans – have raised serious doubts about its conclusion, suggesting instead that the mortar was fired not by the Serbs but by Bosnian government forces." The Canadian specialist found the U.N. report "highly suspect." According to Binder, there were anomalies with the fuse of the mortar shell recovered from the marketplace crater. "Unlike the fuses of four other shells that hit Sarajevo that morning, this one, he said, 'had not come from a mortar tube at all.'"<sup>104</sup>

Significantly, Binder even quoted an unidentified U.S. administration official as explaining that a shot from one of the Serb gun positions would have to have had a high trajectory. However, since "there was no distinct whistle ... a shell could not have fallen from a very great height." Moreover, the crater was very shallow, "while a high trajectory shell digs deep." The U.S. official claimed that the evidence suggested one of two possibilities: "the shell was fired at a very low trajectory, which means a range of a few hundred yards" or "a mortar shell converted into a bomb was dropped from a nearby roof into the crowd." Both possibilities suggest that the deadly attack came from Bosnian government-held territory.

Nonetheless, UNPROFOR commander Smith declared himself to be certain "beyond a reasonable doubt" that the Bosnian Serbs were guilty. As he later admitted, "I personally did not examine the craters. There was not unlimited time for reaching a decision. I had to reach a decision, deciding to act on the basis of something that I was convinced of to an extent. Therefore, I did not accept the first report." Smith had directed his own staff officer, Colo-

nel Powers, to carry out an investigation. As Binder wrote, “General Smith’s report was based on three hours of on-the-spot investigation and covered only one page. Yet virtually nobody has questioned how the blame was assigned ... almost immediately to the Bosnian Serbs.” The *Washington Post* reported that, “The U.N. scientific report remains classified. And neither NATO military nor civilian authorities reviewed the evidence before committing the alliance to a massive counterpunch.”<sup>105</sup>

Testifying before the ICTY in 2007, Demurenko said that “there was no shelling attack. This was a terrorist attack. This was something that was done within Sarajevo. It was a provocation.”<sup>106</sup> He doubted that a mortar shell could inflict casualties on such a massive scale. He also mentioned the odd coincidence of Serb shells repeatedly landing in the Sarajevo marketplace and killing so many civilians every time. “It is simply improbable that on each occasion a shell would be fired from the mountainous area and land in the very same spot killing so many people.”<sup>107</sup>

The ICTY, needless to say, discounted Demurenko’s evidence. The marketplace massacres were too important to the NATO narrative. Dismissing his evidence as “vague and evasive,” the tribunal concluded that he got his numbers wrong when he calculated that it was impossible to fire a mortar from any of the locations that he visited during his investigation. Though Demurenko claimed that he “could calculate the possible firing locations with a margin of deviation of ten to 15 metres” which enabled him to find a possible location within those points, “it is clear that this margin of error covered a wider area than was covered by the locations visited” by him. The ICTY therefore couldn’t accept Demurenko’s “conclusions dismissing any possibility” that the shell was fired from Bosnian Serb territory. This was typical ICTY legerdemain, according to which Serbs are assumed to be guilty unless it can conclusively be shown that they are innocent. The onus is on the (Serb) defendant to prove his innocence.

Equally remarkable was the ICTY’s treatment of the absence of any audible trace of a mortar shell being fired from Bosnian Serb territory. Demurenko had said that no U.N. artillery observer had heard the distinctive high-pitched whistle of a mortar shell prior to the detonation. The ICTY dismissed this evidence, citing “an UNPROFOR report which explained that the launch of the mortar was not recorded because the radar was set to detect the trajectory of a mortar shell fired at a distance of 950 metres or less and, consequently, the trajectory of any round fired from a distance of between 1,500 and 3,000 metres would have passed under the radar beam. The Trial Chamber accepts this explanation.”<sup>108</sup> The “Trial Chamber” didn’t explain why it accepted this

explanation, or why radar set up to detect Serb artillery attacks should have been configured precisely so as not to be able to detect such attacks. UNPROFOR's claims about the radar raised more questions than they answered – hardly a serious basis for deciding “beyond any reasonable doubt” that the Bosnian Serbs had fired the shell.<sup>109</sup>

“Beyond any reasonable doubt” was NATO's wording of choice on August 30 to justify the launch of its “disproportionate use of air power” (to use Defense Secretary Perry's boastful expression) against the Serbs. NATO had moved swiftly to take the U.N. forces stationed in Goražde out of harm's way. The objective, NATO explained, was

to reduce the threat to the Sarajevo Safe Area and to deter further attacks there or on any other Safe Area. We hope that this operation will also demonstrate to the Bosnian Serbs the futility of further military actions and convince all parties of the determination of the Alliance to implement its decisions.

Clinton, who was on vacation at the time, expressed his support. The NATO attack, he said, was “an appropriate response to the shelling of Sarajevo.”<sup>110</sup> Even so, with or without the dual-key, NATO needed someone connected to UNPROFOR to sign off on the bombing. This was the moment when Kofi Annan secured for himself the job of U.N. secretary-general. As Richard Holbrooke recounts it, Boutros-Ghali could not be reached. His deputy, Kofi Annan, who was responsible for U.N. “peacekeeping” operations, took charge and informed the Americans that “he had instructed the U.N.'s civilian officials and military commanders to relinquish for a limited period of time their authority to veto air strikes in Bosnia.” Finally, NATO got the bombing it had long been seeking. “For the first time in the war,” Holbrooke exulted, “the decision on the air strikes was solely in the hands of NATO.” Annan's “gutsy performance in those twenty-four hours was to play a central role in Washington's strong support for him a year later as the successor to Boutros Boutros-Ghali.”<sup>111</sup>

In fact, according to Holbrooke, the United States made sure that not only the United Nations but also other NATO members were out of the loop. Incoming NATO Secretary-General Willy Claes played a key role here. “Instead of calling for another formal meeting of the NATO Council to make a decision,” Holbrooke wrote, “Claes simply *informed* [Holbrooke's italics] the other members of NATO that he had authorized ... military action if it was deemed appropriate.” Had he not done so, “the NATO Council would have either delayed or denied air strikes.”<sup>112</sup>

NATO carried out its ferocious two-week-long bombing campaign even as Serbs and Muslims were engaged in heavy fighting throughout Bosnia, but especially around Sarajevo. During this period, NATO flew more than 3,500 sorties and dropped more than 1,000 bombs.<sup>113</sup> The NATO attack, incidentally, was “accompanied by a 600-round barrage from the heavy guns of the rapid reaction force ... [T]he heavy guns of the rapid reaction force had engaged 19 targets, most of them Serb heavy weapon positions, from UNPROFOR positions on Mount Igman.”<sup>114</sup> French artillery units assigned to the rapid-reaction force shelled Bosnian Serb artillery positions.<sup>115</sup>

The bombing was calculated to weaken and demoralize the Serbs and to strengthen and encourage the Muslims. Yet NATO had the shameless gall to pretend that it wasn’t taking sides in the conflict, that it was a disinterested humanitarian observer, a sort of International Red Cross with laser-guided missiles as its symbol rather than a red cross. NATO called “upon all parties to exercise restraint. No one should seek military benefit from our action. NATO remains strongly committed to the continued efforts of the international community, including those of the Contact Group, to bring peace to the former Yugoslavia through the diplomatic process.”<sup>116</sup> Finally, it expressed the “fervent hope that our decisive response to [the] mortar attack will contribute to attaining a peaceful settlement.”

Needless to say, Croatian and Bosnian Muslim forces failed to “exercise restraint” and chose instead to “seek military benefit” from NATO’s action. They launched major offensives against the Serbs. As Boutros-Ghali wrote:

Soon after NATO began air operations ... Bosnian government and Croatian forces began to advance in the western part of the country. In the week of 10 September 1995, Bosnian government forces took much of the Ozren salient, while, simultaneously, Croatian forces made sweeping advances in the southwest of the country, including the capture of areas traditionally populated by Bosnian Serbs.<sup>117</sup>

None of this should have come as a surprise, even though pundits made a valiant show of bafflement at this unexpected development. NATO’s attack had “put the Western powers in the position of appearing to be an ally of the Muslims and Croats, not a neutral player,” the *Washington Post* reported.<sup>118</sup> NATO’s demand that Serbs withdraw heavy weaponry from the 20-kilometer zone around Sarajevo as its price for ending the bombing was only the appearance of an alliance with the Muslims and Croats, not the reality. NATO had conveniently forgotten the wording of its own ultimatum of February 9, 1994 that

established the 20-kilometer zone. The Serbs were ordered to remove their heavy weaponry. But there was a corresponding obligation on the part of the Bosnian government. It had been ordered to “place the heavy weapons in its possession within the Sarajevo exclusion zone ... under UNPROFOR control, and to refrain from attacks launched from within the current confrontation lines in the city.”<sup>119</sup> Yet, now, not only were the Muslims mounting offensives from Sarajevo, they were doing so in collaboration with NATO.

For a while, the bright hopes that the Western powers had entertained in the spring for a successful Muslim-Croat offensive appeared to be fulfilled. While the bombing continued, the Croat-Muslim forces enjoyed a measure of success. During this time, naturally, the United States went out of its way to thwart all attempts to secure a ceasefire or to hold peace talks. “We must carry on the bombing until it has achieved real effectiveness. The Serbs must be impressed with our willingness to bomb on a continuous basis if necessary,” argued Warren Christopher.<sup>120</sup>

It was all part of the familiar U.S. strategy of pulverizing an opponent until he’s ready to accept U.S. terms, all in the name of diplomacy and peace negotiations. Boutros-Ghali, under orders from NATO, had relinquished his control of the dual-key. The man who should have been assigned the U.N. key was UNPROFOR’s commander in Bosnia and Croatia, General Bernard Janvier. However, Janvier was as unenthusiastic as Boutros-Ghali about the bombing and sought desperately to stave it off. He asked for a bombing pause to enable him to negotiate a ceasefire with the Bosnian Serbs. NATO paused and Mladić pledged to Janvier that he would not “conduct combat operations or threaten any attacks [on the safe areas] except in the case of self defense.” Upon receiving this pledge, Janvier urged continuation of the bombing halt. The Americans, needless to say, were having none of that and pressed NATO to resume the bombing. Janvier, the State Department’s account sneered, “seemed to accept Mladić’s statement that as long as the Bosnian Serb Army ... did not threaten any safe areas, it should be allowed to assume defensive positions to protect themselves from NATO airstrikes.”<sup>121</sup> Washington instructed NATO to issue an ultimatum to the Bosnian Serbs: no attacks on any safe areas, withdrawal of heavy weaponry from the 20-kilometer zone, and unhindered use of Sarajevo airport.

This was a tall order, unlikely to be complied with in the absence of any corresponding commitments on the part of the Muslims. NATO’s bombing resumed on September 5. This time, NATO cheerfully attacked targets throughout Bosnian Serb territory, including air defense systems around Banja Luka in the west. The NATO attacks around Banja Luka greatly im-

proved the military fortunes of the Muslim-Croat federation. So bright did they appear to be that Tudjman decided that the federation's forces should now take Banja Luka, a key Serb city in western Bosnia. Tudjman asked Holbrooke for permission to do so. Holbrooke warned Tudjman against this. It would create huge numbers of refugees and the federation would "have to give up the city in a settlement anyway."<sup>122</sup> To mollify the Croats, Holbrooke gave Croatian defense minister Gojko Šušak a list of "the areas the Federation forces should fight to take" rather than Banja Luka, all in the name of strict neutrality, needless to say. Holbrooke's trepidation was understandable. He knew that while Milošević may have been ready to push the Bosnian Serbs to accept the Contact Group plan, he would not have stood by and allowed them to be defeated militarily, particularly if this were to come about through Croatian intervention in tandem with NATO bombing. Holbrooke's force-and-diplomacy strategy was threatening to lead to the one outcome that everyone had dreaded since the start of the dissolution of Yugoslavia: a full-scale war between Serbia and Croatia.

Fortunately, following some military setbacks, Tudjman's enthusiasm for taking Banja Luka waned. Izetbegović's enthusiasm, on the other hand, remained undimmed, and he now took up the "Let's take Banja Luka" cry. However, without the support of either NATO air power or Croatian infantry and firepower, his quest was hopeless. The Americans vetoed the drive for Banja Luka but urged the capture of Bosanski Novi, Sanski Most, and Prijedor. This, too, came to naught, as Muslims and Croats now fell out among themselves over their recent plunder. On September 19, Tudjman met Izetbegović in Zagreb and, in front of their astonished American patrons, announced that he would not be handing over to the Muslims any of the Bosnian territory Croatian forces had recently captured.

In the meantime, NATO's bombing campaign was running out of steam. "NATO was running out of targets," Holbrooke explained, "and the next level of bombing would require U.N. and NAC [North Atlantic Council] approval." The *New York Times* ran a story articulating the laments of NATO commanders who complained that they were "rapidly running out of military targets in southeastern Bosnia." Political constraints were "barring broad attacks on ground troops and strategic sites like civilian factories and power plants."<sup>123</sup> The Muslims pleaded desperately for the continuation of the bombing, claiming that they were close to military victory over the Serbs. U.S. officials were skeptical. Past Muslim offensives had ended in fiasco and this one promised to end up no differently. They therefore urged restraint. According to U.S. diplomat Christopher Hill, every time the Muslims fought without Croat

support they “got their asses handed to them.”<sup>124</sup> Moreover, after initial setbacks following the start of the NATO bombing, the Bosnian Serb army had begun to recover.

Nonetheless, even though NATO bombing was coming to an end, the Americans urged the federation on. On October 1, Holbrooke met Tudjman in Zagreb and told him that “some valuable territorial gains were left” and that he should do whatever he could militarily in the following week. Once again, “Holbrooke recommended key towns to the Croat leader: ‘I would hope that you can take Prijedor, Sanski Most and Bosanski Novi,’” according to the State Department’s history.<sup>125</sup> In the end, the federation only succeeded in taking Sanski Most.

The United States now took over all negotiations on behalf of the Contact Group. There was no reason for this other than that NATO had bombed the Serbs and had done so at Washington’s behest. Needless to say, as first order of business, U.S. policymakers cut the Contact Group out of the discussions, much as they had earlier cut the U.N. out. “Holbrooke’s strategy was rather simple: limit the information that the Contact Group had about his negotiations,” the State Department history of Dayton recounted. “In his August memorandum to Christopher, Holbrooke suggested that the U.S. only provide the Contact Group ‘a rough outline of where we are, issue by issue, without revealing anything not already known or agreed by each of the parties. With respect to our future plans, we intend to keep our focus on the process, and while we will be eager to hear from them their ideas for initiatives, we don’t intend to share ours to the group.’”<sup>126</sup>

Following a September 8 meeting in Geneva, the foreign ministers of Bosnia, Croatia, and Yugoslavia signed on to a set of Agreed Basic Principles. The Bosnian Serbs were permitted to attend the meeting, but only as part of a Serbia-led delegation. They were not allowed to speak or to sit at the same table as the representatives of the Contact Group.<sup>127</sup> Even as an agreement was being signed in Geneva, NATO was redoubling the intensity of its bombing in an apparent rerun of the 1972 bombing of North Vietnam that, in the view of such Vietnam alumni as Holbrooke, had facilitated the Paris accords. The Geneva basic principles included a provision that Bosnia would comprise two entities: the Federation of Bosnia and Herzegovina and the Republica Srpska. The federation would comprise 51% of the territory, the Republica Srpska 49%. Each entity would have its own constitution and its own government and would “have the right to establish parallel special relationships with neighboring countries, consistent with the sovereignty and territorial integrity of Bosnia and Herzegovina.”<sup>128</sup>

## DAYTON

The negotiations that finally brought the Bosnian war to an end took place in November 1995 at Wright-Patterson Air Force base outside Dayton, Ohio. The much-lauded September bombing had not resulted in the expected Serb defeat, and the two-state solution envisaged by the Geneva basic principles was a far cry from the unitary state that was supposedly the *sine qua non* of any acceptable settlement. U.S. frustration over this undesirable outcome found expression in the avalanche of Serb atrocity stories that greeted the arrival of the Serb negotiators at Dayton. The goal of the campaign, which was orchestrated by the State Department, was to reinforce the regnant narrative according to which, if peace was finally coming to Bosnia, it was only because the Americans finally had taken a hard line with the Serbs.

The Dayton negotiations were remarkable in a number of ways. First, peace talks were taking place, yet the leaders of one of the war's combatants were not permitted to attend. The ICTY had indicted Mladić and Karadžić on July 27, and, helpful as ever to U.S. interests, it stigmatized the Bosnian Serb leaders even further when, on the eve of Dayton, it added genocide charges to the mix. The U.S.-led international community blandly assumed that the interests of the Bosnian Serbs would be adequately represented by Milošević, the president of another state. Had the Serbs been defeated, this might have been understandable. But, contrary to American braggadocio, the Serbs had not been defeated. Western policymakers insisted that the Bosnian Serbs be represented by the FRȚ not in order to accommodate the Bosnian Serb aspiration to continued membership of the FRȚ, but, to the contrary, in order to deny it. Ironically, by pressing Milošević to lead the Bosnian Serb negotiating team, the United States was in effect adopting the policy of Owen and his successor, Carl Bildt. Owen and Bildt had both sought to squeeze Pale by placating Belgrade. For years, the Americans had rejected this approach, arguing that, since Milošević was the supposed mastermind behind the war in Bosnia, offering him incentives was tantamount to appeasing evil. Now it was the United States that was promising the suspension of sanctions in return for Milošević's abandonment of the Bosnian Serbs.

What made success at Dayton possible was not Washington's bombing campaign, which, in any case, had taken place two months earlier. Of far greater significance was U.S. acceptance of an outcome it had previously fiercely rejected: a *de facto* partition of Bosnia. Crucial, too, was Milošević's extraordinary audacity. Risking political disaster (which eventually came), he took over negotiations on behalf of the Bosnian Serbs and made one stun-

ning concession after another: he agreed to cede the whole of Sarajevo to the Muslims; he agreed to international arbitration over the future of Brčko, which threatened the viability of the Bosnian Serb entity; he agreed to the continued survival of Goražde, an eastern Muslim enclave deep in Bosnian Serb territory, and to the creation of an 8-kilometer corridor linking it to Sarajevo.

It was clear that the Americans had not expected, and were not prepared for, concessions of such magnitude. In fact, the Americans had proposed a “District of Columbia” solution for Sarajevo. The city would belong neither to the federation nor to the Republika Srpska. It would be an independent enclave governed by representatives of all three national groups, with the position of mayor rotating among the three groups. Milošević’s concession caught everyone by surprise. “We never fully understood why Milošević decided to give Sarajevo to the Muslims ... [T]he best explanation may be that he was fed up with the Bosnian Serbs and had decided to weaken their Pale base by giving away the Serb-controlled parts of Sarajevo,” Holbrooke wrote.<sup>129</sup>

It was not the Serbs but the Muslims who created problems at Dayton. This was understandable. Having been promised a united Bosnia in which they would be the dominant nation, Izetbegović considered the offer of half a state – a half that they would moreover have to share with the Croats – as a betrayal. Izetbegović announced that he “could not be party to an agreement signed by the Bosnian Serbs.” The Serbs were “like the Nazis,” he said. An “agreement should be imposed on them.” The Americans, no longer keen to indulge him, dismissed such typical Izetbegović overheated rhetoric with the snide observation that “unlike Allied Forces during World War II, the Bosnians had not defeated the BSA militarily.”<sup>130</sup>

In the United States, the signing of the Dayton Accords was greeted with high-fives and whoops of joy. The Muslims had supposedly won huge chunks of territory from the Serbs, all thanks to U.S. air power and Croat-Muslim fighting prowess. Peace had come to Bosnia, the Muslims had been saved, and the hated Serbs had been put in their place. This was, to say the least, a strange reading of what had happened. Peace had come to Bosnia because Serbs took matters into their hands and had tossed the Contact Group map into the wastepaper basket. What made a settlement possible was precisely the exchange of territories that Karadžić had proposed, that Owen had proposed, and that the Contact Group had rejected, namely, a swap of the eastern enclaves for territory around Sarajevo. In addition, the Americans reversed themselves and made common cause with Milošević against the Bosnian Serbs. The administration had dropped its resistance to the lifting of

sanctions in return for Belgrade's help in securing a peace agreement. The territory that the Muslims and the Croats had gained thanks to NATO bombing would have been assigned to the federation anyway and would almost certainly have been lost to the Serbs had the war gone on a little longer.<sup>131</sup> The attacks the United States had encouraged served no purpose other than to create Serb refugee flows, which made for satisfying "Serbs them right" stories in the media.

The key ingredient of Dayton wasn't U.S. pressure on the Serbs; that had been a staple since 1991. What was new was U.S. pressure on the Bosnian Muslims. For the first time, the United States wasn't unconditionally supporting Muslim aspirations. It was Holbrooke's rejection of Izetbegović's political and territorial ambitions that brought the war to an end. The Americans did this for political reasons. Clinton, running for re-election in 1996, would likely face Senate Majority Leader Bob Dole, the Republican Party's most belligerent advocate of bombing the Serbs. He certainly didn't want to be tarred as weak and ineffective on military issues by a World War II veteran.

The Americans actually accomplished remarkably little. They had created a peculiar entity – the Muslim-Croat federation – in order to defeat the Bosnian Serbs. But the federation couldn't do that without massive NATO intervention on its behalf. When the intervention finally came, a delighted federation threatened to run amok and help themselves to vast chunks of Bosnia. This upset the Europeans who feared Serbian military intervention in Bosnia. Washington had to rush to restrain its own creation.

U.S. policymakers failed to explain why the Dayton Accords, which ratified the partition of Bosnia and the creation of a Bosnian Serb entity on 49% of the republic's territory, was in any way more helpful to the Muslims than the previous peace plans that Washington had rejected on the grounds that they weren't giving the Muslims enough. The 1992 Cutileiro Plan had envisaged an undivided Bosnia. The Vance-Owen and the Owen-Stoltenberg plans envisaged Srebrenica and Žepa remaining under Muslim control. Under Vance-Owen, Srebrenica was to have been a part of the Muslim-run Tuzla province. Under the Owen-Stoltenberg and the E.U. Action plans, Srebrenica and Žepa would have been linked and assigned to the Muslim-majority republic.

The Vance-Owen plan, Owen pointed out, would have given the Serbs "only 43 per cent of territory in a unified state." Owen-Stoltenberg would have effectively given the Muslims their own state. What made the Dayton agreement different was its sponsorship by the United States. U.S. policy may not have secured very much for the Muslims. It succeeded, though, in demonstrating that only a peace agreement sponsored by the United States had any

chance of prevailing. Absent U.S. involvement and control, neither the United Nations nor the Europeans could end a war.

Predictably, as soon as the Dayton Accords were signed, the United States pretended that the agreement it had promoted bore no resemblance to the one everyone else had signed. According to Washington's novel interpretation, Dayton had created a unitary, not a partitioned, state. No sooner was the ink dry on the agreement than Washington launched a campaign to remove Karadžić from the political scene in Bosnia, to outlaw his political party, and to close down media outlets that advocated separatism.

U.S. policy had helped to usher in a new kind of state – though nominally independent, its foreign and domestic policies were to be dictated by international institutions run by the Western powers. Bosnia became a ward of NATO, which, under Dayton, was to become a permanent occupation force. Ultimate power resided with an internationally appointed High Representative who didn't know the country's language, history, or culture. The High Representative was answerable not to Bosnia's voters but to NATO. He had the right to dissolve governments, to fire presidents, and to close down media he didn't like. Bosnia acquired a central bank, one whose head was to be appointed by the IMF.

Interestingly, back in August 1991, Britain's then-prime minister, John Major, had explicitly rejected the option of establishing international protectorates in the Balkans. In a letter to David Owen, he wrote, "What we cannot sensibly undertake is an operation which would begin with an ultimatum but might lead to a commitment to some form of international protectorate in Bosnia-Herzegovina, sustained indefinitely by military force."<sup>132</sup> An enormous amount of bloodletting had taken place to achieve something that sensible people had long known would be the outcome of Western humanitarian intervention.

### REALPOLITIK IN CROATIA

Western intervention in Croatia was to have a very different character from the one it had in Bosnia. A moral imperative required intervention in Bosnia. Cold, realist calculation required intervention in Croatia. Those who were loudest in their moral outrage over Bosnia were often also the most cynically indifferent when it came to Croatia. Writing about Operation Storm, which led to the expulsion of hundreds of thousands of Serbs from Croatia, Holbrooke insouciantly observed that the offensive, "while brutal (as is all war),

was valuable to the negotiating process.”<sup>133</sup> In Croatia, Serbs had to be made to accept reality. Zagreb had the big guns and the Serbs needed to accommodate themselves to reality before it was too late and Tudjman took matters into his own hands. Washington, while publicly proclaiming its opposition to the use of force, also professed itself unable to restrain Croatia, not even to threaten sanctions, not even to prevent Military Professional Resources Inc. (MPRI), which lives off U.S. government contracts, from training and equipping Croatia’s armed forces.

Realism, on the other hand, was in very short supply when it came to Bosnia. Stern-visaged U.S. officials would break down weeping as they recounted the daily horrors Bosnia’s Muslims had to endure, the same horrors that justified the continuation of war and the rejection of peace proposals. Bosnia’s war was a moral war. It required repeated military interventions and ever more onerous sanctions that inflicted, as sanctions are wont to do, the most pain on civilians. There was nothing unusual about this. The United States invariably invokes moralism when its clients, such as Bosnia’s Muslims or Kosovo’s Albanians, are too feeble to fight their own wars. Rallying to their cause then becomes a moral imperative. On the other hand, realism is the order of the day when U.S. or NATO clients are stronger than their adversaries. Support for the Israelis, for example, is frequently justified by reference to their supposedly outstanding military prowess. It was this latter principle that was applied in Croatia in 1995. Following the two military offensives of May and August 1995 – Operation Flash and Operation Storm, respectively – Croatia crushed the Serb autonomous regions and drove hundreds of thousands of Serbs fleeing from Croatia. A delighted Holbrooke responded by referring admiringly to the Croats as “our junkyard dogs.”

### FINISHING OFF THE VANCE PLAN

Peace of sorts had come to Croatia following adoption of the Vance Plan. U.N. Security Council Resolution 743, which implemented the plan, authorized the introduction of a peacekeeping force into the Serb regions of Croatia, the so-called U.N. Protected Areas (UNPAs). The U.N. resolution stipulated explicitly that the peacekeeping plan was not to be taken as prejudicing any political settlement in Croatia. Croatia’s final borders as well as the status of the Serb regions still needed to be resolved. International recognition of Croatia rendered the stipulation null and void by resolving these issues entirely in Croatia’s favor.

Since Croatia always intended to liquidate the autonomous Serb provinces, and since the E.U. made no secret of its intent to regard such action as entirely legitimate (unlike, say, the SFRY's action to prevent Slovenia's secession), Zagreb had little incentive to maintain the status quo as enshrined in the Vance Plan. That the United Nations was pre-empting the Croatian political solution that it was supposedly facilitating became clear almost immediately. Not only was Croatia treated as a sovereign state, the territory of which included all of the UNPAS, the U.N. Security Council proceeded to treat these Serb entities as pariahs, imposing ever more stringent sanctions against them.

The intent of these U.N. resolutions was not to foster reconciliation in Croatia but to reinforce the Serbs' isolation. As Cedric Thornberry, who served as head of civil affairs for UNPROFOR, pointed out, "events on the ground were negatively affected by decisions of the Security Council. For example, the adoption of [Resolution] 815 which stated ... that the UNPAS are an integral part of Croatia led to a perceptible increase in tension. Additionally, the reference to Chapter VII was seen as the first step in the transformation of UNPROFOR into an 'occupation force.'"<sup>134</sup> In addition, the Security Council's adoption of Resolution 820 in April 1993, which tightened sanctions against Yugoslavia and against the UNPAS, served to engender bitterness and resentment toward UNPROFOR on the part of the Serbs. "In Sector East a campaign was soon underway to destroy the remaining Catholic (Croat) institutions," Thornberry wrote.

The first source of conflict was the status of the so-called pink zones. The Vance Plan had left a number of Serb-populated areas outside of the UNPAS. At Croatia's insistence, UNPROFOR was deployed not on the confrontation lines between Serb and Croat forces but within the UNPAS. Vance had proposed the deployment of U.N. peacekeepers in those areas of Croatia where Serbs constituted a majority or a substantial minority of the population and where inter-communal tension had led to armed conflict. The JNA had withdrawn from the UNPAS but it continued to control the "pink zones," claiming that the Serbs within them were as afraid of the Croatian government as the Serbs within the UNPAS. According to Boutros-Ghali, the Belgrade authorities had "pressed strongly for these areas [the pink zones] to be included in the Protected Areas. Otherwise, they said, the Serbs resident in them would resist by force the restoration of Croatian authority after the withdrawal of JNA. In that event the territorial defense units in the neighboring Protected Areas would refuse to abandon their fellow-Serbs to 'genocide' and widespread fighting would resume."<sup>135</sup>

Croatia did little to reassure the Serbs in the “pink zones.” In his report of June 26, 1992, Boutros-Ghali described a June 21 Croatian armed attack on Serb territorial defense forces in a “pink zone” south of Sector South. It led to a retaliatory Serb bombardment of the town of Sibenik, which, in turn, triggered Croatian bombardment of Knin, within Sector South.<sup>136</sup> “UNPROFOR assurances to the Serb leadership in the area that the restoration of Croatian authority in the ‘pink zones’ would be a gradual and primarily civilian process, taking place under international monitoring, have been undermined by the recent Croatian military offensive.”<sup>137</sup>

Boutros-Ghali, while arguing that Croatia’s interpretation of the Vance Plan was the correct one, nonetheless urged the international community not to take Croatia’s side in the conflict over the pink zones. “To accept the Croatian view and approve enforcement action to exact compliance from the Serbs ... would be tantamount to putting UNPROFOR at war with the Serbs in the UNPAS and the ‘pink zones.’” The international community should not become “a party to the conflict, using military force to impose a solution on one side in what remains an inter-ethnic dispute.”<sup>138</sup>

U.N. peacekeepers or not, Croatia continually violated the ceasefires as well as the U.N. arms embargo. As Owen noted, Croatia

never abided by the ceasefire ... By late 1992 the arms embargo was barely touching Croatia, and though the FRY sent details of arms coming in to the Security Council nothing was done to halt the supplies. Soon the Croatian army was being equipped with planes, tanks and heavy artillery ... As this was happening in full view of the Serbs it was not hard to see why they resisted demilitarization and refused to demobilize. The Croatian Serbs were the consolidators and the Croatian government the destabilizers.<sup>139</sup>

On at least four separate occasions, the Croatian government launched armed incursions into the UNPAS. Boutros-Ghali wrote in March 1994:

The initial success of UNPROFOR in placing the heavy weapons of the Serb TDF [territorial defense forces] in storage depots under a “double-lock” system was reversed following the 22 January 1993 offensive by the Croatian Army in Sector South and the adjacent “pink zones.” The inability of UNPROFOR to shield the local Serb population from such an attack resulted in the Serb TDF [Territorial Defense Forces] breaking into a number of storage areas and removing their weapons.<sup>140</sup>

Attacks on the UNPAS inevitably brought Croatia into conflict with UNPROFOR, which had taken over from the JNA as protectors of the Serbs. The most significant attack on the UNPAS came on September 9, 1993. This was the so-called Medak attack, which “further increased the mistrust of the Serbs towards UNPROFOR and ... led to the reaffirmation of their refusal to disarm.” The Medak attack, the U.N. secretary-general wrote, “marked the third major incursion by Croatia into areas of the United Nations protected areas or pink zones.” Yet these attacks had elicited little more than pro forma condemnations from the international community. No sanctions or international isolation were ever threatened. Indeed, clandestine arming of Croatia continued unabated. Medak was a little different, though. UNPROFOR had sustained serious casualties. The Security Council was therefore obligated to take a stronger line with Croatia. Croatia was ordered to withdraw its forces to the positions it occupied before September 9. In the face of such Security Council hostility, Croatia did so. However, apart from this occasion, Zagreb consistently “failed to withdraw its forces, contending that these areas are ‘part of Croatia’ and that it has a right to occupy them, if not by agreement, then by force.”<sup>141</sup>

Following Medak, the situation in Croatia appeared to improve. On March 29, 1994, Zagreb and Knin signed a ceasefire agreement under the auspices of the ICFY. On December 2, 1994, the two sides signed an economic agreement. It seemed as if reconciliation, or “modus vivendi” in E.U. parlance, was becoming a real possibility. There were good reasons for signing such agreements. The Croatian government, Boutros-Ghali reported, was anxious to open the part of the Zagreb-Belgrade highway that passed through UNPA sectors West and East. Zagreb also wanted to open the Zagreb-Lipovac and Zagreb-Split railway lines as well as the Adriatic oil pipeline. On December 21, the Zagreb-Belgrade highway was opened in sectors West and East. The Adriatic oil pipeline – which passed through Sector North – was scheduled to open on January 23. UNPROFOR military people provided security along the highway through Sector West. However, under the U.N. sanctions regime, UNPROFOR was obligated to stop any goods passing through the UNPAS that originated from or was destined for Yugoslavia or territory controlled by the Bosnian Serbs. Thus, the economic cooperation between Zagreb and Knin, assiduously promoted by the various international bodies such as the ICFY, was taking place while economic sanctions against Yugoslavia, the Bosnian Serbs, and, above all, the Krajina Serbs were kept firmly in place.

Following the opening of the Zagreb-Belgrade highway, the ICFY co-chairmen instructed that “electricity supply materials necessary for the im-

plementation of that part of the agreement relating to electricity and water should transit to Knin.” However, Owen and Stoltenberg ruled that oil should be supplied only to Sector West. Moreover, the supply of oil had to be linked to implementation of the December 2 agreement. UNPROFOR therefore promised “to check the oil-carrying vehicles on entering and leaving the western UNPA.”<sup>142</sup>

The improvement in relations didn’t last long. It was cut short on January 12, 1995, when Tudjman announced that Croatia would not accept renewal of UNPROFOR’s mandate. The Croatian Serbs responded by declaring that they would not sign the Joint Commercial Oil Company Agreement. A few days later, the so-called Zagreb-4 group of ambassadors put forward a plan to integrate the UNPAs into Croatia. The Zagreb-4 group consisted of the U.S. and Russian ambassadors to Croatia and two representatives from the ICFY, one looking after the interests of the E.U., the other the interests of the U.N. Zagreb-4’s dominant figure was the U.S. ambassador to Croatia, Peter Galbraith.

The Z-4 plan envisaged the establishment of an autonomous Serbian Krajina, with boundaries that could be changed only on the basis of an agreement between Zagreb and the Krajina legislature. There would be no border controls on the boundaries of Krajina, and Croatia’s constitution and laws would apply throughout the Krajina. All essential governmental functions would be carried out by the Croatian government. However, Krajina would be permitted to have its own emblem and flag.

Zagreb accepted the plan as a basis for negotiation. But the Krajina Serbs refused to receive the plan until the continued presence of UNPROFOR had been assured. Once UNPROFOR’s mandate was renewed, the Serbs said, they would enter into political discussions with Zagreb.<sup>143</sup> The obduracy of the Serbs should have come as no surprise. Tudjman’s January 12 announcement had caused panic. Withdrawal of UNPROFOR was seen as preliminary to a military offensive against the Krajina. Boutros-Ghali warned at the time that the likely consequence of Tudjman’s statement would be war. To the Croatian Serbs, he wrote,

the three-step approach – cessation of hostilities, economic normalization and political negotiations – which has been pursued so far may no longer be seen ... as a viable option ... No matter how much the Government of Croatia may declare its commitment to a “peaceful reintegration of its occupied territories” and ask that its decision should not be misunderstood, I fear that the withdrawal of UNPROFOR would be likely to lead to the resumption of war.<sup>144</sup>

Subsequently, much was made of the Serbs' refusal to entertain the Z-4 plan. Their refusal even to receive the proposal, Galbraith and others have argued, convinced Tudjman that the Serbs weren't interested in negotiations and left him with no option but the military one. However, as Owen and Stoltenberg pointed out at the time, the Serbs' action was clearly in response to Tudjman's moves against UNPROFOR. "The Krajina Serbs have not rejected the Z-4 package and we believe they will come to discuss it ... It is unwise to pretend that the Krajina Serbs have not got a legitimate point in complaining about the Croatian Government's decision on UNPROFOR," Owen and Stoltenberg wrote in a letter to Akashi on February 6, 1995.<sup>145</sup>

This view was affirmed by an E.U. observer mission that reported that the Krajina Serbs "will not consider the Z-4 plan until the UNPROFOR mandate has been extended."<sup>146</sup> The E.U. mission drew attention to Galbraith's admission that "the Z-4 plan was being presented earlier than had been expected, because of the pressure President Tudjman was applying to speed up negotiations, as part of the U.N. mandate debate."<sup>147</sup> Tudjman was pressuring Z-4 while also threatening the Serbs by refusing to extend the UNPROFOR mandate. In fact, Tudjman had not the slightest interest in the Z-4 plan. "He did not like any aspect of it except the recognition that Western Slavonia should soon come under the Croatian government's control," Owen said. "He adopted an attitude of disdain to the whole enterprise believing and hoping that the Croatian Serbs would never accept anything other than independence and justify him taking all the territory by force."<sup>148</sup>

On February 8, the Serb assembly in Knin decided to stop cooperation on implementation of the economic agreement "until UNPROFOR's future presence in the protected areas was assured."<sup>149</sup> On February 19, the Croatian Serb and Bosnian Serb armies established a joint defense council. On March 6, the Croatian government and the Croat-Muslim federation of Bosnia also established a joint defense council. On March 8, the Serb assembly in Knin declared a state of "immediate war alert."

On March 12, however, Tudjman announced that he was prepared to accept renewal of the U.N. mandate in Croatia, but only as long as protection of the UNPAS was no part of its mission. The United Nations Confidence Restoration Operation in Croatia (UNCRO), as it came to be known, was only to undertake such tasks as controlling the borders between Croatia and Yugoslavia, and Croatia and Bosnia and facilitating continued implementation of the ceasefire agreement of March 29, 1994 and the economic agreement of December 2, 1994.<sup>150</sup> Tellingly enough, Tudjman delivered his March 12 announcement in the company of Vice President Al Gore at the U.N. Social

Forum in Copenhagen. Hailing Tudjman's decision as "an act of great vision," Gore explained that the "legitimate frustration of the Croatian people makes the status quo untenable," and that the United States fully supported restoration of Croatian sovereignty over the whole of its territory.<sup>151</sup>

On March 31, the U.N. Security Council duly adopted Resolution 981, which brought UNCRO into being. The number of personnel assigned for this mission was negligible. The Americans could scarcely conceal their glee. During the debate, Albright's deputy, Karl F. Inderfurth, expressed agreement with Tudjman that the situation on the ground

with approximately one quarter of Croatia's territory under local Serb control, has become increasingly untenable. This is because important elements of the Vance plan designed to achieve a permanent solution that respects the territorial sovereignty of Croatia have not been implemented ... The creation of this new force underlines the Council's commitment to the sovereignty and territorial integrity of the Republic of Croatia within its internationally recognized borders. That is why this new operation will be called the United Nations Confidence Restoration Operation in Croatia. The Government of Croatia, and only the Government of Croatia, has the right to control Croatia's international borders.<sup>152</sup>

The UNPAS had now essentially lost whatever international protection they had hitherto enjoyed. On Friday, April 28, the Security Council adopted Resolution 990, authorizing deployment of UNCRO, even though Croatia had yet to sign a status-of-forces agreement with the United Nations. On the following Monday, May 1, the day on which the four-month ceasefire in Bosnia was set to expire, Croatia launched Operation Flash. Within days, Western Slavonia was under Zagreb's control.

### OPERATION FLASH

On March 22, Tudjman wrote to Boutros-Ghali informing him that the Vance plan was "largely irrelevant" and an "obstacle for earnest negotiations." The use of the term U.N. Protected Areas, he wrote, could no longer be justified and no "political solution" was pending. The only issue he, Tudjman, was prepared to discuss was "how the occupied territories shall be reincorporated into the political and legal system of the Republic of Croatia."<sup>153</sup> International observers understood what was coming. "Tudjman was clearly poised to take

the Western UNPA, the most vulnerable of the protected areas, into Croatia and was looking for an excuse to do so," Owen wrote.<sup>154</sup>

General Janko Bobetko admitted in his memoirs, *All My Battles*, that plans for Operation Flash had been drawn up as early as December 5, 1994. However, Tudjman had a problem. He had no justification for mounting an offensive against regions that were supposedly under United Nations protection. Croatia's complaint that the UNPAs had not complied with the Vance plan because they had not demilitarized could just as easily have been made by the Serbs to justify their mounting an offensive to end Bosnia's "safe areas." The Muslims repeatedly argued that the safe areas could not demilitarize because of the looming threat from the Serbs. Croatian Serbs likewise argued that the UNPAs couldn't demilitarize because of the looming threat from Zagreb. Moreover, Tudjman had fewer reasons to attack the UNPAs than Karadžić and Mladić had to attack the safe areas. Unlike Bosnia's safe areas, which served as bases for raids on neighboring villages, the Serbs in the UNPAs had undertaken no offensives against anyone.

The events that led to Croatia's launching of Operation Flash are shrouded in mystery. On April 28, a Croat killed a Serb at a gas station on the Zagreb to Belgrade highway, which crossed Western Slavonia. (The highway had opened for daytime traffic on December 22 and for unrestricted traffic two weeks later.) The brother of the slain man went on the highway and started shooting at passing cars. Three people were allegedly killed. The Serbs closed the highway and UNPROFOR ordered its personnel to withdraw from their checkpoints to their bases.

Tudjman seized this opportunity to take possession of UNPA Sector West. Claiming that Croatia needed to ensure undisturbed traffic on the highway, Zagreb sent some 2,500 Croatian troops, accompanied by tanks and MiG jets, into Western Slavonia. "This is a very limited act meant only to secure safe passage on the highway and to stop further terrorist acts," the government announced.<sup>155</sup> The Serbs were allegedly terrorizing passengers on the highway. Croatia had been forced to act in order to "prevent further terrorist ambush actions and secure normal traffic along the motorway in order to protect its citizens."<sup>156</sup> Croatia's foreign minister, Mate Granić, wrote to Klaus Kinkel, Germany's foreign minister, to explain that:

The constant harassment, repeated terrorist acts – including several cases of murder and abduction of Croatian citizens – along the occupied part of the Zagreb-Lipovac highway and the surrounding area have proven to be a great impediment and obstacle to further progress in the process of reintegration.

Such outrageous terrorist acts have also caused a great deal of concern and alarm among the Croatian public ... I would like to assure that the local police in western Slavonia has one goal only: control and adequate protection of the highway itself and the immediate surrounding area ... The limited action in western Slavonia does not mean that Croatia is giving up on the peace process. Just the contrary, the peaceful reintegration remains the pillar of the Croatian policy.<sup>157</sup>

Zagreb's official story wasn't terribly convincing. The Serbs had been all set to re-open the highway. The minutes of the April 29 meeting of Croatia's Council for Defense and National Security disclose that Tudjman and his advisers were alarmed that they were about to be robbed of any pretext for attacking. Croatia therefore had to make its move before the Serbs had a chance to open the road. The pretext for the attack, Tudjman explained, had to be that "we're opening the motorway for traffic." But, as Hrvoje Šarinić, Tudjman's chef de cabinet and head of Croatia's intelligence services, informed the meeting, resort to that line of argument would soon no longer be a possibility. The Serbs were about to open the highway, just "as soon as they assess that the situation has calmed down, which will probably happen today."<sup>158</sup>

Croatia was facing a nice dilemma, Šarinić pointed out. On the one hand, Croatia would soon no longer be able to justify its attack. On the other hand, an open highway would be of enormous help to Croatia's armed forces. The downside was that Croatia would appear to the world as deceitful. "Strategically it would be better for us if they opened the motorway, politically it would be worse because we'd be going into action after it's already been opened," he said. Therefore, "We should let some vehicles through from time to time, to make it look like we want to open it," opined Ivan Jarnjak, Croatia's interior minister. Tudjman suggested staging an incident: "Send some of our civilians, plain-clothes police and military ... to observe and after that to trigger an incident."

There is, of course, nothing unusual about governments staging incidents in order to provide themselves with a pretext for launching military attacks. What is remarkable is how little disclosures such as these have altered perceptions of the justness of Croatia's cause. Croatia supposedly launched Operation Flash only after it had exhausted all possibilities for peaceful resolution of its conflict with the Serbs, argue apologists for Zagreb such as Galbraith. Equally remarkable is that, to this day, no evidence has come to light of Milošević ever engaging in such an underhand maneuver. Missing from the West's reaction to Croatia's attack was the moralism and the impassioned

emotional appeals that had become such a staple of attitudinizing toward Bosnia. In Croatia, brutal realism and cynicism were the order of the day. Croatia's Serbs deserved everything they got for having failed to accommodate the wishes of the (much stronger) Croatian government. Reporters who rarely stinted on vivid descriptions of the horrors in Bosnia adopted a skeptical, detached pose when it came to allegations of atrocities against Serbs. "U.N. officials in Zagreb have accused the Croatian army of deliberately targeting Serbian refugees," the *Independent* reported. However, "there is little independent evidence of attacks on refugees ... U.N. officials insist that evidence for human rights abuses in western Slavonia will surface. It is a curious attitude for an organization that normally treats allegations of war crimes with caution."<sup>159</sup>

The U.N. Security Council demanded that Croatia immediately end its military offensive, which was "in violation of the cease-fire agreement of 29 March 1994."<sup>160</sup> But no further action was threatened, and none was taken. On the afternoon of May 1, Akashi brought together representatives of the government and of the Serbs in Zagreb and presented a proposal for a cease-fire. "This was accepted by the Serbs but not by Croatia," Boutros-Ghali subsequently recounted. Tudjman declared the military operation to be over on May 2. But this was not so. "Croatian military movements, which continued between 2 and 5 May in the central part of Sector West ... revealed that the intention was to establish complete control over the Sector."<sup>161</sup>

In fury, the Serbs launched an attack against Zagreb using a rocket equipped with cluster bombs. The United States, which had kept a low profile in the preceding days, now launched a vituperative attack on the Serbs. "Sending a rocket full of cluster bombs into a European capital is a repugnant act clearly intended to kill many people," said Galbraith. "It's an act that can only be intended to provoke a full-scale war." The State Department spokesman declared it to be "a deplorable action on the part of the Croatian Serbs." Milošević was urged to "use his influence on the Croatian Serbs to convince them that a continuation of the fighting is not in their interest, and also to convince them that their rocket attacks on Zagreb are contrary to everything that is decent."<sup>162</sup>

Focusing on the Serb attack on Zagreb enabled the United States and its key allies to ignore the most important issue. A ceasefire had been in place since March 1994, and U.N.-sponsored negotiations between Zagreb and Knin were ongoing. Even the *New York Times* acknowledged that "Prior to the outburst of fighting during the last few days, the Serbs had seemed ready to engage in a slow diplomatic process aimed at settling their differences with

Croatia. Those negotiations had secured a measure of economic cooperation, including joint use of an oil pipeline from the Adriatic coast.”<sup>163</sup> There was thus no justification for Croatia’s attack other than to present the world with a *fait accompli*.

New York-based Human Rights Watch (HRW) wasted little sympathy on the Serb victims of Operation Flash. “Serbian commanders ordered their soldiers to change from their uniforms into civilian clothing. However, many of the men retained their weapons,” it disclosed. Combatants removing “their uniforms in order to disguise themselves within the civilian population and to facilitate sneak attacks ... is a serious breach of the rules of war.” True enough, though the complaint would have a little more credibility had HRW ever addressed this issue when Bosnian Muslims followed this practice. It was also a little troubling that the source of this information was Serbian prisoners that HRW had interviewed “in a Croatian government-established detention center in Bjelovar and in the district prison in Zagreb.”

Human Rights Watch’s bland acceptance of claims made by Serb prisoners in Croatian custody contrasted starkly with its skepticism about information that U.N. investigators derived from Serb refugees. HRW complained that the Serb refugees interviewed by UNHCR officials were “surrounded by ten or fifteen others from the same or nearby areas who supported the story. For the purposes of documenting war crimes, the circumstances under which refugee Serbs were questioned remains highly suspect.” Serb refugees, HRW sternly admonished the U.N., should have been “interviewed in-depth and in private.” Not only that, “independent corroboration of their testimony should also be sought before reports of war crimes are deemed ‘reliable and justified.’”

Though reluctant to use condemnatory language about Operation Flash, HRW finally broke down and resorted to harsh words such as “crimes,” “terrorize,” and “ethnic cleansing.” However, these prejudicial words were used exclusively in reference to the retaliatory actions of the Serbs. Vehement denunciations rained down on “rebel Serbs” who had responded to the Croatian offensive by launching rocket attacks against Zagreb. Here, HRW saw no need to wait for an investigation into this incident. Without hesitation, it concluded that the Serb “attacks were not aimed at military targets; rather, they were launched to terrorize and kill civilians in the capital and, therefore, violate international humanitarian law.” The attacks on Zagreb resulted in five deaths. HRW and the ICTY were again on the same page. While the ICTY indicted no one on the Croatian side over atrocities perpetrated during Operation Flash, it moved swiftly to indict Milan Martić, the Croatian Serb leader, over the Zagreb attack.

Following Operation Flash, sanctions were neither imposed nor threatened to be imposed on Croatia. The fact that the Croatian air force had flown a number of sorties through Bosnian air space, a U.N.-imposed no-fly zone, in order to bomb positions in Sector West barely elicited a murmur.<sup>164</sup> Indeed, only a few days after the attack on Western Slavonia, Tudjman was in London to take part in VE-Day festivities. Forgotten amidst the celebrations was the November 1993 statement of the E.U. that had warned Croatia that any “military action is unacceptable and could only have disastrous consequences for Croatia.” If Croatia “launched an offensive in the Krajinas,” the E.U. had threatened, “negative measures imposed by the international community would become inevitable.”<sup>165</sup>

Forgetting these strictures and bolting the stable door after the horses had already fled, the United Nations, on May 17, signed a status-of-forces agreement with Croatia. Croatia’s signature, Albright exulted, would “create the conditions for a resumption of progress towards the political resolution of this conflict that was inexcusably interrupted by recent actions of both parties ... We hope that, in the months ahead, the Croat and Serb communities in Western Slavonia will re-establish the bonds of friendship and mutual respect that existed before the conflict began.”<sup>166</sup> Both parties, of course. Albright didn’t specify which golden age of inter-communal harmony she was referring to. During Tito’s time? During the post-Tito era? During the Ustaša era? During the Royal Yugoslavia period?<sup>167</sup>

As Albright well knew, neither Tudjman nor – more important – the Clinton administration had the slightest interest in any “resumption of progress” or peaceful “political resolution.” Indeed, the success of Operation Flash only emboldened Zagreb and Washington to seek a violent resolution – and sooner rather than later. The Clinton administration was particularly anxious to see the Serbs suffer military humiliation.

### OPERATION STORM

With Sector West now under the control of Zagreb, Tudjman immediately began to plan the forcible takeover of sectors North and South, namely, north and south Krajina. Sector East, Eastern Slavonia, bordering as it did on Serbia, was a different matter. Tudjman’s American backers warned him against taking any military action there lest it draw Milošević into the war.

Croatia suffered so few adverse consequences following Operation Flash that Tudjman didn’t bother to seek any kind of excuse for his upcoming

offensive. Operation Storm, launched on August 3, would prove to be far more brutal than Operation Flash. The Serb Republic of Krajina collapsed within days, and hundreds of thousands of Serbs fled to Bosnia and Serbia, pursued and strafed by Croatian artillery and bomber aircraft. According to Boutros-Ghali, “approximately 200,000 of the Krajina Serb inhabitants,” some 95% of the population of the two sectors, “fled into Bosnian Serb-held areas in western Bosnia and most continued their flight to the Federal Republic of Yugoslavia.” Serb houses were looted and burned and Serb villages destroyed. The Serb exodus “created a humanitarian crisis of major proportions ... [O]nly about 3,000 Krajina Serbs remain in the former Sector North and about 2,000 in the former Sector South.”<sup>168</sup>

By attacking the UNPAS, Croatia not only violated countless U.N. Security Council resolutions, it also rendered meaningless the commitments it had made a few days earlier to the Security Council, namely, that it would not seek to resolve its dispute with the Serbs through violence. By pretending to take seriously the negotiations the ICFY was sponsoring in Geneva, Tudjman also succeeded in making it look stupid.

U.S. officials were delighted. Here was a massive humanitarian disaster that the humanitarian interventionists could celebrate. Humanitarian Richard Holbrooke sneered at those U.S. and European officials who “felt that the duty of our diplomacy was to put a stop to the fighting.” He, Holbrooke, was made of sterner stuff. “For me ... the success of the Croatian (and later the Bosnian-Croat Federation) offensive was a classic illustration of a fundamental fact: the shape of the diplomatic landscape will usually reflect the actual balance of forces on the ground.”<sup>169</sup> Holbrooke wasn’t the only U.S. policymaker who was rejoicing. According to Holbrooke’s account, his deputy, Robert C. Frasure, deputy assistant secretary of state in the Bureau of European and Canadian Affairs, told him on August 17 during a meeting with Tudjman in Zagreb: “We ‘hired’ these guys [the Croats] to be our junkyard dogs because we were desperate. We need to try to ‘control’ them. But this is no time to get squeamish about things. This is the first time the Serb wave has been reversed. That is essential for us to get stability, so we can get out.”<sup>170</sup>

The United States had offered Tudjman’s Croatia not only “understanding” but also real and decisive material support. There was MPRI’s involvement in the training of Croatian armed forces, which the media had reported. But U.S. assistance was more direct than that. NATO bombed Udbina airfield and attacked the Croatian Serbs’ early warning system, which enabled Zagreb to use its air force against the Krajina.

Rather than explain to the world how support for an unprovoked military attack was compatible with public advocacy of a peaceful outcome, U.S. policymakers engaged in an elaborate game of deception. The United States, in the figure of U.S. ambassador to Croatia Peter Galbraith, pretended to be seeking a negotiated solution. At the same time, U.S. officials encouraged Croatian military preparations. At ICFY-sponsored negotiations in Geneva, Tudjman and Galbraith made the appropriate pro forma gestures to suggest that they were taking the talks seriously even as they finished their final preparations for the upcoming Croatian offensive.

U.S. officials still felt that Tudjman would need some justification for attacking the Krajinas. They thought they found one in Bosnia. The ongoing siege of the western Bosnian town of Bihać, one of the six safe areas, U.S. officials asserted, posed an existential threat to Croatia. The Croatian and Bosnian Serbs were supposedly about to overrun Bihać. Tudjman had to mount an offensive against the Krajinas in order to save Bihać. As usual, the self-serving logic was convoluted, baffling, and contrary to the facts.

What was really taking place in Bihać was a struggle between the forces of Izetbegović and those of Muslim leader Fikret Abdić. Boutros-Ghali offered a useful explanation of what the battle for Bihać was about:

Sector North [in Croatia] saw relatively little activity except in the area bordering the Bihać pocket. Fighting between the Bosnian Government Fifth Corps and the separatist forces of Mr. Fikret Abdić, supported by Krajina Serb forces, flared up again. The Fifth Corps attacked Krajina Serb-controlled territory in Sector North on both the east and the west sides of the pocket. This generated a strong reaction from the Krajina Serbs, who used armed helicopters for the first time on 16 July 1995 and launched a major counter-offensive on 19 July 1995.<sup>171</sup>

In other words, the Krajina Serbs were fighting alongside Abdić's forces. The Muslim Fifth Corps had launched an attack on the Northern Krajina and the Krajina Serbs responded in kind. Furthermore, Boutros-Ghali went on, "There continues to exist a very real possibility that the fighting in and close to the Bihać pocket will spread and intensify. Should this happen, it would further threaten the Krajina Serb supply route running from Banja Luka via Dvor and Glina to Knin." In other words, it was the victory of Izetbegović's forces over those of Abdić that would pose a serious threat. But it was the Serbs who were under threat, not the Croats.

On July 21, 1995, leaders of the 16 countries contributing to the U.N. mission in Bosnia gathered in London to discuss what to do next. The fate of Bihać was high on the agenda. On July 22, Tudjman and Izetbegović met in Split, Croatia, supposedly to address the crisis in Bihać. In attendance were Galbraith and a special envoy of the German government, Christian Schwarz-Schilling. The Split Declaration, issued jointly by Tudjman and Izetbegović, denounced the “unified and joint strategy of continuing aggression and attempt to maintain occupation of territories in Croatia and Bosnia-Herzegovina with the aim to create [sic] a ‘Greater Serbia,’ under the leadership and with the full responsibility of the political and army leadership of the ‘FRY.’” In the declaration, the Bosnian government called upon Croatia “to extend urgent military and other assistance in the defense against aggression, especially in the area of Bihać.”<sup>172</sup> Following the meeting, Croatia announced that it was sending troops to Bosnia in order to halt the alleged Serb offensive against Bihać, an action undertaken with NATO’s blessing.

By rushing to Bihać’s rescue, NATO had now committed itself to the victory of Izetbegović over Abdić. The supposed threat to Bihać was a transparent fiction. It made no sense for the Serbs to waste precious resources on capturing Bihać, which had not been assigned to them in any of peace plans they had previously accepted, while heavy fighting was taking place in far more strategically important areas, namely, Sarajevo and eastern Bosnia. Certainly U.S. officials gave no indication of any genuine alarm over the imminent fall of Bihać. On July 26, for example, Holbrooke said, “My instinct is it [Bihać]’s not in imminent danger of falling. But, don’t hold me to that.”<sup>173</sup> In a July 25 cable, disclosed by Wikileaks, Galbraith informed Washington that UNPROFOR did not believe that the Serbs had any interest in capturing Bihać. Major General Ton Kolsteren, UNPROFOR chief of staff, told U.S. officials that the Krajina Serb operation around Bihać was “only to retake areas of the pocket held by Abdić prior to his expulsion” by the Fifth Corps. Bosnian Serb “attacks are believed to be only diversionary.” The intent of the Krajina Serbs is to “create a buffer zone to protect Serb villages” from Bosnian Muslim attacks. Kolsteren also said that locating the Fifth Corps headquarters in downtown Bihać was “a disingenuous effort to draw NATO airstrikes on attacking Serbs.” In addition, John Almstrom, special assistant to Akashi, informed the Americans that all forces in the Bihać area “had scrupulously avoided activity in the safe zone, i.e., Bihać town itself.”<sup>174</sup>

The transcript of Tudjman’s meeting with his senior military advisers at Brioni on July 31, 1995 – only a couple of days before Operation Storm – shows that, just as during the days leading up to Operation Flash in May, the

Croats' chief concern was the absence of any pretext for their impending attack. It was even worse than that. Following the capture of Western Slavonia, the U.N. Security Council, the European Union, and the United States had all publicly insisted that Croatia mount no further attacks on the Serbs. The U.N. Security Council had also warned Croatia against intervening in Bosnia. On June 16, the president of the Security Council called "upon all parties to respect fully the international border" between Croatia and Bosnia.<sup>175</sup>

Even as Croatia's senior officials were meeting at Brioni, the Bihać excuse was fast disappearing. The Serbs, Tudjman told the meeting, were "in the process of withdrawing their forces" from the Bihać area. The Serbs had no intention of attacking "and they are allowing UNCRO to deploy on those borders as observers." Croatia had thus lost the "necessary justification to lift the blockade of Bihać." Not to worry, though: Croatia still had a "friend," Germany, "which consistently supports us in political discussions." Kinkel, according to Tudjman, "has promised that Germany will support us, but we have to inform them ahead of time."<sup>176</sup> NATO and the United States were also sympathetic. Consequently, Croatia could still launch its attack on Krajina, drop the pretext that it was doing so in order to liberate Bihać, and still enjoy the West's support. Croatia's

main objective can no longer be to break through to Bihać. The breakthrough is now only a secondary concern. We would now have to find some kind of a pretext for our actions ... But if in the forthcoming days we are to undertake further operations, then Bihać can only serve as some sort of pretext and something of a secondary nature.

Nonetheless, Tudjman insisted that the story "constantly be repeated on TV and on the radio ... that they are attacking ... that their pull-out is just a maneuver, that they haven't abandoned the areas that they conquered in Bihać."

Tudjman then disclosed the real intent behind Operation Storm. "We have to inflict such blows that the Serbs will to all practical purposes disappear ... Therefore our main task is not Bihać, but to inflict such powerful blows in several directions that the Serbian forces will no longer be able to recover, but will have to capitulate." Croatia had to "completely vanquish the enemy later and force him to capitulate ... Because it is important that those civilians set out, and then the army will follow them, and when the columns set out, they will have a psychological impact on each other." Gotovina enthusiastically responded that many civilians were already leaving and heading for Banja Luka and Belgrade. "That means that if we continue this pressure,

probably for some time to come, there won't be so many civilians just those [sic] who have to stay, who have no possibility of leaving."

Indeed, it was precisely in order to secure this objective, namely, the expulsion of most of Croatia's Serbs, that Tudjman rejected any possibility of a negotiated outcome. Tudjman had never made any secret of his desire to see the Serbs disappear altogether from Croatia. As the *New York Times* was to put it during Operation Storm, Croatia's offensive "will bolster those who believe, as do some diplomats here, that what really lies behind the offensive is the determination of the Croats simply to expel the 150,000 Serbs in Krajina."<sup>177</sup>

Croatia's intervention in Bosnia, ostensibly to save Bihać, was a key strategic maneuver that would guarantee the success of the upcoming offensive against Krajina. On July 28, the Croatian army and the Bosnian Croats together succeeded in capturing Bosansko Grahovo and Glamoč in western Bosnia, severing the Krajina Serbs' main supply road from Banja Luka to Knin. "While claiming to help the Bosnian government army defend itself against Serb attacks in Bosnia, Croatian troops also have positioned themselves inside Bosnia within artillery range of Knin," the Associated Press reported on August 2. "Croatia also has troops near the Adriatic coast who [sic] could thrust eastwards into Serb-held territory. With the Croatian troops across the border in Bosnia positioned to strike west, they could launch a pincer attack to cut off Knin." In other words, Croatia had intervened in Bosnia precisely in order to facilitate the upcoming attack on Krajina, the exact opposite of what U.S. policymakers were asserting.

Boutros-Ghali's report of August 3 was even more telling. Bosnian Croats were providing crucial assistance to Croatia in its offensive against Krajina. Bosnian Croat forces, he wrote,

apparently supported by Croatian Army elements, have also continued their attacks in the Livansko [sic] Polje area adjacent to the Croatian border in Bosnia and Herzegovina, capturing Bosansko Grahovo and Glamoč, putting their forces in a position to threaten Knin directly and cutting the main supply route from Knin to Banja Luka. These forces have now moved closer to the international border and established a blocking position near Strmica. Between 25 June and 30 July, approximately 2,861 Croatian army troops as well as vehicles and equipment have been observed crossing into Bosnia and Herzegovina at Kamensko. As a result of this fighting, 12,000 to 14,000 Serb refugees are now moving in the direction of Banja Luka.<sup>178</sup>

Boutros-Ghali went on, "The Krajina Serbs are redeploying units to block the Bosnian Croat/Croatian advance and have used small arms, mortars, artillery and airstrikes from the Ubdina airfield to attack Croatian positions within Sector South. The Krajina Serbs are convinced that Croatia plans an attack against Sector South, and have responded by occupying two villages within the zone of separation, south of Novigrad."<sup>179</sup>

The ICTY, too, went into action. The eve of a NATO or NATO-sanctioned operation is always a good time for the ICTY to issue a vehement denunciation or an indictment, one that serves to demonize the victim of a forthcoming attack and thereby to justify it. A few days before Operation Storm, the ICTY indicted Milan Martić, the president of the Republika Srpska Krajina, charging him with violating the laws of war during the May 3 attack on Zagreb.<sup>180</sup> Thus, the legal aftermath of Operation Flash: the victim of the unprovoked attack is the only one charged with war crimes on the eve, moreover, of a second, even bigger, unprovoked attack. Martić was indicted on July 25; the day before, the ICTY had indicted Karadžić and Mladić. All three indictments were remarkable in that they were issued in the middle of a war, at a time when no serious criminal investigation could possibly have been carried out. Moreover, since the outcome of the wars in Bosnia and Croatia was still very much uncertain, these indictments were bound to boost the cause of the opponents of the Serbs in both Bosnia and Croatia. The ICTY was to pull the same stunt during NATO's 1999 bombing campaign. With public support for NATO's ill-conceived operation flagging, the ICTY stepped up to the plate and issued an indictment of Milošević – again without having conducted anything that could remotely be called a proper investigation. Also notable is the fact that it took the ICTY less than three months to conclude that Martić had committed a war crime. Yet, it took the ICTY six years to indict Croatian General Ante Gotovina over alleged war crimes during Operation Storm.

The United States, along with Germany, had essentially given the green light for Croatia's attack. This was obvious even to the media. Despite the U.N. arms embargo, Croatia had somehow acquired "some 420 tanks and 605 other armored vehicles." A *Jane's Intelligence Review* analyst was quoted as saying that the Croats had "more guns and mortars than the British army. You can see the firepower here of any modern Western European army."<sup>181</sup> "European Union diplomats said that if the Croats moved in to seize Krajina, any criticism would be mild," the *New York Times* reported. "A United Nations official said he doubted the Security Council would rebuke Croatia for an attack."<sup>182</sup> The *New York Times* quoted a "Western official" as saying, "There is a sense in Western capitals that if something happens to the Krajina

Serbs, they deserve it.” Reporters noted with surprise that the West’s response to the anticipated Croatian offensive had “been surprisingly muted. The Clinton administration has said nothing that Croats would interpret as a red light. Instead, the message seems to be, ‘Do it quickly – and no atrocities.’”<sup>183</sup>

The White House nonetheless rushed to assure reporters that U.S. officials had urged the Croats to “exercise the utmost restraint, that they seek to minimize civilian casualties as they conduct their operations.”<sup>184</sup> Germany’s Kinkel disingenuously threw up his hands in mock helplessness and said, “We are not in a position to prevent the Croats from doing what they consider to be correct and necessary.” The words “correct” and “necessary” served to emphasize that Germany was once again taking no sides in the conflict.

U.S. calls for restraint rang hollow in the absence of any threats against Zagreb should it fail to heed these calls. According to an anonymous official, “We put our statement on the table. If they took it as some indication of support, that’s a mistake.” Of course, as any child knows, if Washington doesn’t want something to happen, it will move heaven and earth to make sure it doesn’t happen: it will threaten sanctions or military action; it will convene an emergency session of the U.N. Security Council and force the adoption of a resolution; it will demand an immediate meeting of a regional body such as NATO or the Organization of American States. U.S. professions of helplessness, particularly in regard to a client-state, which is what Croatia had become, are therefore invariably a sign of bad faith.

Throughout Operation Storm, U.S. officials continued to justify Croatia’s actions, repeating ad nauseam that they had been undertaken in order to save Bihać, which, happily, was also an objective of the U.S., the U.N., and NATO. U.S. officials repeated the word Bihać any chance they got. On August 3, a Pentagon spokesman told the media that “The Croatians have an interest in working in their federation with the Bosnian government to stop the Serb attack on Bihać. The Croatians have said that it is strategic interest of theirs to prevent the fall of Bihać. And they have acted recently to prevent the fall of Bihać ... [O]ur policy is to prevent the Serb attacks against Bihać, to prevent the Serb takeover of Bihać, to get the Serbs and other forces to stand back, allow the safe areas to be safe areas and to give negotiators time to resolve this.”<sup>185</sup>

Bihać was also on the mind of Defense Secretary William Perry. Speaking on Reuters Television, he explained that “The Croatian Government has an obvious frustration with the move of the Bosnian Serbs and the Krajina Serbs into Bihać, and their actions are intended among other things to stop that. We hope that that’s successful, and the Serbs will stop their offensive in

Bihać.”<sup>186</sup> Germany’s Kinkel also chimed in with a nod to Bihać: “We can’t forget that the years of Serb aggression, especially the recent attack by Croat Serbs against Bihać, have sorely tried Croatia’s patience,” he said.<sup>187</sup>

The British, to their credit, didn’t accept this serendipitous Bihać tale. The Foreign Office issued a statement, saying, “The British Government strongly condemns Croatia’s offensive on the Krajina region. It is clear that the possibility of further negotiations had not been exhausted.”

### THE BABIĆ MANEUVER

Washington nonetheless remained nervous about Croatia’s offensive. Something might go wrong. Yugoslavia might intervene. There might be horrendous casualties. Above all, the extensive U.S. involvement in Operation Storm might come out. There was a need, therefore, for plausible deniability. With only hours left before Tudjman’s scheduled attack, the United States made a widely publicized, but conveniently futile, attempt to avert war. Galbraith dashed off to see Milan Babić, the RSK prime minister, and former RSK president, to demand that he immediately agree to Tudjman’s demands, namely, unconditional incorporation of the Krasina into Croatia. Otherwise, Galbraith explained, the United States would be unable to halt the Croatian attack.

Babić and Galbraith met in Belgrade on August 2. What transpired during the meeting and afterward has remained a mystery. The befuddled Babić accepted everything Galbraith put before him. Galbraith then flew down to Zagreb to inform Tudjman of Babić’s agreement and to announce to the world that, thanks to the ambassador’s last-minute intervention, there was no need for war. Galbraith did not miss this opportunity to gloat: the Croatian government, he said, should “allow the Serbs to absorb these new realities and to build on the statements that have been made by Mr. Babić.” Following his meeting with Tudjman, Galbraith announced that “We see no reason for war at this time. The Croatians got what they wanted. The question is whether they will take ‘yes’ for an answer.”

Tudjman had already given Galbraith his answer. Galbraith had made this statement even though he had been told by Tudjman that Babić’s acceptance of Croatia’s terms would not suffice to stop the upcoming attack. However, Galbraith’s little maneuver enabled the United States to assert, deceitfully, that, to the very end, it had been committed to peaceful resolution and that it had not sought to undermine the work of the ICFFY.

But what had Babić and Galbraith actually agreed to? Babić claimed that the Krajina Serbs were ready to accept a “modified and improved” version of the Z-4 plan as a basis for negotiations with Croatia. But the Z-4 plan was no longer on the table, something Babić had been apprised of by Galbraith. According to a cable sent by Gavin Hewitt, the British ambassador to Croatia, Galbraith had “set out the facts of life for Babić.” Galbraith had told Babić that Croatia would “mount an offensive against the Krajinas in a matter of days.” The Z-4 plan was now out of the question, Galbraith explained. The best the Croatian Serbs could hope for was to live under “Croatian constitutional law.” What Babić needed to do, according to the British ambassador’s report of the Belgrade conversation, was to announce that he was ready to pull Krajina Serb forces out of Bihać, open the Adriatic oil pipeline, open the Zagreb-Split railway line, and, most important, “enter negotiations for a political settlement for the Krajinas as part of Croatia.” Strikingly absent from this account was any reference to the Z-4 plan.

What happened next is a mystery. The European Union Monitor Mission reported that Babić had “instructed the Serb delegation in Geneva to accept the Z-4 plan, explicitly as a basis for negotiation.” But Stoltenberg appeared to be unaware of any change in position on the part of the Serb delegation in Geneva. According to a cable sent by Hewitt, Stoltenberg saw “no indication from the RSK delegation of any shift in their position. They were certainly not talking on the lines of Babić. They seemed to have no new instructions.”<sup>188</sup>

Significantly, Stoltenberg appeared to be unaware of the upcoming Croatian attack. Galbraith, who knew all about it, had not seen fit to inform the co-chairman of the ICFY, doubtless to make sure that no steps were taken to halt Tudjman. Stoltenberg had presented a seven-point plan to the Serbs and Croats. It was based on a letter that Tudjman had written to Akashi on July 30 as well as on the document allegedly worked out between Galbraith and Babić. The plan included the opening of a segment of the Adriatic oil pipeline by August 7 and a meeting in Knin on August 9 on the issue of the Zagreb-Split-Knin railway. In addition, there would be “negotiations on a political settlement based on the Z-4 plan.”<sup>189</sup> The very same Z-4 plan that Galbraith had already told Babić about was a non-starter!

The first meeting would take place on August 10, and the second one on August 17. The Serbs in Geneva had accepted the Stoltenberg plan. Croatia flatly rejected it and insisted on an “explicit acceptance by the Serb side of re-integration into Croatia.” Tudjman insisted on the “immediate implementation of the Croatian Constitution in Krajina.” (The Vance plan had suspended the application of the Croatian constitution in the UNPAS pending a final

political settlement. The Z-4 plan also envisaged a transitional period before the Croatian constitution went into effect in the UNPAS.) Tudjman also announced that he would not talk to Martić or to “anyone acting on his behalf.” As justification, he referred to Martić having “been placed on the list of war criminals” by the ICTY. Since Martić was president of the Serb Republic of Krajina, “anyone acting on his behalf” would pretty much include any elected or appointed representative of the Croatian Serbs.

Stoltenberg chaired a meeting on August 3 in Geneva during which, according to Boutros-Ghali’s letter to the president of the U.N. Security Council, the Zagreb government had taken

the position that the Croatian Serb leadership must immediately accept reintegration under the Croatian Constitution and Laws. The Croatian Serb delegation proceeded from the starting-point that there should be a cessation of hostilities, following which other issues could be discussed. After a series of bilateral meetings, [Stoltenberg] presented to the two delegations a list of seven points covering, inter alia, the reopening of the oil pipeline, the reopening of the Zagreb-Knin-Split railway and negotiations on a final settlement on the basis of the “Zagreb-4” plan. The Croatian Serb delegation was inclined to accept the paper as a useful basis for progress, subject to clearance by its political leadership, but the Croatian Government delegation’s view was that the paper did not address its fundamental concern for the Krajina Serbs to be reintegrated under the Croatian Constitution and Laws.<sup>190</sup>

Following Zagreb’s rejection of Stoltenberg’s proposal, Boutros-Ghali telephoned Tudjman on the evening of August 3 urging “utmost restraint.” He then called Stoltenberg and asked him to go to Zagreb to see Akashi.

Galbraith was the only person who knew exactly what was going on and he knew very well that Tudjman had not the slightest interest in implementing the Z-4 plan. At the July 31 meeting, Tudjman had explained his strategy for the Geneva negotiations: “I’m going to Geneva to hide this, and not to talk. I won’t send a minister but the assistant foreign minister ... So, I want to hide what we are preparing for the day after. And we can rebut any argument in the world about how we didn’t want to talk.”

The United States kept its knowledge of Croatia’s military planning secret. Washington issued no warnings to Croatia not to resolve its conflict with the Serbs by force. Following Croatia’s attack, however, Galbraith was immediately on hand to blame the Croatian Serb leaders for Tudjman’s actions. By refusing to accept the Z-4 plan in January, he asserted, the Serbs had left

Tudjman with no choice but to go to war. He failed to mention, of course, that the Serbs had rejected the plan following Tudjman's abrupt termination of UNPROFOR's mandate. He failed to mention also that Tudjman himself had not accepted the Z-4 plan. Nor did Galbraith see fit to inform reporters that the Serbs had agreed to the Z-4 plan in Geneva.

Galbraith's maneuverings are extremely revealing. Stoltenberg, Carl Bildt, the ICFFY, the United Nations, Akashi, and the Contact Group were all under the impression that what was set to take place in Geneva were negotiations on the basis of the Z-4 plan. They were all obviously unaware that Galbraith was conducting his own private diplomacy on the basis of unconditional support for Tudjman. To be sure, out of concern for what Milošević might do, Galbraith had elicited from Tudjman a promise that the Z-4 plan would apply to Eastern Slavonia, but nowhere else. There would be a two-year transition period in Eastern Slavonia and a five-year U.N. presence.

The media were only too happy to play along with the charade of Galbraith's dramatic last-minute bid for peace, chiming in happily that, thanks to his intervention, the Serbs were at last ready to accept the Z-4 plan. The *Independent* reported Galbraith as telling Babić that

the U.S. could act only if the Serbs issued a five-point statement agreeing, in effect, to give in to Croatia's key war aims. Mr Babić obliged yesterday saying he was ready to 'stand down and demobilise' Krajina Serb forces and to pull them out of Bihać. The key point for Croatia was that he also agreed to negotiate a political settlement with Zagreb on the basis of the so-called 'Z-4 Plan.' Devised by western diplomats, this assumes Croatian sovereignty over all the disputed region.<sup>191</sup>

The *Chicago Tribune* reported that "the Serbs agreed to talks for a political settlement on the basis of the so-called Z-4 Plan under which the Krajina would remain part of Croatia but would enjoy a large measure of autonomy. It was the first time the Krajina Serbs have agreed to talk about anything other than full independence from Croatia."<sup>192</sup>

It was now time to fit the final piece of the jigsaw in place. Milošević, it was reported, had been told once again to lean on the Serbs, this time Croatia's Serbs. It was up to him to apply pressure on the Croatian Serbs to force them to accede to Tudjman's ultimatum. The media reported that Milošević was "being briefed by the American embassy in Belgrade" – at least, that was what the British ambassador had been told. However, during his testimony at the ICTY, Galbraith – a frequent ICTY testifier – revealed that he had made

no serious attempt to reach Milošević to inform him that Croatia was about to attack. Milošević was on vacation, Galbraith complained. How irresponsible of him! It was therefore entirely Milošević's fault that the U.S. ambassador couldn't get hold of him. Apparently, backward countries such as Yugoslavia had yet to hear of the telephone, the fax machine, or e-mail. Indeed, Galbraith went on to argue, Milošević was to blame for the catastrophe that befell Croatia's Serbs in the coming days. Had he thrown his weight behind Babić, Croatia might have been prevailed upon not to attack.

This was a lie. It was not true that no one could reach Milošević. Babić had no trouble reaching him. He told Milošević over the phone that he was ready to negotiate on the basis of the Z-4 plan. Milošević, according to Babić's testimony at the ICTY, expressed his approval. What Babić did not disclose to Milošević during their telephone conversation was what Galbraith had told him, namely, that Croatia was set to attack the following day. Babić had prudently brought his family with him to Belgrade.

But why did Babić and Galbraith meet in Belgrade at all? Geneva or Zagreb would have been more understandable locations. Perhaps it wasn't so odd. With only hours to go before Tudjman's forces were to attack the Krajinas, Galbraith was anxious to present the world with the story that the United States had acted as peacemaker rather than as Croatia's collaborator. Galbraith was supposedly desperately seeking to save the Serbs from their own folly.

The effort failed of course: no Serbs were saved. The outcome would have been the same had he not intervened – with one crucial difference. Following the attack on Western Slavonia in May, Tudjman had been under orders from the U.N. Security Council not to attack the Krajinas. On June 16, the president of the Security Council had condemned "the continuation of offensive actions and the intimidation of UNCRO personnel." Croatia was ordered to "cease all military action in and around Sector South."<sup>193</sup> Both Croats and Serbs were instructed to observe the March 29, 1994 ceasefire and to implement the December 2, 1994 economic cooperation agreement.

Croatia's upcoming offensive, as Galbraith well knew, would be in violation of a specific Security Council order. His last-minute rush to Belgrade, ostensibly to pressure Babić into unconditional acceptance of Tudjman's ultimatum, thus pre-emptively rendered meaningless any sanctions the Security Council might have imposed on Tudjman following Operation Storm. Since Babić, thanks to Galbraith, had accepted Croatian rule in Krajina, Operation Storm had essentially changed nothing on the ground. With or without Operation Storm, Croatia would have taken over Krajina. Babić had accepted

Croatian sovereignty, and on Tudjman's terms. Consequently, the ICIFY talks in Geneva sponsored by Stoltenberg were yesterday's news, as were Security Council admonitions about the need to negotiate on the basis of the Z-4 plan.

Carl Bildt, Owen's replacement at the ICIFY, for one, didn't appreciate being made to look a fool by Galbraith and Tudjman. Following Croatia's attack, he issued a furious statement in Geneva: "The Croat offensive against its Serb-populated area must be condemned in the sharpest possible terms. This comes immediately after the start of negotiations and with clear signs of Serb willingness to make substantial concession on both economic and political issues." Referring to the ICTY's indictment of Croatian Serb leader Milan Martić on the eve of Operation Storm, Bildt publicly wondered what the difference between Tudjman and Martić was: "It is difficult to see any difference between these actions [the shelling of Zagreb] and the shelling of Knin which President Tudjman must now be held responsible for."<sup>194</sup>

To his credit, former U.S. President Jimmy Carter also wasn't taken in by Galbraith's trickery. "Some of the statements coming out of Washington lately have indicated at least approval of the massive [Croatian] military operation," Carter told Britain's Channel 4 television news.<sup>195</sup> He called the ambassador's conduct "shameful." Referring to Galbraith's attendance at the July 22 meeting in Split where Croatian and Bosnian leaders agreed to military cooperation in the Bihać area, Carter described Galbraith's statement as "atrocious, taking a strongly biased point of view and even supporting the military action."

The United States responded to Operation Storm much as it had to Operation Flash in May, focusing its ire on the Serbs rather than on the Croats. In May, Washington's harshest rebukes were reserved for the Serbs for their retaliatory attack on Zagreb. In August, Washington's loudest protest came in response to a rumor that Croatia's fleeing Serbs might end up going to Kosovo. On August 11, a State Department spokesman expressed concern at

press reports that the authorities in Belgrade plan to relocate Croatian Serb refugees in the Kosovo region. Nearly 90 percent of the Kosovo population is ethnic Albanian. They've come under increasingly harsh repression from the Serb government in Belgrade since their autonomy was revoked over five years ago. Long before the current refugee crisis began, Belgrade began what has been a largely unsuccessful effort to, quote, "colonize" Kosovo with ethnic Serbs in an attempt to alter the demographics in the region. The situation in Kosovo is tense, it's long been viewed as a potential flashpoint which could result in a wider conflict, and we believe any effort to settle significant numbers of Serb refugees from Croatia in Kosovo would be extremely unhelpful.<sup>196</sup>

The spokesman didn't explain how Serbs settling in an integral part of Serbia amounted to "colonization." The State Department's preoccupation with Kosovo at a time when Serbs were being subjected to appalling human rights abuses was striking. Even more striking was American quiescence over Croat attacks on U.N. personnel. "U.N. peacekeepers, who had received notice of the impending offensive, were themselves targeted by Croatian tanks and aircraft. One Danish soldier was killed," the *Times* (London) reported.<sup>197</sup> Seven disarmed and detained Danish peacekeepers were used by the Croatian army as "human shields." In addition, two Czech U.N. peacekeepers died following an attack by Croats on their observation post near Gospić, northwest of Knin. That Bosnian Muslim forces from Bihać joined the attack on Krajina elicited little comment. "Bosnian government troops crossed into Croatia and pushed west as Croat troops pressed eastward against their common foe – solidly merging the wars in the two countries," the Associated Press reported. "The Bosnians are now involved in the fighting in Croatia," a U.N. spokesman was quoted as saying.<sup>198</sup>

Boutros-Ghali disclosed that U.N. "observation posts were overrun by the Croatian Army, and some came under indirect and direct fire." On two occasions, U.N. troops and Serb prisoners were used as human shields by Croatian army units as they conducted their attacks.<sup>199</sup> On August 23, the U.N. secretary-general disclosed the full magnitude of Croatia's attack on U.N. personnel:

[A] total of 98 United Nations observation posts were overrun and destroyed by the Croatian Army during its offensive in Sectors North and South. Reports indicate that Croatian soldiers directly and indirectly fired upon observation posts, arrested and temporarily disarmed United Nations soldiers and took United Nations equipment. In one particularly serious incident on 5 August 1995, several members of a United Nations battalion and a group of Krajina Serb prisoners were used as human shields by a unit of the Croatian Army, which forced them to walk ahead of its forward lines. In all, three United Nations peace-keepers died as a result of actions by Croatian troops during the offensive and one died as a result of action by Krajina Serbs.<sup>200</sup>

Yet NATO issued no threats against the Croats or the Muslims. Instead, U.S. officials spoke positively about the dramatically improved prospects for peace. "We certainly didn't want this to happen, we didn't urge it, but the facts may possibly give rise to a new strategic situation which could turn out to be to our advantage," said Secretary of State Warren Christopher. "Maybe these

circumstances, tragic as they are, will provide a new basis for a negotiated settlement.”<sup>201</sup> Defense Secretary William Perry opined, “There may now be a window of opportunity for a negotiated peace in Bosnia.” Clinton himself continued to claim that the Croats had been “compelled” to act because of the Serb pressure on Bihać. “The Croatian offensive originally was launched in response to the Serb attack on Bihać,” Clinton said, “and it has apparently relieved a lot of pressure on Bihać.” He nonetheless warned that because Croatia’s offensive “was so comprehensive, it runs the risk of a wider war.” There was an obvious contradiction here, though few in the White House press corps appeared troubled by it.

To be sure, NATO forces did go into action – to assist Croatia’s offensive. NATO jets “destroyed a Krajina Serb radar installation which locked on to the aircraft patrolling air space above the area.” NATO planes fired two HARM anti-radar missiles at Serb radar missile sites at Knin. The NATO planes, “both U.S. Navy electronic warfare EA-6s, responded to a U.N. request for a show of force over Knin after U.N. peacekeepers there were threatened ... The planes fired their missiles after being illuminated by radar at the Serbs’ SA-6 anti-aircraft missile sites.”<sup>202</sup> Note that the U.N. peacekeepers had been under threat by Croat, not Serb, forces. Since the Krajina Serbs looked upon the U.N. peacekeepers as their putative protectors, it wouldn’t have made much sense for the Serbs to threaten them. “The planes were responding to a United Nations request for help in the area, a Navy spokesman said in Washington.”<sup>203</sup> Of course, so NATO decided to bomb Serb installations.

Moreover, NATO’s explanation that the two U.S. fighter aircraft fired on Serb surface-to-air missile sites only “after detecting missiles there were active and threatening” was profoundly dishonest. The planes were flying over Croatia when they attacked and there was no U.N. resolution or, come to that, NATO policy in place authorizing military action in Croatia. In a letter to Boutros-Ghali, the Russian foreign minister expressed his outrage at the “fact that [UNCRO] Command did not request (or did not obtain?) air support from NATO in order to protect its personnel, at the very time when NATO aircraft requested by General Bernard Janvier were pounding Krajina Serb positions under Croatian attack.”<sup>204</sup>

During the U.N. Security Council debate on August 10, the British pointed out that Croatia had launched its offensive “at a time when it was clear that the potential for further political negotiations had not been exhausted. It has inevitably meant the loss of innocent life – including lives of United Nations peacekeepers – and the exodus of Croatian Serbs from their rightful homes. Nor are we prepared to condone what has been called *de facto* ‘ethnic cleansing.’”<sup>205</sup>

However, such condemnations evaporated into insignificance as soon as Albright issued her tacit endorsement of Croatia's actions during the same debate. While expressing "regret" that Croatia had launched its attack on Krajina, she quickly added that as yet it was "difficult to assess the extent to which Croatian forces or their Bosnian allies may have been guilty of violations of international humanitarian law." On the other hand, Albright had no difficulty hailing Croatia's great victory at Bihać: The "new safe area of Bihać is now open to humanitarian relief. For the citizens of Bihać, the long siege is over – and let it remain so," she exulted.

An Albright performance was never complete without ugly vituperations directed at the Serbs. She focused her anger on Yugoslavia's ambassador to the United Nations, who had had the temerity to suggest that there had been collusion between Croatia and the United States. "This baseless charge," she fumed, "can only make it harder for my Government to see the day when Serbia and Montenegro can rejoin the community of nations." Albright's show of indignation was fraudulent. What Yugoslavia's ambassador had said was that "United States military advisers are lending technical and logistical assistance to Croatian armed forces. The United States has also strongly backed the Bosnian Muslim-Croat Federation and its confederation with Croatia, in an attempt to create an anti-Serb front in the Balkans. This cooperation has now borne fruit in the aggression of Croatia against Krajina." Not only was this factually accurate, it was based on information that had been widely reported in the Western media. If anything, the ambassador had been too reticent. He could have mentioned the U.S. attack on the Krajina Serb radar installation timed to coincide with Operation Storm.

For evidence of Washington-Zagreb collaboration, the Yugoslav ambassador needed to look no further than the August 6 issue of the *Philadelphia Inquirer*, which carried a long story about U.S. efforts on behalf of Croatia. Prominently featured in the report was U.S. Ambassador Galbraith, who boasted that "The United States has made the most significant contribution to those resisting Serb aggression by working industriously to strengthen the federation between Bosnia and Croatia."<sup>206</sup> In May 1994, the *Inquirer* reported, "a retired two-star Army general, John O.B. Sewall, spent six days in central Bosnia as an emissary of Secretary of State Warren Christopher to advise the Muslims and Croats on creating a joint military command. In November, Defense Secretary William Perry signed a military cooperation agreement with his Croatian counterpart, Gojko Susak." Furthermore, MPRI, a U.S. company, had sent "15 retired U.S. officers to Zagreb to train Croats at a military base across the street from U.N. headquarters." MPRI had received a license from the State Department:

Although the company disclaims any current ties to the U.S. government or its policies, its vice president for operations, Ed Soyster, acknowledged that “the guys who run this company are the people who built the U.S. military for the last 20 years.” Indeed, Soyster is a former head of the Defense Intelligence Agency. Another company vice president is Gen. Carl Vuono, Army chief of staff during the Persian Gulf war.

In the end, the Security Council on August 10 adopted a resolution that did not go beyond calling for a negotiated settlement, demanding that Croatia cease military action and making appropriately pious noises about the need to guarantee the “rights of all communities.” No sanctions were imposed, no punishment was threatened.

This mild response had been secured through a deft U.S. maneuver. Albright had demanded that the Security Council meet in closed session that afternoon, for she had some highly classified material to present. She arrived armed with aerial photos that purported to be of mass graves of Srebrenica victims. The photos were said to be of “large groups of persons being held in fields near Nova Kasaba, and patches of freshly disturbed earth in these fields taken a few days later.” Albright informed Security Council members that “those patches of earth were recently made mass graves.”<sup>207</sup> The Clinton administration released the three photographs, which had been taken by a U-2 spy plane, of the supposedly disturbed soil. But it refused to release the satellite photos that allegedly showed people crowded in a “soccer field,” claiming the photos were classified.<sup>208</sup>

Albright’s vehement assertions about “compelling evidence of barbarous and systematic murder by the Bosnian Serbs” contrasted starkly with her reticence that morning about possible Croat violations of “international humanitarian law.” She expressed no doubt that the Serbs had “beat, raped and murdered many of those fleeing the violence. These dead were not killed in the heat of battle, they were not killed in self-defense and they were not killed by accident; they were systematically slaughtered on the instructions of the Bosnian Serb leadership.”<sup>209</sup> In directing the attention of the Security Council away from Croatia and from the U.S. involvement in an act of aggression, and onto Srebrenica, Albright gave an early demonstration of the usefulness of Srebrenica in the U.S. propaganda system.

In the face of the enormous Serb catastrophe in Croatia, the humanitarians in the Clinton administration were openly gleeful. In Zagreb, during an August 18 meeting much given over to high-fiving and mutual back-slapping, Holbrooke delightedly told the attendees – who included Tudjman,

Galbraith, and Wesley Clark – that Milošević had “suffered the biggest defeat since 1389.” Holbrooke showered Tudjman with adulations: you are “the father of modern Croatia ... the liberator of your country,” he said. “You regained 98 percent of your territory, if you count the water, and since you have the most beautiful coast in Europe, let us count that water too.”<sup>210</sup>

Even now, the Americans were anxious to prevent any possible Serb-Croat reconciliation, lest it be perceived as a prelude to an agreement to divide Bosnia. The triumphant Tudjman didn’t want to stop with the UNPAS; he wanted his fair share of Bosnia too. To the Americans, he pointed out that “You cannot have peace in Bosnia today unless you recognize the right of the Serbs to connect to Serbia as well as the right of Croats to connect to Croatia.” This was anathema to the Americans; it was going back to issues that had supposedly been settled by Badinter. The maintenance of the territorial integrity of Bosnia had been a key U.S. commitment, justifying all of the anti-Serb measures. Holbrooke told Tudjman to show a little more gratitude to his U.S. backers. “When you headed towards Western Slavonia, and both Ambassador Galbraith and I understood the strategic value of that operation, and the pressure that it imposed on the Serbs,” Holbrooke told the Croatian leader,

then we stated very energetically in Washington that we should show understanding for military action, although we emphasized the rights of the Croatian people ... [Y]ou did a lot for creation of conditions for peaceful solution and that you had justification for your military action in Eastern Slavonia [sic]. I defended it, always, in Washington. You will recall that the two of us met in London immediately after that, we met in private, and then we went to the U.S. Embassy and met Gore. That was a very dramatic exchange. There were some who wanted Gore to tell you to pull out from Western Slavonia, and we said “absolutely not,” you have to stay there, you closed the back door, that’s your country. Afterwards, we discussed your activities in Livanjsko Polje. We said again “continue.” We said publicly, as you know, that we were concerned, but privately, you knew what we wanted. And again you improved the situation ... Then the issue of Knin and of sectors North and South emerged ... You went ahead. From a political and a military point of view, that was a triumph, and it used the situation again, it assisted again.

Holbrooke said no on Bosnia. He also realized, as Tudjman evidently did not, that the images of thousands of bedraggled Serb refugees fleeing Croatia were a public relations disaster for Croatia. He therefore urged Tudjman to issue a public statement calling on the Serbs to stay. It won’t be so bad, Holbrooke

reassured Tudjman: most of the Serbs would in any case refuse to stay, and Croatia would still be rid of its Serbs. “If you would give a speech stating that the war has finished and that they [the Serbs] should return ... The majority would not return ... But tell them to return, emphasize that, and convince at least some of them to return.”

Human Rights Watch once again maintained a measured, non-committal stance. The then-executive director of Human Rights Watch, Holly Cartner, rushed into print to defend Croatia’s actions. “While all parties to the wars in the former Yugoslavia have committed war crimes, only one side – the rebel Serbian forces in Bosnia and Croatia – has attempted to eliminate ‘in whole or in part’ a people on the basis of their ethnicity,” she wrote in a letter to the *Washington Post*, curiously anticipating the genocide charges that the ICTY would bring against Bosnian Serb leaders a few months later. “Imposing an artificial symmetry on violations by all parties is dangerous because it obscures our government’s legal and moral obligation to stop genocide in Bosnia, and contributes to the defeatist notion that atrocities are inevitable and that nothing can be done to stop them.”

In her letter, Cartner admitted that “hundreds of thousands of Serbian civilians fled Croatia.” However, this was only “because of intensive military operations around them” and because they “were encouraged to go by their own Serb leaders.” In any case, it wasn’t that bad, she said cheerfully, “Serbian civilians were able to collect their belongings and vehicles, keep their families together and leave in a semi-orderly fashion. Regrettably, Serbian soldiers joined them with their weapons and military vehicles, including tanks.” As a result, “Croatian forces counterattacked the refugee columns with mortars and aerial bombardment.”

Interestingly, Cartner’s description of the attacks on the refugee columns during Operation Storm would be very apt as an account of what happened at Srebrenica. Bosnian Muslim troops fled alongside unarmed men. Since the column comprised armed men, it was targeted by Bosnian Serb forces. By their presence in the column, the armed men endangered the lives of unarmed civilians.

There were a number of big differences between the two cases, though, not noted by Human Rights Watch. First, the Bosnian Serb attack on Srebrenica was a military operation in response to repeated armed attacks by Bosnian Muslim forces based in the town. There was concern over armed operations originating in Tuzla, the purpose of which would be to create a corridor linking it to Srebrenica and Žepa and thereby splitting Eastern Bosnia. Croatia’s attack, on the other hand, was unprovoked and directed exclu-

sively at driving the Serbs out of Croatia. For a long time, there had been no armed action emanating from the U.N. Protected Areas. Second, the Serbs did not bomb from planes and fire rockets at the women and children fleeing Srebrenica. Instead, they organized transportation to enable them to reach the safety of Muslim-held territory. The Croats, on the other hand, fired on the women and children. Third, the Croatian government launched its attack while it was pretending to negotiate in Geneva a peaceful settlement of the dispute with the Croatian Serbs.<sup>211</sup>



## HUMANITARIANISM FULFILLED

### *Bosnia's Unsafe Areas*

On April 17, 1993, the U.N. Security Council declared the town of Srebrenica a “safe area.” According to the U.N. resolution implementing this decision, the town and its surroundings were to “be free from any armed attack or any other hostile act.” The Security Council took this action without consulting the co-chairmen of the ICFY who were at that moment seeking to persuade the warring parties to accept the Vance-Owen plan. Less than three weeks later, on May 6, the Security Council extended the “safe area” concept to an additional five towns: Sarajevo, Tuzla, Bihać, Goražde, and Žepa.

Quite what the safe-area policy was supposed to achieve was deliberately left unclear. If safe areas were truly civilian centers – gatherings of desperate refugees, as portrayed in the media – then they already enjoyed protection under international law. If, however, they were not exclusively civilian – if, in other words, they were also gatherings of armed forces – then an internationally imposed restriction on one combatant would give the other combatant an unfair advantage. If enforcement of the safe area regime were to become the responsibility of NATO, then the Western powers would have found a back-door way of getting involved on the Muslim side in the war in Bosnia.

The model for the “safe areas” was Iraq. In 1991, in the aftermath of the first Gulf War, the United Nations established two no-fly zones: one in the north to protect the Kurds, and one in the south to protect the Shiites. In the aftermath of Iraqi defeat, Kurds in the north and Shiites in the south had risen up against Saddam. Baghdad used force to suppress the uprisings. The U.N. Security Council responded by passing Resolution 688, adopted on April 5, 1991, demanding that Iraq “end this repression” and “allow immediate access by international humanitarian organizations to all those in need of assistance.” The aim was to weaken the central government of Saddam Hussein. Washington and London seized on this resolution as justification for the imposition and military enforcement of two no-fly zones. Resolution 688, however, made no mention of “no-fly zones” and most certainly did not authorize any state to bomb Iraq to enforce them.

The ostensible goal of the “no-fly zones” in Iraq had been to enable humanitarian organizations to assist people, particularly refugees, in need. However, rather than protect the two regions from Saddam’s military, U.S. and British air forces effectively secured the regions’ de facto independence from Baghdad. In Bosnia, the United States and NATO were not interested in securing anyone’s independence from Sarajevo. To the contrary, their goal was to strengthen the government of Alija Izetbegović. The safe areas were not exclusively civilian centers; they also served as military bases from which the Izetbegović government would seek to assert its authority over the country. As Izetbegović’s supporters in the West saw it, the enclaves, which dotted the Bosnian landscape from the northwest to the southeast, were a guarantee against the emergence of contiguous national territories that could serve as the bases of Vance-Owen-style partition plans.

There were a number of other differences between Iraq and Bosnia. Iraq had just been defeated in a war and was therefore in no position to object to any conditions imposed by the victorious powers. In Bosnia, however, the Serbs had not been defeated. To the contrary, they had enjoyed a considerable measure of military success. The safe areas were therefore an attempt by the Western powers to thwart Serb victory without having to get directly involved in the fighting. The safe areas were not a step toward peace but a part of the war. Yet the Serbs were expected to cooperate in the survival and strengthening of the safe areas even though it was clearly detrimental to their interests to do so.

Several things should be noted about these safe areas. First, they weren’t safe for Serbs; in fact, there were no Serbs living there since most of them had been ethnically cleansed beforehand. Second, since by 1993 it had become clear that any kind of agreement to end the war in Bosnia would have to entail some kind of partition, the creation of Muslim enclaves deep inside Serb-inhabited territory could only make resolution of the conflict impossible without the use of force. Either the Muslims would have to defeat the Serbs to create a link between Muslim territory and the enclaves, or the Serbs would have to eliminate the enclaves altogether. Third, the prerequisite of a safe area in wartime is that it be disarmed. It is unreasonable to demand that one side desist from attacking an area if it is itself under attack from the very same area. The Bosnian Serbs could scarcely be expected to eschew attacking a town that was in reality a soldiers’ training ground and an armory.

The preservation and strengthening of these safe areas was an essential part of Muslim strategy. While use of the safe areas to push back Serb forces to any significant degree was unlikely to be successful, the presence of Muslim

enclaves deep in Serb-held territory would serve the important purpose of immediately invalidating any peace plan proposing partition of Bosnia along contiguous lines. This was a political and military objective, not a humanitarian one. Yet the issue as presented to the Western public was that preservation of the safe areas was essential to the physical survival of refugees.

The pursuit of such military objectives was made possible by the peculiar way the safe areas were defined. No one had ever spelled out what their legal boundaries were to be. There was, therefore, sharp disagreement as to where demilitarization was supposed to begin and end. Serbs and Muslims both agreed that the town of Srebrenica had to be demilitarized, but Muslims argued that the area immediately outside of the town, comprising villages, forests, and hills, was not part of the safe area. Thus, if those areas were attacked, or if an attack were launched from there, then the U.N. had no right under its mandate to intervene unless the attack were directed at U.N. soldiers, who would then exercise their right to self-defense. This was a peculiar interpretation of the resolutions. U.N. Security Council Resolution 819 had referred to the "safe area" as encompassing Srebrenica "and its surroundings" and Resolution 824 had referred to the "safe areas" as the six Bosnian towns "and their surroundings."

The safe areas soon became something other than gatherings of civilians fleeing the fighting. Sarajevo, for example, served as the home base of the 1st Corps. Here's how the ICTY itself described the Sarajevo safe area: "In 1993, some 75,000 troops of the 1st Corps were placed within the confrontation lines around Sarajevo. Approximately half of them were positioned in the city itself, while the other half was positioned along the confrontation lines outside the city ... The confrontation lines remained relatively static."<sup>1</sup>

Tuzla was home to the 2nd Corps. The 28th Division was based in Srebrenica. The 5th Corps was based in Bihać. The commander of the 5th Corps, General Atif Dudaković, according to Rose, "demonstrated his total disregard for the safety of his people by placing his HQ in the middle of the town to protect himself from Serb mortar and artillery fire."<sup>2</sup> None of this was a secret. In his report of May 30, 1995, Boutros-Ghali wrote:

The headquarters and logistics installations of the Fifth Corps of the government army are located in the town of Bihać and those of the Second Corps in the town of Tuzla. The Government also maintains a substantial number of troops in Srebrenica (in this case, in violation of a demilitarization agreement), Goražde and Žepa, while Sarajevo is the location of the General Command of the government army and other military installations. There is also an ammunition factory in Goražde.<sup>3</sup>

As Boyd described it:

[T]he Muslims have consistently tried to use the United Nations and NATO (with the attendant safe areas, no-fly zones, exclusion zones, and demilitarized zones) as a shield, allowing themselves to weaken their forces in one area – depending on the United Nations or the international community to protect it – while concentrating their forces elsewhere. In the winter of 1993-94 the Sarajevo government stripped the capital's defenses to release troops to fight against the Croats in central Bosnia, counting on their public diplomacy efforts to manage the risk to Sarajevo. It was a near-run thing, but in the end the city was protected by the threat of NATO air strikes and the imposition of a heavy-weapons exclusion zone.<sup>4</sup>

### THE ORIGINS OF THE SREBRENICA CRISIS

Srebrenica was where the safe area concept came into being. And it was where its misconceived nature was to be exposed most starkly. In April 1992, Muslim forces under the command of Naser Orić took control of Srebrenica. As soon as they did so, they began to launch attacks against neighboring Serb hamlets and villages. According to an authoritative account of the fall of Srebrenica:

Between May 1992 and January 1993 forces from Srebrenica attacked and destroyed scores of Serb villages. The attacks outraged the Serbs. A great deal of the animosity towards the men of Srebrenica stems from this period ... Evidence indicated that Serbs had been tortured and mutilated and others were burned alive when their houses were torched. Over 1,300 people were reputedly killed during this period.<sup>5</sup>

A recent estimate put the figure at 2,100. The April 2002 official Dutch government's report on the fall of Srebrenica described Muslim fighters from Srebrenica attacking

79 Serbian places in the districts of Srebrenica and Bratunac. They followed a certain pattern. Initially, Serbs were driven out of ethnically mixed towns. Then Serbian hamlets surrounded by Muslim towns were attacked and finally the remaining Serbian settlements were overrun. The residents were murdered, their homes were plundered and burnt down or blown up. There was a prefer-

ence to launch these attacks on Serbian public holidays ... Ultimately, of the original 9,390 Serbian inhabitants of the Srebrenica district, only 860 remained.<sup>6</sup>

In May 1993, the Yugoslav government submitted to the United Nations a lengthy report offering considerable detail – names of people and places, dates of attacks – about the campaign of terror conducted from April 1992 to April 1993 against the Serbs in eastern Bosnia, particularly in the vicinity of Srebrenica. “Even before the autumn of 1992 the commune of Srebrenica had been almost completely ethnically cleansed of Serbs,” the report recounted:

The Serbs started fleeing Srebrenica itself as early as April, and already by mid-May the town was ethnically clean ... A particularly massive exodus started after May 8 and the killing of Goran Zekić, Serb deputy to the then Assembly of Bosnia-Herzegovina. His car was waylaid by the Moslems and riddled by fire in the immediate vicinity of Srebrenica. After that the remaining Serbs in the city had to flee for their lives ... The Serb population of Srebrenica and its surroundings is now in exile and this commune has been cleansed of the Serbian nation.<sup>7</sup>

From April 1992 to April 1993, more than a thousand local Serb residents had been killed and 2,800 to 3,200 wounded.

The report, much as other accounts of Serb suffering or grievances, elicited little interest or comment. It was obviously a product of the much-discussed Serb “victim complex.” That Srebrenica or other towns in Bosnia should be inhabited entirely by Muslims was taken as the natural order of things. That the supposedly cosmopolitan, tolerant, multicultural Muslims of Bosnia could have carried out ethnic cleansing was simply inconceivable.

However, despite their successful cleansing of Serbs from the Srebrenica area, Orić’s forces remained surrounded by the Serb military. Food and ammunition were hard to come by. In November 1992, a U.N. convoy with relief supplies reached Srebrenica – the first in a number of months. A short time afterward, Orić’s forces launched an attack from Srebrenica against the Serb village of Bjelovac, killing some 50 Serbs. This displeased U.N. peacekeepers, who were well aware that the Muslims were using Srebrenica in order to pressure the West into military intervention. A UNHCR official told Owen that, for the Sarajevo government, Srebrenica and the other safe areas were

pressure points on the international community for firmer action. The longer that aid convoys were unable to reach them, the greater the pressure on the

[U.N.] mandate. When convoys did succeed, calls for firmer action were unwarranted. Two weeks after the first successful delivery Muslims launched an offensive towards Bratunac. Thus the integrity of UNHCR and UNPROFOR were undermined, further convoys were impossible, and the pressure for firmer action resumed.<sup>8</sup>

Srebrenica could not survive a Serb attack unless it established a secure link with Muslim-held territory elsewhere in Bosnia. Orić sought to create a link with Žepa, a Muslim-held enclave to the south, and with Cerska, a Muslim enclave to the north. In September 1992, Orić's forces succeeded in linking up with Žepa. In December 1992, Orić launched attacks against Glogova and Kravica, both Serb-held villages. There was a military rationale behind this attack. The Bosnian army's 2nd Corps had mounted an offensive against the Serbs, seeking to cut off the Posavina corridor which connected Serbia with the Serb-held area in western Bosnia and the Krajina in Croatia. The Posavina corridor, in which the town of Brčko is located, was of strategic importance to both sides. The corridor not only joined the two Serb-held areas of Bosnia, it also lay on a north-south route linking Muslim-held territory to a port on the Sava River and to Croatia. According to one of the participants in the Bosnian army operation, "The aim was to break the Serb corridor and create one for ourselves between Tuzla and Croatia." Orić's attacks were a diversionary maneuver undertaken in order to tie down as many Serb forces as possible. The Serbs succeeded in reopening the corridor but at the expense of a drastic reduction of their forces around the enclaves.

Orić seized this opportunity to try to connect Srebrenica to Cerska. He needed to capture two Serb villages, Glogova and Kravica, on the road linking the two enclaves. On December 24, Orić's forces attacked and destroyed Glogova. On January 7, Orthodox Christmas, Orić attacked Kravica. "The fighting was ferocious, but at the end of the day the Muslims drove out the Serbs. Over 100 Serb soldiers and civilians were reputedly killed," Honig and Both wrote. According to the Dutch government report on Srebrenica, Kravica had 353 inhabitants. "28 of them were killed, after which the place was reduced to rubble."<sup>9</sup> Testifying as a prosecution witness in the Milošević trial, Morillon recounted how

Naser Orić [had] engaged in attacks during Orthodox holidays and destroyed villages, massacring all the inhabitants. This created a degree of hatred that was quite extraordinary in the region ... Naser Orić was a warlord who reigned by terror in his area and over the population itself. I think that he realised that

those were the rules of this horrific war, that he could not allow himself to take prisoners. According to my recollection, he didn't even look for an excuse. It was simply a statement: One can't be bothered with prisoners.<sup>10</sup>

With Kravica in Muslim hands, Srebrenica and Cerska were finally linked. There was now one large Muslim enclave stretching from Kamenica in the north to Žepa in the south.<sup>11</sup>

Inevitably, the Muslim victory proved to be short-lived. In January 1993, the Serbs counter-attacked, reopened the Posavina corridor, and recaptured the lost territory. The Serbs took Cerska on March 1 and were poised to take Srebrenica. This led to the usual anguished calls for Western intervention to save Srebrenica. The Clinton administration called for air drops to relieve the situation. "Between March and June 1993, some 1,900 tonnes of food and medicine were dropped around Srebrenica."<sup>12</sup> Meanwhile, the Bosnian government continued airlifting military equipment and fighters into Srebrenica. Between February 27 and March 30, "Five tons of MTS [materiel and technical equipment] and 10 tons of UBS [war materiel] in total were transported to Srebrenica."<sup>13</sup>

Fearing a humanitarian catastrophe, General Philippe Morillon, the UNPROFOR commander in Bosnia, went to see Orić to urge him to accept a cease-fire and avoid doing anything to provoke the Serbs. Morillon suggested turning Srebrenica into a demilitarized zone. After their meeting, the Frenchman was surrounded by women and children who refused to let him leave the town. When the Srebrenica authorities finally allowed him to depart, Morillon announced that he wouldn't go "until the situation improved." Morillon then suggested to Orić a deal whereby those who wished to remain in Srebrenica would hand in their weapons to UNPROFOR, while those who wished to "continue to fight [would] go to the hills or preferably try to cross the front line."<sup>14</sup>

Orić accepted the proposal, and Morillon obtained Mladić's agreement to the delivery of relief supplies to Srebrenica and to the evacuation of anyone who wished to leave the town, particularly the sick and wounded. The Srebrenica authorities identified 750 people who could leave. A problem arose, however: thousands of the town's inhabitants also wanted out. The Bosnian government refused to sanction this. If such evacuations were permitted, "there would soon be no substantial civilian population left. Without civilians whose lives were directly under threat, the pressure on the United Nations to deploy peacekeepers in Srebrenica would subside." When, on March 30, a U.N. convoy carrying 2,500 evacuees from Srebrenica sought to enter Tuzla, the 2nd Corps refused to permit entry, explaining that a mass evacua-

tion from Srebrenica “was not in the interest of Bosnians and contradictory to their military goal.”

Morillon’s demilitarization plan was modeled on the one for the UNPAS in Croatia. The French general assumed that the Vance-Owen plan, under which Srebrenica would be assigned to the Muslims, would be implemented in the near future. Morillon has subsequently claimed that, had he known in April 1993 that no peace was in the offing, he would have opposed the creation of a safe area in Srebrenica. In fact, he would have ordered the evacuation of the town:

There was a chance of the Vance-Owen Plan being realized soon. If I did not have that hope ... I would have evacuated the town fully conscious of the risk. I would have undertaken [sic] the evacuation even if that would mean that I personally would take part in ethnic cleansing. I didn’t do it because just at that point in time I had very high hopes. And I wasn’t the only one. Karadžić himself, Milošević, they signed in Athens the Vance-Owen Plan in the month of May.<sup>15</sup>

The Bosnian Serbs weren’t enthusiastic about Morillon’s demilitarization proposal. They opposed piecemeal ceasefires, preferring instead a ceasefire for Bosnia as a whole, something the Muslims flatly rejected. The Serbs promised Morillon to end their offensive against Srebrenica if the Muslims agreed to end their offensives around Sarajevo and Tuzla. The Muslims, eager to improve their overall military position, had little interest in that.

In early April, however, Srebrenica ceasefire negotiations took place under U.N. auspices. Taking part were Mladić; General Sefer Halilović, chief of the ABiH Supreme Command Staff; and UNPROFOR commander, General Lars-Erik Wahlgren. On April 12, the Serbs renewed their offensive on Srebrenica. It was triggered, the Dutch government report explained, by a “firing of mortar grenades on Bratunac by the ABiH.”<sup>16</sup> Orić concluded that Srebrenica could not be defended and, on April 14, informed the international agencies that he was ready to surrender. He laid down three conditions, though: the evacuation of civilians, the evacuation of the wounded, and the withdrawal of Muslim soldiers to Tuzla.

On the morning of April 16, Morillon announced that a deal had been reached. A ceasefire would begin at noon, Muslim weapons would be handed over to UNPROFOR, and an airlift would commence on April 17.

However, on April 15, the U.N. Security Council got wind of Srebrenica’s impending surrender. With international hysteria over Bosnia at near

boiling point, the Security Council decided to pre-empt any agreement over Srebrenica. On April 16, it passed a resolution declaring Srebrenica a “safe area.” Invoking a “tragic humanitarian emergency” caused by the “continued deliberate armed attacks and shelling of the civilian population” and the “brutal actions of the Bosnian Serb paramilitary units,” the Security Council declared that Srebrenica “and its surroundings” were to “be free from any armed attack or any other hostile act.” Under the guise of protecting the civilian population, the Security Council had intervened in the fighting and had prevented the defeat of the Muslim forces in Srebrenica. Resolution 819 mentioned the term “ethnic cleansing” four times – as an activity practiced, needless to say, exclusively by the Serbs. For good measure, the resolution warned that practitioners of ethnic cleansing would “be held individually responsible in respect of such acts.” The resolution, of course, made no reference to the long, complex struggle that had been going on in the Srebrenica region since April 1992; there was no mention of any atrocities that may have been perpetrated against the Serbs who lived in that region.

Curiously enough, despite the Security Council intervention, negotiations over the demilitarization of Srebrenica continued in Sarajevo. Morillon and Wahlgren wanted both sides to accept the terms that were under discussion before the adoption of Resolution 819: a ceasefire, demilitarization of Srebrenica, and the deployment of UNPROFOR observers.

In the early hours of the morning of April 18, an agreement was finally reached. A ceasefire would begin at 5 a.m. A Canadian UNPROFOR company would be deployed in Srebrenica at 11 a.m. An airlift of the sick and wounded would begin at 12 p.m. And “all weapons, ammunition, mines, explosives and combat supplies (except medicine) inside Srebrenica will be submitted/handed over to UNPROFOR” within 72 hours of the arrival of the Canadians. UNPROFOR would oversee both the ceasefire agreement and the demilitarization. As it turned out, neither the ceasefire nor the demilitarization ever took place.

Srebrenica remained under Muslim control. The Bosnian Serbs had been on the brink of taking Srebrenica but had held back. In part, this was due to their concern over the international opprobrium that now attached to anything they did. In part, also, both Milošević and Karadžić were concerned that the capture of Srebrenica would, as likely as not, be followed by a massacre. The families of the Serbs killed during the past year would seek revenge. Emotions over the Orthodox Christmas killings were running high. Aware of Morillon’s emotional bond with Srebrenica, Milošević and Karadžić decided that a possible bloodbath in Srebrenica would be a greater disaster for the Serbs than the Muslims continuing to hold the town. The two men

signed on to the “safe area” concept. Karadžić explained his decision a few months later. If “we had entered Srebrenica, the people entering would be those whose families were killed,” he told the Bosnian Serb assembly. “1,200 Serbs were killed. There would be blood to the knees and we could lose the state for that. That is why I believe that Morillon saved us, not the Muslims, when he entered Srebrenica.”<sup>17</sup>

### THE DEMILITARIZATION AGREEMENT

Unlike the Mladić/Halilović/Wahlgren agreement, the Security Council’s resolution had made no reference to Srebrenica’s disarmament or demilitarization. The Bosnian safe areas bore little resemblance to the Croatian UNPAS. The establishment of the latter had gone together with a ceasefire (albeit one that was scarcely adhered to) and the introduction of a peacekeeping force. But there was no ceasefire in Bosnia; a peacekeeping force had been there for more than a year and had failed to keep the peace. There were no plans in New York to expand this force. As Honig and Both pointed out, Resolution 819 had created a safe area “without specifying what the ‘area’ was and how its safety could be achieved.”<sup>18</sup> The resolution had “carefully avoided creating new military obligations for UNPROFOR either to establish or even to protect the safe area. The Council firmly placed the onus on the Serbs and the Muslims to make Srebrenica safe.”

Keeping Srebrenica safe therefore required the cooperation of the Bosnian Serbs. Yet, on the day after passage of Resolution 819, the Security Council tightened sanctions against Yugoslavia and, significantly, targeted them against the Bosnian and Croatian Serbs. Resolution 820, adopted on April 17, stipulated that henceforth authorization from the governments of Croatia and Bosnia would be required for “import to, export from and transshipment through the United Nations Protected Areas in the Republic of Croatia and those areas of the Republic of Bosnia and Herzegovina under the control of Bosnian Serbs forces.” In addition, all states were instructed to prevent diversion to the territory of the FRY “of commodities and products said to be destined for other places, in particular the United Nations Protected Areas in the Republic of Croatia and those areas of the Republic of Bosnia and Herzegovina under the control of Bosnian Serb forces.” Predictably, no sanctions were imposed either on Bosnia or Croatia even though both Sarajevo and Zagreb were violating U.N. arms embargo resolutions. Croatia, unlike Yugoslavia, wasn’t just funneling assistance to the Muslims; its army was openly fighting in Bosnia.

The Bosnian Serbs were being punished for their refusal to sign on to the Vance-Owen plan. The Croatian Serbs, on the other hand, were being punished for their refusal to accept Croatia's sovereignty, even though they were under no obligation to do so. Punishment for the Bosnian Serbs was a little premature: negotiations over the Vance-Owen plan were still ongoing. The May 5 Bosnian Serb assembly debate and the May 15 Serb referendum were still in the future. Usually, in order to secure an agreement, third parties offer incentives, not penalties. The U.S.-E.U. strategy might have made sense had the Bosnian Serbs lost a war and needed to be reminded of their weakness. The daily anguished commentary in the media told a very different story: the Bosnian Serbs were easily defeating their hopelessly outmatched opponents. Imposing sanctions in order to extract concessions from the winning side is counterintuitive. Again, their only purpose seemed to be to provide a way for the NATO powers to insert themselves into the Bosnian war on the side of the Muslims.

In the meantime, talks over the demilitarization of Srebrenica were going nowhere. The Serbs had agreed to U.N. administration over the town. In return, they demanded the disarmament of Srebrenica. The Muslims, though they had surrendered, now acted with the self-confidence that comes from the knowledge that the Security Council is behind you. They saw little reason to give up their arms. So they came up with an ingenious way to avoid demilitarization. The Muslims argued that the area of demilitarization should be limited to the town of Srebrenica itself. Under such a regime, "Muslim forces could move to areas under their control outside the town and avoid being disarmed."<sup>19</sup>

The town of Srebrenica would be demilitarized, but not its surroundings. In the coming years, Muslims would dismiss Serb complaints that they had refused to disarm by claiming that demilitarization was only supposed to cover the town of Srebrenica, not its surroundings. Kofi Annan lent his support to the Muslims' claim. In the official U.N. report on the fall of Srebrenica, published in November 1999 when Annan was already U.N. secretary-general, he argued that the Muslims' understanding of the demilitarization agreement was one shared by UNPROFOR:

The agreement laid down the terms under which Srebrenica would be demilitarized, though it did not define the area to be demilitarized. Halilović has since stated that he understood the agreement to cover only the urban area of Srebrenica, and not the rural parts of the enclave. UNPROFOR seems also to have understood the agreement in this way.<sup>20</sup>

Naturally, ICTY has eagerly repeated this claim.<sup>21</sup> However, Wahlgren, who was in a position to know since he was one of the signatories of the April 18 agreement, has denied this. According to Wahlgren, the Dutch government report said, UNPROFOR's interpretation of demilitarization was the same as that of the Bosnian Serbs: demilitarization was supposed to cover the entire area inside the ceasefire line.<sup>22</sup> There is no reference in the April 18 agreement to Halilović's nice distinction between the town and the surroundings. The agreement stated:

All weapons, ammunition, mines, explosives and combat supplies (except medicines) inside Srebrenica will be submitted/handed over to UNPROFOR under the supervision of three officers from each side with control carried out by UNPROFOR. No armed persons or units except UNPROFOR will remain within the city once the demilitarization process is complete.<sup>23</sup>

In fact, Halilović wrote to Orić on April 20 informing him that "UNPROFOR's view of demilitarization, which is fully supported by us, is full demilitarization of Srebrenica and a small area around it ... where the only armed persons would be the civilian police. Therefore, it is necessary to pull out all armed persons, soldiers and reserve policemen and reinforce defense lines to the maximum."<sup>24</sup>

As it turned out, the boundary of the safe area wasn't all that important because the Muslims had made sure that no serviceable weapons or ammunition would be handed over to UNPROFOR. As the Dutch government report described it, the "ABiH took all modern and usable weapons and ammunition out of the town into the surrounding areas and turned over to [UNPROFOR] only old and unusable weapons for which there was little or no ammunition. The result of the voluntary surrender by ABiH was extremely limited."<sup>25</sup>

Though Wahlgren was undoubtedly aware of the Muslims' manifest failure to demilitarize Srebrenica, he nonetheless announced to the world on April 21 that "I can confirm that from noon today the town has been demilitarized."<sup>26</sup> Wahlgren's dissembling was understandable. On April 23, Kofi Annan, who had just been appointed under-secretary-general for peacekeeping operations, sent a message to Wahlgren telling him that there was no need for UNPROFOR to conduct "house-to-house searches for weapons." U.N. member states, Annan explained, felt strongly that UNPROFOR should not "participate too actively in 'disarming the victims.'"

However, whatever vagueness there may have been in the April 18 agreement was removed by the subsequent May 8 demilitarization agreement be-

tween Mladić, Halilović, and Morillon. Demilitarization, the agreement said explicitly, was to apply to the ceasefire line: “The demilitarized areas will include the areas within the current lines of conflict.” Military and paramilitary units were ordered to withdraw from the demilitarized zones or “submit/hand over their weapons.” Combatants were not allowed to “enter or to be in the demilitarized zone.” Non-combatants were “not permitted to have in their possession any weapon, ammunition or explosives.” The intent of this May 8 accord was precisely “to eliminate misunderstandings about the area of the demilitarized zone.”<sup>27</sup>

Yet, as Halilović cheerfully admitted during the trial of Bosnian Serb General Radislav Krstić, “After I returned from the airport on the 9th of May, I issued an order specifying that not a single piece of weaponry and equipment should be handed over because we had some very bad experience to that effect, that is, with very slow and inefficient decisions by the International Community.”<sup>28</sup> In other words, Halilović had not the slightest intention of complying with any demilitarization agreement, even one that was supposedly understood to refer only to the urban zone of Srebrenica. Revealingly, the ICTY misrepresented Halilović’s admission in order to make it sound far less damaging. The Krstić court declared that

immediately after signing the “safe area” agreement, [Halilović] ordered members of the ABiH in Srebrenica to pull all armed personnel and military equipment out of the newly established demilitarized zone. He also ordered that no serviceable weapons or ammunition be handed over to UNPROFOR. He said this was prompted by bad experiences with the international community in the past. Accordingly, only old and dysfunctional weapons were handed over and anything that was still in working order was retained. In General Halilović’s view, the agreement on demilitarization did not oblige the ABiH to surrender anything and the Bosnian Muslims wanted to preserve their weaponry.<sup>29</sup>

But that isn’t quite what Halilović said. His testimony was that that he had ordered that *no weapons at all* were to be handed over. The source of the claim that Halilović had ordered the surrender of “only non-functional and faulty weaponry” was Naser Orić. Orić had made this claim not to the ICTY but to a newspaper in 1996. Halilović was confronted by this newspaper article during cross-examination. He admitted that, yes, Orić had notified him in 1993 that only “old and dysfunctional weapons had been handed over” and that “those that could still be used were kept.” He added: “According to the

agreement on the demilitarization of the urban area of Srebrenica and Žepa, we were not obliged to surrender anything. But it is true that I had ordered, if they had to surrender something, that they should surrender what was faulty.”

There’s an obvious contradiction here, one that the ICTY, despite its best efforts, failed to conceal. Halilović’s “if they had to surrender something” comment is obviously an acknowledgment that an agreement had been reached to surrender weapons – an agreement that he had no intention of complying with. If the Muslims’ understanding of the safe areas’ boundaries had been correct, and one shared by UNPROFOR to boot, as Annan and the ICTY claim, then there would have been no reason for this surreptitious handover of useless weaponry. If the Muslims “were not obliged to surrender anything” as Halilović states, why the need for this elaborate ruse? The intent was clearly to deceive UNPROFOR that demilitarization was taking place when it manifestly wasn’t.

From April 1993 to July 1995, the Muslims scarcely bothered to pretend that they were adhering to any kind of a demilitarization regime. “The demilitarization agreements of April and May 1993 brought an official end to the existence of Muslim units in the enclave Srebrenica,” the official Dutch government report said. “But, in point of fact, the military organization continued to exist; until April 1994, its headquarters was even located above the headquarters of the Canadian battalion, on the first floor of the post office.”<sup>30</sup>

Halilović admitted that Bosnian Muslim helicopters had flown in violation of Security Council resolutions barring military flights. Halilović recounted that he had personally dispatched eight helicopters with ammunition to Srebrenica for the 28th Division. (“If I could have, I would have sent 180.”<sup>31</sup>) In its genocide judgment in the Krstić case, the ICTY trial court described how Bosnian Muslim helicopters “flew in violation of the no-fly zone; the ABiH opened fire toward Bosnian Serb lines and moved through the ‘safe area’; the 28th Division was continuously arming itself; and at least some humanitarian aid coming into the enclave was appropriated by the ABiH.” In other words, as the Krstić court complacently admitted, the Muslims in Srebrenica “were using the ‘safe area’ as a convenient base from which to launch offensives against the VRS and that UNPROFOR was failing to take any action to prevent it.”<sup>32</sup>

Though Boutros-Ghali characterized the presence of the 28th Division in Srebrenica as a “violation of a demilitarization agreement,”<sup>33</sup> UNPROFOR did little to enforce the demilitarization regime. DutchBat (the abbreviation for Dutch battalion), the force the Dutch government volunteered to send to Bosnia to protect the safe areas, was under strict orders not to carry out any

serious demilitarization. As a result, from April 1993 on, according to Colonel Thomas Karremans, the commanding officer of DutchBat, Srebrenica became more, not less, militarized.<sup>34</sup> The world had been led to believe the opposite. The legerdemain was achieved by UNPROFOR not seeking demilitarization while pretending that it had been secured. DutchBat was under orders to maintain the façade of domestic tranquility. Major Robert Franken, the deputy commanding officer of DutchBat, recalled how his troops

were not allowed to enter private houses. When we saw somebody with a gun, with a weapon, we followed him, we tried to catch him, but the very moment he went into a house, we had to stop and call in the local police to see whether the weapon was still in the house. We tried that a couple of times, but the result always was that the so-called CIVPO, the civilian police, came out and said that there were no weapons.<sup>35</sup>

That DutchBat lacked the authority to undertake disarmament was confirmed by the Srebrenica debriefing report published by the Dutch government in 1995: "A problem for DutchBat personnel ... was that if during patrols they came across armed BiH personnel or civilians, they were not authorized to use force in disarming them, nor were they authorized to enter houses without consent."<sup>36</sup>

Moreover, "After the failure of demilitarization in May/June 1993 UNPROFOR did not overly concern itself with the brigades: it seized any weapons it discovered but did not actively search for them; UNPROFOR, because of its unclear mandate, allowed training without weapons and other military exercises. Setting up positions within the enclave was permitted to a limited degree. The ABiH in Srebrenica tried to keep out of the sight of UNPROFOR," the Dutch government said in its 2002 report.<sup>37</sup>

### EXTENDING THE "SAFE AREAS"

On May 6, a mere three weeks after adoption of Resolution 819, the U.N. Security Council designated five more cities in Bosnia as safe areas. Though there had been no opportunity to determine the effectiveness of the Srebrenica safe-area regime, the Security Council declared Sarajevo, Tuzla, Goražde, Žepa, and Bihać, and their surroundings, to be "safe areas" that also had to be "free from armed attacks and from any other hostile acts." A notable feature of Resolution 824 was the lyrical paen to the "unique character" of Sarajevo

“as a multicultural, multi-ethnic and pluri-religious centre which exemplifies the viability of coexistence and interrelations between all the communities of the Republic of Bosnia and Herzegovina.”

Adoption of Resolution 824 came on the heels of yet another anguished plea from Izetbegović. On May 4, the Bosnian president wrote a letter to the Security Council claiming that the town of Žepa was under attack: “Both heavy artillery and tanks are being used. The Chetniks’ command was captured and it reads: ‘To burn down Žepa, to kill all alive, and regardless of losses, take over Žepa.’” Izetbegović pleaded that Žepa too be declared a safe area “to prevent mass killing.”<sup>38</sup>

Other than to express the hope that the “safe areas” would contribute to the “early implementation of the peace plan,” Resolution 824, much like the earlier Srebrenica resolution, failed to explain what the “safe areas” were supposed to achieve. To be sure, under Vance-Owen, all six safe areas were deemed as belonging to Muslim-majority provinces. However, within weeks of the adoption of Resolution 824, the Vance-Owen plan was dead in the water. On May 5, the day before the Security Council vote, the Bosnian Serb assembly had overwhelmingly rejected the plan. On May 15, the Bosnian Serbs voted almost unanimously against it. In any case, the Clinton administration had already dismissed the Vance-Owen plan as too pro-Serb and had announced that it would take no part in its implementation.

Yet none of this led to any reassessment of the safe-areas policy, even when it became clear that, as a consequence, a peace agreement was now less attainable than it had been before. There could be peace in Bosnia without some form of partition. A unitary state, though much desired by the international community, was out of the question. On the other hand, the presence of Muslim population enclaves deep in Serb territory made delineation of territorially contiguous areas all but impossible. Three of the “safe areas” – Srebrenica, Žepa, and Goražde – were in eastern Bosnia, the part of Bosnia that would constitute a Serb entity in any final territorial settlement. The safe areas only served to encourage Bosnian Muslim leaders to believe that their ambition to preside over a unitary Bosnian state would eventually be realized.

There was another problem. Resolution 824, much like Resolution 819, was accompanied by a remarkable dearth of proposals on how to enforce the safe areas policy. The only idea put forward was the addition of 50 U.N. military observers. Full cooperation on the part of everyone to ensure the safe areas’ viability was assumed, for no apparent reason. Only after the adoption of the resolution did Security Council members begin to give some thought to the problem of implementation of this humanitarian program.

The French, who had hitherto been skeptical about the idea of establishing safe areas, now became one of its most ardent proponents. On May 19, France circulated a memorandum to the Security Council, arguing that the goal of the “safe areas” was “to stop territorial gains by the Serbian forces ... and to achieve a negotiated settlement by the parties concerned.” The French had now adopted the stance of the Americans: the main impediment to peace in Bosnia was Serb obduracy. Therefore, anything that frustrated the Serbs would be a step toward peace. The French presented two implementation alternatives. There was the “light option,” according to which U.N. forces would “deter aggression,” monitor the ceasefire, and provide humanitarian relief. And there was the “heavy option,” according to which U.N. forces would “occupy key points on the ground,” “keep open one or more logistic areas logistic corridors through Serb areas,” and “collect heavy weapons and ... carry out demilitarization.”

U.N. peacekeepers would probably need to resort to force, the French argued. The memorandum drafters outlined three possible situations that could trigger the use of force: shelling of the safe areas, armed incursion into the safe areas, and impediments to the free movement of UNPROFOR and humanitarian convoys. The possibility of using force in response to Muslim refusal to demilitarize or to Muslim armed incursions into Serb areas wasn’t even mentioned. This omission was a little surprising. Morillon, for one, knew all about the infamous Orthodox Christmas attack on Kravica that had taken place four months earlier.

The light option, the French estimated, would require a brigade of 5,000 and a battalion of 900 in each of the four other safe areas (the French proposed to treat Srebrenica and Žepa as one area). The heavy option would require one division of 15,000 to 20,000 men in Sarajevo and one brigade of 5,000 for each of the four other safe areas. The light option would involve close to 9,000 troops. The heavy option would involve between 35,000 and 40,000 troops.<sup>39</sup>

Introducing so many troops into Bosnia would be a hard sell. Luckily, the easier option of calling in NATO aircraft beckoned. Rather than make forlorn pleas to the Great Powers to send ground troops to protect the “safe areas,” the United Nations could simply make use of NATO’s enormous air power. On March 31, 1993, the United Nations had already assigned to NATO the task of imposing a no-fly zone over Bosnian air space. The United Nations could now ask NATO to send in its planes to defend the safe areas. The dreams of the “lift and strike” advocates in the United States were coming closer to realization.

On June 4, the U.N. Security Council adopted Resolution 836, which greatly expanded UNPROFOR's mission. Paragraph 5 announced that UNPROFOR's mandate would now include deterrence of attacks against safe areas, monitoring of the ceasefire, and promotion of the "withdrawal of military or paramilitary units other than those of the Government of the Republic of Bosnia and Herzegovina" from the safe areas. The resolution thus sanctioned the presence of Bosnian government forces in the safe areas. This, of course, undercut the demilitarization agreements that had already been reached.

The Security Council also, for the first time, authorized UNPROFOR to use force other than in self-defense. Paragraph 9 of the resolution instructed UNPROFOR "acting in self-defense, to take the necessary measures, including the use of force, in reply to bombardments against the safe areas ... or to armed incursion into them or in the event of any deliberate obstruction ... to the freedom of movement of UNPROFOR or of protected humanitarian convoys." The wording was extraordinarily confusing – and deliberately so. UNPROFOR was to act in self-defense, yet also in response to "bombardments against the safe areas" and to "armed incursion into them," though not to armed incursions out of the safe areas. Since UNPROFOR clearly did not have resources to undertake any kind of serious military action, there was little doubt what the Security Council meant by "necessary measures." Paragraph 10 spelled it out: member states "acting nationally or through regional organizations or arrangements, may take, under the authority of the Security Council and subject to close coordination with the Secretary-General and UNPROFOR, all necessary measures, through the use of air power, in and around the safe areas ... to support UNPROFOR in the performance of its mandate." The wording was almost identical to that of Resolution 816 of March 31, which had called on NATO to enforce a flight ban over Bosnia.

The use of the word "regional organizations" was very interesting. It was meant as, and understood to be, a reference to NATO. Under Chapter 8 of the U.N. Charter, regional organizations are permitted to take action in the interest of "maintenance of international peace and security," if authorized to do so by the Security Council. According to Article 53, the Security Council could "utilize such regional arrangements or agencies for enforcement action under its authority." However, none of this applied to NATO. NATO was not a regional organization or arrangement. NATO was a collection of states organized for the very limited purpose of self-defense. It could only go into action in the event of an armed attack against one of its member-states. Article 5 of the North Atlantic Treaty spelled this out explicitly:

[The signatories] agree that an armed attack against one or more of them ... shall be considered an attack against them all and consequently they agree that, if such an armed attack occurs, each of them, in exercise of the right of individual or collective self-defense recognized by Article 51 of the Charter of the United Nations, will assist the Party or Parties so attacked by taking forthwith, individually and in concert with the other Parties, such action as it deems necessary, including the use of armed force, to restore and maintain the security of the North Atlantic area.

NATO has always denied that it is a regional organization with authority to adjudicate disputes among its members. The European Union is a regional organization, as is the Organization of American States, the African Union, and the Association of Southeast Asian Nations (ASEAN). "NATO cannot take action under the umbrella of Chapter 8 of the U.N. Charter, because it is not a regional organization as envisaged by that provision but a military alliance," wrote Satish Nambiar, the Indian general who served as the first commander of UNPROFOR.<sup>40</sup>

The Security Council resolution's reference to regional organization was therefore meant to suggest that the burgeoning U.N.-NATO partnership was all entirely in accord with the U.N. Charter, when it clearly was not.

According to Resolution 836, NATO air power would be deployed in order "to support UNPROFOR in the performance of its mandate." But what was this mandate? Apparently, it was forcing Serbs to withdraw their military from the vicinity of the safe areas and permitting the Muslims to retain their forces within them. However, securing a military advantage for one side against the other was hardly within the terms of reference of a neutral peacekeeping mission. UNPROFOR commanders were alarmed about Resolution 836. As they saw it, by sanctioning the presence of Bosnian government military and paramilitary units within the enclaves, the Security Council was only fueling the war. The day before the resolution was adopted, an appalled Wahlgren wrote to the Security Council: "If one allowed no controls of the military or paramilitary units of the Bosnian government, one would create a scenario which would encourage the use of safe areas as havens where forces could refit, rearm, train and prepare for further military operations."<sup>41</sup> It was clear to Wahlgren, though not to the Security Council, that the Serbs could not be expected to tolerate this state of affairs indefinitely.

NATO had inserted itself into the war to enforce an unfair and one-sided regime, acting purportedly in support of an UNPROFOR that, contrary to the wishes of key Western powers, continued to believe that it wasn't supposed

to be taking sides. NATO air power was about to be introduced directly into the war in Bosnia, and explicitly on behalf of the Muslims. The April 17 and May 8 demilitarization agreements that Halilović and Mladić had signed were now rendered null and void. With no demilitarization in sight, Mladić informed Morillon that the Serbs would not withdraw their heavy weapons from the vicinity of the safe areas. The stage was set for the upcoming confrontation between the Serbs and NATO.

### UNPROFOR'S QUAGMIRE

On June 14, 1993, Boutros-Ghali published a report outlining ways to implement Resolution 836. Since UNPROFOR ground troops would not be available in anything like the numbers needed “to resist a concentrated assault on any of the safe areas, particular emphasis must be placed on the availability of a credible air-strike capability provided by Member States.” NATO therefore needed “to prepare plans for provision of the necessary air support capacity.”<sup>42</sup> He was happy to report that NATO had assured him that it was ready to offer “protective air power in case of attack against UNPROFOR in the performance of its overall mandate.”

Returning to the May 1993 French discussion paper, Boutros-Ghali outlined two possible options for UNPROFOR in the safe areas. There was the “heavy option” requiring some 34,000 troops to ensure “deterrence through strength.” There was also the “light option” requiring perhaps no more than 7,600 troops. Of course, the light option couldn’t “guarantee the defense of the safe areas.” It would therefore have to rely on “the threat of air action.” It wasn’t a perfect solution, Boutros-Ghali observed, but “it presents an approach that is most likely to correspond to the volume of troops and material resources which can realistically be expected from Member States.” Everyone was more than relieved to hear the news that only a few more ground forces would be needed. On June 18, the Security Council passed Resolution 844 authorizing UNPROFOR to meet the additional force requirements necessary to fulfill the “light option.”

As it turned out, even the “light option” requirement would prove to be far too burdensome. Most countries were unwilling to provide any extra troops. The Americans continued to insist that, while they were prepared to lift the arms embargo and to bomb, they would not put troops on the ground in Bosnia. As the *Economist* put it, the resolution’s

wording leaves it unclear whether NATO air forces would retaliate for assaults on the safe areas or only for attacks on the U.N. guardians themselves. Worst of all, there is no suggestion of when or where the extra troops can be raised. America, Britain and France, which sponsored the resolution, have all said firmly that they will not provide them: so which country will?<sup>43</sup>

The 7,600 troops failed to materialize. As Boutros-Ghali was to write in March 1994, “the Council preferred the ‘light option’ of a minimal troop reinforcement of around 7,600. None the less, Member States have not so far found it possible to provide UNPROFOR even with the reduced number of troops. Out of the authorized strength of 7,600 troops, only 5,200 are deployed in theatre, leaving a shortfall of 2,400 troops.”<sup>44</sup>

Stretched thin, UNPROFOR could do little more than negotiate piecemeal ceasefires around the safe areas. However, a ceasefire in one place enables protagonists merely to shift their forces to someplace where there is no ceasefire. Muslims regularly used this ploy. Local, rather than general, ceasefires invariably put the Bosnian Serbs in the invidious position of appearing to be warmongers. “When a safe area has strategic importance in ongoing military operations launched or provoked by the forces defending the area, it would be unrealistic to expect the other party to avoid attacking that area, even with full knowledge of the likely consequences of violating the relevant Security Council resolutions,” Boutros-Ghali wrote on December 1, 1994.<sup>45</sup>

The Bosnian government, Boutros-Ghali wrote, “used the safe areas as locations in which its troops can rest, train and equip themselves as well as fire at Serb positions, thereby provoking Serb retaliation.”<sup>46</sup> While Muslims could attack from a safe area, Serb retaliation would have the appearance of an attack on civilians, an action requiring swift retribution from NATO. What Wahlgren had predicted had come to pass: the Bosnian government used the safe areas as exercise and rest areas for its military and as bases for raids against the Bosnian Serbs. In vain did Boutros-Ghali point out in December 1994 that safe areas were not established in order to facilitate the Muslim war effort. The “party defending a safe area,” he wrote, “must comply with certain obligations if it is to achieve the primary objective of the safe area regime, that is, the protection of the civilian population. Unprovoked attacks launched from safe areas are inconsistent with the whole concept.” The primary purpose of the safe areas was protection of civilians; mounting attacks from safe areas could only endanger civilians.

Provoking Serb retaliation and then calling on NATO to wreak vengeance on the Serbs became Muslim strategy. The United Nations wasn’t at all happy

with this arrangement. “Until complete demilitarization of safe areas can be achieved,” Boutros-Ghali was to plead,

the party controlling a safe area should be obliged to refrain from attacks and hostile or provocative actions from within the safe area directed against opposing forces or targets outside the safe area. In addition, measures should be taken by the parties to avoid activities within the safe areas that could draw attacks from opposing forces.<sup>47</sup>

So if Muslims wanted NATO to come to their assistance then they had better take on the Serbs outside of the safe areas. If Muslims continue to attack from within the safe areas, it will be “impossible for UNPROFOR to exercise its mandate to use force in the event of an attack on the safe area, particularly when the attack is related to the presence of military targets within the safe area.”<sup>48</sup> Boutros-Ghali’s warning had no practical effect whatsoever.

### THE GORAŽDE CRISIS

The U.N. secretary-general did not understand the political priorities of Washington. The Americans wanted to bomb the Serbs; NATO wanted a mission to justify its existence. Finally, an opportunity arose. On February 5, a massive explosion shook the Sarajevo marketplace killing 68 people. The Muslims accused the Serbs. The Serbs accused the Muslims. U.N. observers couldn’t establish conclusively who was responsible. NATO seized this opportunity to threaten military action. On February 9, it issued an ultimatum to the Bosnian Serbs: they had 10 days either to withdraw all of their heavy weaponry to more than 20 kilometers from the center of Sarajevo or to place them under UNPROFOR control. NATO promised to “support UNPROFOR in carrying out its task of identifying heavy weapons that have not been withdrawn or regrouped in conformity with these decisions.” Any Serb violation of the 20-kilometer weapons exclusion zone would be met with NATO air strikes. The Serbs did indeed pull their heavy weaponry out of the 20-kilometer zone.

Emboldened, NATO in April 1994 extended the weapons exclusion zone to the other safe areas. This NATO action was triggered by a crisis in the Goražde safe area. Though designated a safe area, Goražde was the location of strong and well-organized Bosnian government forces. There was also a substantial arms industry in the town. In early April, Muslims launched an attack against

the Serbs from Goražde. The attack followed a high-profile visit by Madeleine Albright and Chairman of the Joint Chiefs of Staff John Shalikashvili to inaugurate the new U.S. embassy in Sarajevo. This March 30 visit by the most senior official in the U.S. military and the Clinton administration's most fervent champion of the Muslims could not but be taken by the Bosnian government as an encouragement to go on fighting in the expectation that the United States will eventually enter the war on its behalf.

The Serbs responded to the attack by shelling Goražde. This led to the inevitable desperate Muslim pleas for international assistance: Goražde's residents faced extermination unless NATO immediately dispatched its bombers. Rose recalled receiving a call in the middle of the night from a frantic Izetbegović who told him that "there were tanks in the middle of the streets of Goražde, the town was in flames, and the people were fleeing for the hills." Izetbegović demanded that Rose immediately order NATO aircraft into the air "to prevent a disaster on an unimaginable scale."<sup>49</sup>

Rose was skeptical. He doubted that the Serbs were about to overrun Goražde; had they wanted to capture Goražde, "they could have done so by now." Rose was also annoyed at the continual misuse of the safe areas. "Instead of fighting in the countryside away from the civilian population, where the mountains and forests provided the best defensive terrain for their infantry," he wrote, "the Bosnian Army had fallen back into the town and involved civilians in the battle." Rose didn't even believe that the Serbs were targeting the civilian population; "they were engaging the Bosnian Army positions in the town."

Now came the familiar posturing: the Muslims wanted a ceasefire in Goražde. The Serbs wanted a ceasefire throughout Bosnia. Rose split the difference and proposed a ceasefire around Goražde, a Serb withdrawal of troops from the enclave and a four-month ceasefire throughout Bosnia to allow for the negotiation of a final political settlement. The Serbs were ready to accept. The Muslims were not. Rose's plan would have frozen the battle lines to the advantage of the Serbs. Finally, an agreement appeared to be within reach: there was to be a two-week ceasefire in Goražde, which would be followed by a global ceasefire.

Once again, the Americans made a decisive intervention to sabotage an agreement. Hearing of the ceasefire negotiations, Charles Redman, the U.S. envoy to the ICFFY, rushed to see Izetbegović. Following this meeting, the Bosnian president returned to Rose "with a much tougher set of demands." Apparently, "Redman had secretly advised Izetbegović to change his position, on the grounds that if the war was halted when the Serbs still held 70% of

the territory, it would be impossible to obtain a fair settlement.”<sup>50</sup> NATO had now thrown its weight behind the rejection of a Bosnian ceasefire. As Michael Williams, Akashi’s director of information, explained it, “I think the Bosnian Serb authorities would have gained a very distinct advantage if a cease-fire was based on the lines of confrontation ... So a cease-fire on those lines would have been self-evidently disadvantageous to the Bosnian government.”<sup>51</sup> “Self-evidently,” even though it had required U.S. intervention to present the evidence.

As if blasé rejection of a ceasefire weren’t enough, NATO decided that this was a make-or-break moment for the organization. On April 10 and 11, NATO went into action and, for the first time in its history, engaged in combat. It bombed some Serb artillery pieces outside Goražde. The Serbs responded by taking 150 U.N. soldiers and aid workers hostage and, on April 16, shooting down a NATO Sea Harrier aircraft. These actions, though taken in response to NATO attacks, brought down the usual torrent of condemnations on the heads of the Serbs.<sup>52</sup>

On April 18, Boutros-Ghali wrote to the NATO secretary-general and, in words identical to his February 6 letter following the Sarajevo explosion, demanded that the North Atlantic Council “authorize the Commander-in-Chief of NATO’s Southern Command ... to launch air strikes ... against artillery, mortar positions or tanks in or around the five safe areas of Tuzla, Žepa, Goražde, Bihać and Srebrenica.” But Boutros-Ghali made sure to add some qualifications. The air strikes would be “launched at the request of the United Nations” and would only be directed at weaponry “determined by UNPROFOR to be responsible for attacks against civilian targets within those safe areas.”

On April 22, NATO announced that the 20-kilometer weapons exclusion zone around Sarajevo that it had imposed in February would henceforth apply to Goražde. Serbs had until April 24 to pull back all forces to more than 3 kilometers from the center of Goražde, and until April 27 to move all heavy weaponry to more than 20 kilometers from the center of the city. NATO also announced that any Bosnian Serb attacks with heavy weaponry from anywhere against the “safe areas” would be met by NATO air strikes.

As an afterthought, NATO added that it was calling “upon the Government of Bosnia and Herzegovina not to undertake offensive military action from within the safe areas and, to this end, to cooperate with any UNPROFOR monitoring of their heavy weapons.” It was noteworthy, though, that NATO was not requiring the Bosnian Muslims to give up their heavy weaponry. Nor was it threatening the Bosnian government with bombing should it continue “to undertake offensive military action from within the safe areas.” The terms

of the Goražde ceasefire, as spelled out in U.N. Security Council Resolution 913 (adopted on April 22), were that all heavy weapons by all parties were to be placed under UNPROFOR's control. Yet a May 19 secretary-general's report cited the case of a Bosnian Muslim commander who submitted information on "two heavy weapons in his possession." UNPROFOR patrols later found "four additional undeclared heavy weapons ... which cast doubts on the accuracy of the information originally provided."<sup>53</sup> Yet no NATO threats were forthcoming following discovery of the deceit.

NATO's ultimatum also demanded evacuation of the wounded from Goražde. Yet, instead of the expected 2,000 evacuees, only 200 or so were flown to Sarajevo and many of the casualties, in the words of Rose, "seemed to be young men of military age grabbing a lift back to Sarajevo."<sup>54</sup> Neither the "final casualty list, heavy though it was, nor the relatively undamaged state of the buildings in the town suggested that the Serbs had systematically targeted civilians," Rose wrote.<sup>55</sup>

U.N. officials were furious about the Goražde episode, believing it to have been a fraud cooked up by Sarajevo and Washington to force NATO intervention. They even went public with their complaints. According to a *Washington Post* report, "two of the highest-ranking U.N. officials in Bosnia" were openly accusing Muslim leaders of having

orchestrated their defeat in Serb-besieged Goražde based on the flawed premise that NATO warplanes, reacting to pressure from the United States, would help lift the siege, and that the extent of the recent month-long fighting around the east Bosnian town was exaggerated by U.N. officials there. This misinformation prompted a massive overreaction in Western capitals in North America and Europe that in turn almost spelled the end of the U.N. mission in Bosnia.<sup>56</sup>

Goražde was not lying in rubble. The hospital, said to have been destroyed, was "still functioning," in the words of one U.N. official. "What it basically needed was a broom to clear up the rubbish." Casualties, supposedly in the thousands, were, according to Rose, more in the vicinity of 200. Not for the first time, U.N. officials openly expressed scorn about the Muslim military performance: the "precipitous accesses into the agricultural center [of Goražde] easily could have been defended by lightly armed Muslim soldiers," they said. Instead, the Muslims "ran away."

NATO was now in the business of enforcing weapons exclusion zones. However, this enforcement was one-sided. Serb violations would be pun-

ished by bombing or threats of bombing; Muslim attacks on Serbs would, at best, trigger some desultory finger-wagging. NATO had become a combatant, effectively serving as the Muslims' air force. More worryingly, the Security Council had turned peacekeepers also into combatants. This was something UNPROFOR had been anxious to avoid. Unlike the NATO governments that dominated the Security Council, U.N. military commanders did not think that the Muslims were deserving of any more support than anyone else in Bosnia. As Owen wrote, U.N. officials invariably complained that the "Muslims were responsible for most of the ceasefire violations and that they represented the main threat to the 'safe areas' because they conducted military operations under U.N. cover."<sup>57</sup> (As was Owen's wont, he would invariably follow such admissions with expressions of understanding for the Muslims' dilemma. "The Muslims," he wrote, "could not accept the present confrontation line. Therefore, it was in their interest to destabilize it by provoking incidents and planning breaches."<sup>58</sup>)

As de facto allies of the Muslims, U.N. peacekeepers were now in some danger. UNPROFOR's irritation over the unfair position into which it had been thrust found expression in the U.N. secretary-general's report of May 9, 1994. According to Boutros-Ghali:

The Bosnian Government expected UNPROFOR to intervene to protect as much of the territory under its control as possible, and called for the early employment of large-scale air strikes in order to break the offensive capability of Serb forces. Government forces armed themselves and conducted military activities from within the safe area. The Bosnian Serbs, on the other hand, regarded UNPROFOR's very limited use of close air support as an intervention on behalf of their opponents, and did not hesitate to attack a populated area. UNPROFOR's neutrality and credibility were strongly challenged by the different attitudes and expectations of each party.<sup>59</sup>

The secretary-general made the same point in his May 30, 1995 report. "Using force against only one party, whether directly or through regional arrangements, alters that party's perception of the neutrality of UNPROFOR, with the risk that its personnel and those of other United Nations agencies come to be identified with the use of force and perceived as a party to the war. Being widely dispersed, they become extremely vulnerable to obstruction, detention and other forms of harassment," he wrote.<sup>60</sup>

As the *Economist* acknowledged in August 1995, just after the fall of Srebrenica, the safe areas had "never been just pockets of noncombatant civil-

ians. They have also harboured Bosnian troops, many of whom the U.N. ... neither disarmed nor prevented from fighting ... [I]n promising to protect safe areas, the U.N. was also promising to protect units of the Bosnian army in them. This sat ill with the U.N.'s claims to impartiality."<sup>61</sup> It did indeed, as Boutros-Ghali and Rose had repeated time and again.

The safe areas, the U.N. chief had warned, were designed "primarily to protect people and not to defend territory." UNPROFOR's "protection of these areas is not intended to make it a party to the conflict." The peacekeepers' mandate, Boutros-Ghali reminded the Security Council, was to provide humanitarian assistance and to support the peace process "through the implementation of ceasefires and local disengagements." His warning fell on deaf ears. To be sure, the U.N. chief scarcely adhered to his own principles. Anxious to hold on to his job, he readily succumbed to pressure from Washington and continued to call in NATO even though he knew better than anyone else that doing so would only serve to realize military goals and would do nothing to protect the lives of the people for whom he was responsible.

## BIHAĆ

Though the results of its April 1994 bombing had been rather meager, NATO was happy, convinced that it had finally found the post-Cold War role for which it had been vainly searching. Throughout 1994, NATO became increasingly eager to escalate its involvement in Bosnia. It didn't take long for another, and even more significant, opportunity to arise. In August 1994, Muslim and Croat forces attacked Fikret Abdić's "Autonomous Province of Western Bosnia," with its stronghold at Velika Kladuša. Izetbegović had been seeking for some time to crush his rival Abdić. However, while Izetbegović knew how NATO would react to a Muslim offensive against the Serbs, he wasn't sure how it would react to a Muslim offensive against fellow Muslims.

In March 1994, Boutros-Ghali had wondered whether the NATO/UNPROFOR alliance could be deployed against Abdić and the Croatian Serbs the way it had been deployed against the Bosnian Serbs. "The safe areas mandate relates specifically to attacks from Bosnian Serb forces," he wrote. However, Bihać was also under attack from Abdić's forces and from the Krajina Serb forces in Croatia. "It is unclear whether UNPROFOR has the mandate to deter attacks on safe areas from forces outside the Republic of Bosnia and Herzegovina and/or internal warring forces." As things stand, UNPROFOR "does not enjoy the right to use close air support on Croatian territory" in the event of attacks on safe areas from Croatia.<sup>62</sup>

That was what Boutros-Ghali wrote on March 16. On March 31, however, the U.N. Security Council adopted Resolution 908, which called on member states, “acting nationally or through regional organizations or arrangements,” to take “all necessary measures to extend close air support to the territory of the Republic of Croatia, in defense of UNPROFOR personnel in the performance of UNPROFOR’s mandate.” Note the resolution’s careful wording: military force could be used only to protect UNPROFOR personnel. There was no mention of using air power to defend the safe areas. This was a key omission: the only threat to UNPROFOR personnel in Croatia had come from Croatia’s armed forces.

As usual, that wasn’t how NATO and, alarmingly, the U.N. secretary-general, interpreted things. How little Boutros-Ghali cared about preserving the prerogatives of the United Nations can be seen from his report of September 17, 1994. After noting, correctly, that Resolution 908 had “authorized the extension of close air support to the territory of Croatia,” Boutros-Ghali revealed that discussions between NATO and UNPROFOR were “continuing on technical aspects of this issue. In the meantime, the North Atlantic Council has, in principle, authorized close air support in the event of attacks from Croatian territory against the ‘safe area’ of Bihać.”<sup>63</sup> So, NATO had now promised Boutros-Ghali, the nominal head of UNPROFOR, to attack the Serb areas of Croatia in the event of an attack on a Bosnian safe area even though the United Nations had not authorized this. And Boutros-Ghali had raised no objections; all he wanted was to be consulted by NATO before it took any action.

Following the start of the August 1994 Muslim-Croat offensive against Abdić, some 25,000 Bosnian Serb refugees arrived in Northern Krajina in Croatia, or UNPA Sector North. Then, having defeated Abdić, the Muslims launched an attack on the Bosnian Serb forces surrounding Bihać. The Muslim 5th Corps “penetrated the Serb lines on the Grabež plateau and achieved their largest territorial gain of the war,” Boutros-Ghali wrote.<sup>64</sup> The Muslims “burned villages as they went and forced several thousand Serbs to flee.”<sup>65</sup> The Serbs were pushed back some 250 square kilometers. Western journalists hailed a famous victory. It was the Muslims’ “greatest single victory of the war ... In Sarajevo the people began to talk excitedly about a decisive turn around. This, they said, was Bosnia’s Tet offensive.”<sup>66</sup>

As usual, Western excitement was to be short-lived. The Serbs counter-attacked and quickly recovered their lost territory. However, the hard-pressed Bosnian Serbs had had to call on the Krajina Serb forces as well as Abdić’s forces for assistance. The Bosnian Muslim army immediately collapsed and

retreated back to Bihać. The Serbs advanced beyond the original confrontation line to pursue the remnants of the defeated 5th Corps into the enclave.

Right on cue, the Muslims demanded NATO air strikes against the Serbs around Bihać. Once again, a safe area had to be protected from Serb aggression. Yet, as Boutros-Ghali confirmed in his report, the Serb offensive around Bihać was a response to a previous Muslim offensive. The Bosnian Serbs, he wrote, had “entered the designated safe area of Bihać in repulsing an offensive launched in October from the Bihać pocket by the Bosnian Army.”<sup>67</sup> If Bihać was facing “impending humanitarian catastrophe,” General Charles Boyd wrote, then this was the consequence of a “fight that the Muslim army had picked.” Bihać was “the headquarters and garrison town of the Bosnian units that had mounted the attack” on the Serbs. The Bosnian government had orchestrated the crisis in order “to create the conditions for NATO air strikes, not a cessation of hostilities.”<sup>68</sup>

NATO responded to the Bosnian government’s increasingly frantic calls by firing missiles at Serb target-acquisition radars. Such attacks could not by any stretch of the imagination be deemed to be supporting UNPROFOR’s mission. Accordingly, the French changed their stance again and now intervened to prevent NATO from flying two reconnaissance aircraft and 37 combat aircraft together. The French were afraid that the NATO attack “would look like a raid on Serb radar and that the flights were designed as much to tempt the Serbs to switch on their radar so that NATO could strike at them in self-defense as to serve any UNPROFOR purpose,” Owen said.<sup>69</sup>

The Serbs responded to the NATO raid by again taking U.N. peacekeepers hostage. (“The NATO pilots themselves had flown back to the security of their bases in Italy, leaving UNPROFOR to pick up the pieces yet again,” an exasperated Rose recalled.) NATO now raised the stakes and extended its Bosnia operations into Croatia. On November 19, the U.N. Security Council passed Resolution 958 granting NATO the right to attack the Serb regions of Croatia while carrying out its ostensible mission of supporting UNPROFOR in Bosnia. The justification cited for this extension of NATO operations into Croatia was the shelling of Bihać by the Krajina Serbs. However, this shelling was taking place while Croatia’s army was openly fighting the Serbs in Bosnia – with U.S. support and encouragement. Moreover, the attack on Bihać had only come after the defeat of Fikret Abdić’s forces and the “exodus of an estimated 25,000 refugees to the United Nations protected area (UNPA) Sector North in Croatia.”

In addition, there was a certain strategic logic to the Krajina Serbs’ involvement in the fighting in Bosnia. On March 1, 1994, Croatia and Bosnia’s

Muslim-Croat federation had agreed on the establishment of a confederation. This alliance, sponsored by Washington, was clearly directed at tilting the military balance against the Serbs, both in Bosnia and in Croatia. While Croatia was fighting alongside Izetbegović, Croatia's Serbs were providing active support for Abdić.<sup>70</sup> In addition, as Owen pointed out, the Krajina Serbs had attacked a legitimate military target in Bihać. Serb missiles had "hit a factory which had been used by the Bosnian government forces as an ammunition dump."<sup>71</sup> On November 21, NATO stepped in and launched an attack on the Krajina Serbs. NATO bombed the Udbina airfield, located in Southern Krajina or UNPA Sector South in Croatia. On November 23, NATO followed up with an attack on Bosnian Serb missile sites. Yet, as Boutros-Ghali was to admit in his report of December 1, 1994, the Bosnian Serbs' offensive against Bihać had been a response to the Muslims' earlier "large-scale offensive," which had been "conducted from the headquarters of the Fifth Corps in the town of Bihać." In UNPROFOR's judgment, according to the secretary-general, the attack launched from Bihać contributed "to the Bosnian Serb attack upon the town."<sup>72</sup> So NATO had bombed the Serbs ostensibly in order to protect UNPROFOR, which had judged the Serbs to be within their rights to respond to an attack launched from Bihać.

In New York, the U.N. Security Council went into action and called an emergency debate on Bihać. Albright demanded adoption of a resolution that would not only authorize bombing of the Croatian Serbs but would also ensure that they receive no oil whatsoever. Before the debate started, Albright went to Kofi Annan and, claiming that the center of Bihać was under fire, demanded that he authorize immediate bombing of the Serbs. Annan called Rose, who reassured him that, though "four shells had fallen near the Bosnian Army HQ, the town was not under general bombardment." Bosnia's prime minister, Haris Silajdžić, then called a press conference to assert that 70,000 people had been killed in Bihać. He claimed that even a hospital holding 1,500 patients was being shelled. These ludicrous numbers were too much for Rose, who furiously confronted Silajdžić after the conference to tell him "to move his mortars and a tank from the grounds of the hospital if he wanted to avoid the hospital being treated as a military target by the Serbs."

As usual, Albright and the Bosnian Muslim leaders had given the world a very misleading account of what was really taking place. Upon visiting Bihać in December, Rose found conditions to be "quite different from the picture being painted by the propaganda machine of the Bosnian Government and the media." Edward Pearce, in the *Guardian*, wrote that the Bihać story "was a thorough-paced lie. There were not 70,000 deaths there but around 1,000,

and not women and children, but mostly troops defending it. And Bihać when reached, and its citizens talked to, proved not conquered.”<sup>73</sup> The BBC’s John Simpson disclosed that “U.N. observers [who] reported significantly lower casualty figures than the Bosnian government’s received death threats.”<sup>74</sup>

### THE SAFE AREAS AND THE END OF THE CEASEFIRE

On December 31, 1994, a four-month ceasefire negotiated by former President Jimmy Carter went into effect. It was scheduled to end on April 30, 1995, and NATO was coming under pressure from the United States to use force to resolve the Bosnia conflict. Before a massive bombing campaign against the Serbs could be undertaken, however, UNPROFOR would have to be withdrawn. Eager to facilitate NATO attacks on the Serbs, Izetbegović reprised the role of Tudjman and threatened to refuse to extend UNPROFOR’s mandate. On March 22, he told Boutros-Ghali that it was “imperative that a thorough review be undertaken of both the current Security Council mandate with respect to UNPROFOR and its actual implementation before it is extended beyond 31 March 1995.” The Bosnian government was prepared to extend the mandate, but only for a period of 30 days so that such a review could be completed.<sup>75</sup>

The British, the French, and, in particular, the Dutch strongly opposed the withdrawal of UNPROFOR. They realized that the consequence would be catastrophic defeat for the Muslims followed by vehement demands in Washington and in the capitals of Europe that NATO bomb the Serbs and send in ground troops. Seeking to head off a possible U.S.-Izetbegović alliance against UNPROFOR, the Europeans sought instead to beef up the U.N. presence in Bosnia.

As the date of the expiration of the ceasefire approached, UNPROFOR began issuing warnings of an impending Muslim offensive. On March 1, Yasushi Akashi, the U.N. secretary-general’s special representative in Yugoslavia, sent a cable to Annan in New York saying:

There are indicators that the BiH [sic] is improving its efficiency through reorganization, rearming, training and force standardization. Mobilization of large numbers of troops continues in the major centers of Zenica and Tuzla. There has been unusually heavy troop movement and resupply towards the northern regions. Hospitals on the western confrontation line have been warned to expect casualties. Despite agreements and assurances to the con-

trary, the BiH continues to move troops through the demilitarized zone ... [W]e assess that an offensive is being prepared which could take place when weather conditions improve.<sup>76</sup>

Akashi expressed his view that the Bosnian government was seeking to convince the world that the Carter-negotiated ceasefire had failed. U.N. observers knew that, since the start of the year, the Muslims had been importing weaponry into Bosnia, in violation of the arms embargo. According to the Dutch government's report, "Since early January 1995, the convoys from Croatia with arms and ammunition had increased considerably, and in other parts of Bosnia the same observations were made. In the spring, Dutchbat would also establish that the ABiH received new arms from Tuzla and that training was being stepped up."<sup>77</sup>

Furthermore, the report said:

It has been demonstrated that the clandestine supplies usually led to rapid transit by helicopter to the eastern enclaves such as Srebrenica and Žepa. New arms generally facilitated new sorties from the enclaves into Bosnian-Serb villages and military positions, which in turn provoked a response from the VRS.<sup>78</sup>

From December 31, 1994, to May 7, 1995, the Bosnian government ran an extensive airlift of war materiel to the eastern enclaves. Some of the aircraft were landing at Tuzla air base, which, incidentally, was also being used by UNPROFOR. The opening of Tuzla air base had been one of the most frequent demands made of the Serbs. The arms deliveries at Tuzla were extensive. According to the Dutch government report, the equipment consisted of

quick-firing weapons, ammunition, uniforms, helmets, new anti-tank weapons and Stingers. The archive of the 281st ABiH Brigade in Žepa reveals that much military equipment was delivered from Tuzla by helicopter for Žepa, largely to be forwarded in transit from there to Srebrenica. The ABiH commander of Žepa reported, for example, that on 14 February 1995, a few days after the first observations of the Black Flights, forty machine guns were transported by air, some of which were to be brought to Srebrenica. The VRS did fire on the helicopter, but without result. At the same time, the flight delivered DM 308,000.<sup>79</sup>

Furthermore, the Dutch report disclosed that in mid-April, the "ABiH commander of Žepa gave a summary of what he had received by air and what

had been forwarded in transit to Srebrenica. Žepa had received the following items: 23,500 7.62 mm calibre cartridges, 15 mines (82 mm), 25 mines (60 mm), 4 TF-8 rockets, 34 B.R. M-93 machine guns and 1 rocket launcher for a TF-8 rocket. The total forwarded in transit to Srebrenica was 50,000 7.62 mm calibre cartridges, 35 mines (82 mm), 75 mines (60 mm) [and] 90 B.R. M-93 machine guns.”<sup>80</sup>

The Bosnian Serbs thus had every reason to be concerned about what would happen following the expiration of the ceasefire. Weapons deliveries, particularly on this scale, invariably preceded armed offensives. “It is no coincidence,” the Dutch government report said,

that offensives by the ABiH, VRS or Croats took place a few weeks after the military material was delivered. A common pattern was as follows: clandestine supplies, training ... and after that the start of offensives. New arms mostly facilitated, the VRS complained, renewed sorties from the enclaves into Serbian villages and military positions, which in turn provoked a response from the VRS.<sup>81</sup>

The Serbs were short on manpower, short on fuel, and subject to international sanctions. Even Britain’s Lieutenant-General Rupert Smith, who had taken over from Rose as UNPROFOR commander in January 1995, acknowledged that in the spring of 1995 ethnic cleansing was not uppermost on Serb minds. They were expecting a major offensive. Following a meeting with Mladić in March, Smith concluded that to the Bosnian Serbs the “Eastern enclaves were too strong and the Bosnian Army within them constituted a clear threat particularly as the BSA felt they were likely to face attacks on multiple fronts ... The intention of the Serbs appeared to be to force the U.N. into a position of abandoning the enclaves to enable the BSA to defeat or at least contain the Bosnian Army in Eastern Bosnia and to release vital manpower for other areas.”<sup>82</sup>

The eastern enclaves had indeed become a serious problem for the Serbs. “By 1995, the Muslims had built up significant forces within them which posed a clear threat to the Serb lines of communication and rear areas. The Muslims used lightning strikes to tie up Serb troops that were badly needed in other areas.”<sup>83</sup>

More than a month before the fall of Srebrenica, Boutros-Ghali had expressed concern about the Bosnian Muslims’ military preparations and, in particular, about the incorporation of the safe areas into their military strategy. “In recent months,” he wrote in his May 30 report, “government forces

have considerably increased their military activity in and around most safe areas, and many of them, including Sarajevo, Tuzla and Bihać, have been incorporated into the broader military campaigns of the government side.”<sup>84</sup>

Arms were arriving not only by land from Croatia but via air drops. On February 25, 1995, the *Guardian* reported that U.N. peacekeepers had observed “mysterious cargo flights into territory held by the Bosnian government.” An UNPROFOR spokesman had “reported sightings of propeller-driven aircraft flying near the government army airbase at Tuzla, northern Bosnia ... in violation of a flight ban. It is the fourth such sighting this month.” NATO dismissed these sightings, but the U.N. stuck to its guns:

The most detailed UN report, by a Norwegian helicopter pilot, described a plane resembling a C-130 (a US-made transport) making a descent over the Tuzla airstrip on February 10, disappearing from view and then climbing again. Nordic UN troops went to investigate but were fired on and temporarily detained by Bosnian government soldiers. Further reports on February 12 and 17, including observations by a British intelligence officer, mention large multi-propeller planes accompanied by jet fighters flying over Tuzla. UN analysts believe the flights are part of an arms-supply operation in support of the Bosnian government, carried out with Nato connivance.<sup>85</sup>

### SREBRENICA ENDGAME

Western officials had privately long accepted that if there ever were to be a peace agreement in Bosnia, the Muslims would have to give up the eastern enclaves. In return, the Serbs would give up their claims on Sarajevo. Even Charles Redman, the United States representative on the Contact Group, had accepted that Žepa and Srebrenica would probably have to be exchanged for territory elsewhere, particularly around Sarajevo. However, Redman insisted that the Contact Group “could not put forward such a proposal, as they would be faced with public outcry.”<sup>86</sup> Consequently, when the Contact Group presented its map in July 1994, the three eastern enclaves were all assigned to the Muslim-Croat federation.

As time went on, the possibility of such a territorial exchange became less and less likely. Muslim forces in Srebrenica had been growing in strength ever since the town was declared a safe area in April 1993. In May 1994, the Muslims reorganized their forces. The brigades in Srebrenica became attached as 8th Operational Group to the 2nd Corps of the ABiH in Tuzla. The quality

of the units in Srebrenica, according to the Dutch government's report, "improved thanks to better organization, more intensive training and particularly due to better weapons and equipment. The equipment was supplied from central Bosnia, where the ABiH could command growing stocks of weapons despite the arms embargo." In the spring of 1995, the ABiH intensified the smuggling of weapons into Srebrenica and issued orders to "carry out military operations outside the enclave." Inevitably, Western champions of the Bosnian Muslims expected the Serbs to sit back and watch with equanimity the change, to their disadvantage, in the military balance in eastern Bosnia.

On May 1, the Muslims and Croats launched their long-expected offensive. That same day, Croatia launched Operation Flash. Within days, Western Slavonia collapsed. In eastern Bosnia, the Serbs were expecting the Muslim 2nd Corps, based in Tuzla, to mount an offensive in order to link up with the 28th Division in Srebrenica and Žepa. If this operation were to prove successful, eastern Bosnia would effectively be split in two with the eastern enclaves of Tuzla, Srebrenica, and Žepa becoming linked to the Muslim-Croat federation. A Bosnian Serb entity would thereby cease to be viable. In April 1995, Orić suddenly left Srebrenica for Tuzla. Since he was the Muslims' most capable commander, the Serbs took his transfer from Srebrenica as an indication of an upcoming offensive from Tuzla.

In the meantime, a major battle was taking place around Sarajevo. In June, the Muslims launched an offensive with a view to securing the Bosnian capital. The Muslim forces in the enclaves of eastern Bosnia were expected to tie down as many Serb troops as possible in order to prevent them from reinforcing Serb positions around Sarajevo. The general staff of the Bosnian army instructed the 28th division in Srebrenica to launch a series of actions to distract the Bosnian Serb forces. Attacks on neighboring Serb villages and ambushes behind Serb lines were causing serious military problems for the VRS. The Bosnian Serbs were at a major disadvantage in terms of manpower; they were also subject to international sanctions, which, since August 1994, had been reinforced by Milošević's trade embargo. With critical fighting taking place around Sarajevo, the Bosnian Serbs could no longer afford the distraction of defending Serb villages behind their own lines. Philip Corwin, chief U.N. political officer in Bosnia at the time, has written that the Serbs had no choice but to take military action against the enclaves in eastern Bosnia. "Not only did they [the enclaves] pose a military threat, but their location forced Serb forces to detour around them and waste precious fuel in a time of war."<sup>87</sup>

On June 24, Mladić wrote a letter to UNPROFOR headquarters in Sarajevo protesting the repeated attacks emanating from Srebrenica. The attacks "bru-

tally violate the status of [the] Safe Area of Srebrenica. Due to that fact I ... warn you that we will not tolerate such cases in future.”<sup>88</sup> The Bosnian government was making use of Srebrenica in its overall military strategy. Yet the enclave continued to enjoy the protection of the United Nations. Srebrenica, according to the Dutch government’s report, had “increasingly acquired the status of a ‘protected area’ for the ABiH, from which the ABiH could carry out hit and run operations against, often civilian, targets. These operations probably contributed to the fact that at the end of June the VRS was prepared to take no more.”<sup>89</sup>

In addition, the clandestine shipping of arms into the eastern enclaves since the start of the year convinced the Serbs that they had to do something about Srebrenica. The “Black Flights to Tuzla and the sustained arms supplies to the ABiH in the eastern enclaves did perhaps contribute to the ultimate decision to attack the enclave. In this connection it is not surprising that Mladić and other Bosnian Serbs constantly complained about this, but usually received no response to their complaints,” the Dutch government reported.<sup>90</sup>

Indeed, even General Rupert Smith, the UNPROFOR commander who turned out to be so amenable to NATO requests, acknowledged the serious military problem the eastern enclaves posed for the Serbs. In early 1995, he was reported to have remarked to the U.S. ambassador in Sarajevo that, “If I were Mladić, I would take the enclaves.” In an April 1995 situation report, Smith wrote that Mladić has a choice: either to concentrate his troops on the western front (the Krajina and Bihać) or on the eastern front. Fuel shortages, proximity to Serbia, and the ongoing fight for Sarajevo “lead me to think that his main effort will be in the east. In order to achieve a sufficient concentration of force, he will probably have to neutralize one or all of the Eastern enclaves.”<sup>91</sup>

The Muslims’ Sarajevo offensive initially met with success but, as usual, petered out pretty quickly. “Because of its superior infantry strength at Sarajevo, the ABiH was in a position to force a temporary breakthrough, but the preponderance of VRS heavy weapons meant that the gain in territory would be lost again.”<sup>92</sup>

Nonetheless, the situation in the eastern enclaves remained tense. Ignoring Mladić’s warning, the Srebrenica Muslims on June 26 launched a militarily meaningless attack on the strategically unimportant nearby Serb village of Visnica. The attack was an act of extraordinary recklessness given the absence of Srebrenica’s top commanders, who had all been withdrawn two months earlier. The decision to launch this foray was probably taken in Sarajevo. In subsequent years, Srebrenica’s political leaders expressed their

disgust with the Bosnian government's cynical strategy. Ibran Mustafić, the head of the Muslim SDA party in Srebrenica, subsequently told the magazine *Slobodna Bosna* in July 1996:

The scenario for the betrayal of Srebrenica was consciously prepared. Unfortunately the Bosnian presidency and the army command were involved in this business ... Had I received orders to attack the Serb army from the demilitarized zone, I would have rejected to carry out that order without thinking and would have asked the person who had issued that order to bring his family to Srebrenica so that I can give him a gun and let him stage attacks from the demilitarized zone. I knew that such shameful, calculated moves were leading my people to a catastrophe.

It was the attack on Visnica that, more than likely, galvanized the Serbs to take action to eliminate the threat from Srebrenica. However, the Serbs almost certainly did not start out with the intention of capturing Srebrenica. This has been acknowledged even by the ICTY. The strategy behind "Krivaja 95," the name the Serbs gave to the military operation, was to reduce Srebrenica to its urban core – the only part of the municipality that the Muslims had, from 1993 on, agreed to demilitarize. That way the Muslims would no longer be able to claim that their retention of arms and their military forays into neighboring villages were in accord with the demilitarization agreements.

In addition, the Serbs sought to cut Srebrenica's link to Žepa. Reduction of the safe areas would significantly shorten the confrontation lines, enabling the Serbs to transfer troops to other fronts – to Sarajevo as well as to the Bosnian Krajina in the west, both of which were under attack by the Croatian and Bosnian Muslim armies. "If the high areas around the enclaves were in the hands of the VRS, one brigade for each enclave would suffice to control them," the Dutch government report said:

The plans for an attack on the enclave were actually drawn up at a very late stage and in a very short time; there was no months-long preparation. It was a question of days. Equally, it was not intended to occupy the enclave in its entirety. This decision was taken only on the evening of 9 July ... This was due to the lack of any serious resistance by the ABiH.<sup>93</sup>

It was this surprising lack of resistance by the Bosnian Muslims in Srebrenica that impelled the Serbs to go further and capture the town in its entirety.

According to Michael Evans, long-standing defence correspondent of the *Times* (London):

Before the Serb advance on the town, the Muslims had been shelling Serb units along the main road to the south. The intelligence sources said it was that harassment which precipitated the Serb attack ... "I don't think the Serbs had predicted the timing of this operation," one source said. The apparent decision by the Muslims to abandon the town provided the Serbs with a sudden opportunity to occupy Srebrenica ... The source said the Muslim defenders were "adequately armed" for streetfighting.<sup>94</sup>

In a subsequent *Times* piece, Evans ascribed the lack of resistance at Srebrenica to a deliberate strategy pursued by the Bosnian government. The abandonment of Srebrenica, he wrote, was "a sign that a decision had been made to sacrifice Srebrenica for the sake of a political strategy to force the West into action to 'save' Goražde." That the surrender of Srebrenica was a Bosnian government ploy, Evans wrote, was "confirmed when the BiH not only insisted on directing Srebrenica refugees to the cramped tented quarters at Tuzla airport, but refused to let them move from the air base until the world had had its fill of the appalling conditions." The strategy was successful. "Srebrenica's fall led to Goražde being 'ring-fenced' by the threat of 'massive' NATO air-strikes and the deployment of the multinational brigade element of the U.N. Rapid Reaction Force on Mount Igman overlooking Sarajevo."<sup>95</sup>

Evans was referring to NATO's July 25 ultimatum promising that any "attack by the Bosnian Serbs on Goražde would be met with a substantial and decisive response." This was followed by NATO's establishment of "zones of action," comprising areas of 50 to 100 square miles, around the four remaining "safe areas." Any attacks on the safe areas from within the zones of action, NATO declared, would be met by extensive air strikes.

The ease of the Serb victory in Srebrenica was shocking. The Serbs were few in number and lightly armed. As the Dutch government report put it, the Serb attack "was not comparable to Operation Barbarossa or the invasion of Normandy, with hundreds of thousands of troops, aircraft and tanks involved. This was a small military operation with a limited amount of troops, a maximum of ten tanks and APCs and supported by twelve artillery pieces and mortars that were already in position around the enclave."<sup>96</sup>

Moreover, Srebrenica isn't a town that can be captured easily. The terrain in the region of Srebrenica is very rugged: there are steep valleys, dense forests, and deep ravines. There were more than enough Muslim soldiers in Srebren-

ica to defend the town against a few hundred Serbs. The Muslims also had plenty of weaponry. According to the chief of the ABiH Supreme Command Staff at the time of the fall of Srebrenica, General Enver Hadžihasanović, the 28th Division in Srebrenica had 5,685 men under arms. The Bosnian Serb forces that attacked Srebrenica numbered at most 1,700. They probably numbered a lot less than that. Evans cited “reports that up to 1,500 Serbs were involved in the assault on Srebrenica, but intelligence sources estimated the main attack was carried out by a force of about 200, with five tanks. ‘It was a pretty low-level operation, but for some reason which we can’t understand the BiH (government) soldiers didn’t put up much of a fight,’ one source said.”<sup>97</sup> Though Srebrenica had supposedly been demilitarized, Evans went on, “government soldiers were not short of weapons.”

Had there been even the mildest resistance on the part of the Muslims in the town, the Serbs would have failed to capture Srebrenica. Fighting the limited Serb force would more than likely have met with greater success than the strategy the Muslims plumped for, namely, a retreat on foot across Serb military lines in broad daylight.

Reporters were also struck by the peculiarity of soldiers fleeing without a fight. “The men who made it over the mountains to Tuzla said they had no choice but to leave, believing that the stronger Serbian forces would capture and kill them if they remained behind to fight,” the *Philadelphia Inquirer* reported. “It was a sensitive point for some, since the departure of the men, including thousands of soldiers, meant that the Serbs had a much easier time taking control of Srebrenica.”<sup>98</sup>

Given the huge advantage defenders always have over attackers, Srebrenica would not have collapsed as quickly as it did unless a decision had been taken elsewhere to surrender the town without a fight. Orić, along with 18 of Srebrenica’s commanders, had mysteriously been withdrawn in April. Facing an impending Serb attack, the Muslims had not bothered to establish any kind of an effective defensive system. They made no attempt to use their heavy artillery, which, though under UNPROFOR control, was available to them in the event of an attack. Sarajevo refused to authorize Orić to return to Srebrenica to lead the resistance there. The Muslim men simply packed up their weapons and made their way toward Tuzla.

In light of Sarajevo’s long-standing claim that the Serbs were a genocidal people, the Muslims’ decision to abandon their women and children to the mercy of the hated “Chetniks” seemed surprising. Fleeing a fight; taking all of your weapons with you; and leaving women, children, and old men to face down enemy soldiers was certainly a dubious military, not to say, moral strat-

egy. The DutchBat soldiers who witnessed this described the behavior of the Muslim men as “cowardly.”<sup>99</sup> Incredulously, they recounted how “younger Muslims abandoned the older, weaker people to their fate and only after repeated insistence by DutchBat soldiers were they prepared to help.”<sup>100</sup>

The fact that Srebrenica’s defenders had refused to fight to defend the town did nothing to stop an avalanche of commentary in the Western media denouncing NATO’s supposedly shameful betrayal of Srebrenica. The West was supposed to come in and fight for Srebrenica even though the Bosnian Muslim forces hadn’t lifted a finger to defend it.

### THE GENOCIDE THAT WASN’T

The Serbs entered Srebrenica and found, to their astonishment, that the men had all left. There was no one in the town other than women, children, and old men. Panic-stricken at having been abandoned by their soldiery, the town’s residents fled to the U.N. base at Potočari. Terrified and short of food and water, the 25,000 or so civilians crammed into the tiny U.N. base, seeking to get away from Srebrenica as fast as possible. Srebrenica town leaders, DutchBat, and Ratko Mladić met at Hotel Fontana in neighboring Bratunac and agreed that the Bosnian Serbs would organize the evacuation of the population from Potočari. The Serbs provided buses and, within two days, Srebrenica’s residents had been transported to Muslim-held areas. Other than a few instances of Serb misconduct toward the civilians at Potočari, DutchBat soldiers did not witness “anyone being shot dead.” The Dutch government’s Srebrenica debriefing report did say that “During the period in which the refugees were in Potočari, it seems highly probable that a number of them were executed.” However, DutchBat soldiers didn’t themselves witness those executions.

A serious issue remained: what had happened to Srebrenica’s men? There were at least 5,000 Muslim fighters in the town. Rather than fight or surrender, they had decided to break through Serb lines and withdraw to Tuzla. This retreating column, consisting of between 12,000 to 15,000 men, included the entire 28th Division (5,500 to 6,000 troops) but also many civilians. It stretched some 12 to 15 kilometers.<sup>101</sup> The column sought to cross Serb military lines in broad daylight and was subjected to heavy artillery fire. How many of the men in the column were killed, how many were executed, and how many managed to make it to Tuzla has remained a mystery. The Muslim government has never released statistics as to the number of men who reached Tuzla. Bosnia’s Muslim leaders, their acolytes in the West, and, of

course, the humanitarian interventionists have for years sought assiduously to persuade the world that Srebrenica's men were rounded up and executed by the Serbs. According to the story that was to become widely accepted within weeks of the fall of Srebrenica, the Serbs simply gathered up all of the town's unarmed men, carted them off somewhere and executed them en masse.

Common sense, however, would suggest that a large number of the men killed must have died in combat. This was attested to by Major Robert Franken, deputy commanding officer of DutchBat, during cross-examination in the Milošević trial. Milošević had asked Franken whether he considered it possible that a large number of Srebrenica's men were killed in combat. Franken replied:

The fact that the Bosnian Serb army had his defense lines around the enclave, they have to break through, and it's obvious that there should have been quite some casualties; that's correct ... It is logical that there are quite an amount of casualties if you perform an action like that.<sup>102</sup>

Muslim forces were seeking to break through the Serb lines of defense in order to regroup and fight Serbs elsewhere. The pursuing Serbs were under no obligation to let the Muslim forces through just because there were civilians in the column. The men of the 28th Division had refused to lay down their arms. They remained combatants who, once they reached their destination, would not simply stay on in Tuzla. They would be deployed elsewhere, probably Sarajevo, the key battleground. As Human Rights Watch had written two months earlier in the context of Operation Flash: combatants removing "their uniforms in order to disguise themselves within the civilian population and to facilitate sneak attacks ... is a serious breach of the rules of war."

As Franken described it during cross-examination in another ICTY trial, it was often difficult to distinguish armed from unarmed men when it came to the 28th Division. He was asked if the absence of a military uniform sufficed to prove that a man wasn't a Muslim fighter. Franken replied, "As I already said, it was very difficult to recognize by uniform who was part of the 28th Division or not." The attorney then asked: "So some of them could have been in plain clothes, and at the same time be soldiers?" Franken replied, "That's correct."<sup>103</sup>

The ICTY has naturally sought to minimize the implications of the disclosure that Serbs had attacked a retreating Muslim army. It undermined the popular tale of Serbs seizing and transporting unarmed men to the notorious Srebrenica killing fields. The ICTY was therefore anxious to suggest that the

men in the column were lightly armed and that, therefore, they couldn't have posed any threat to the Serbs.

During the Krstić trial, Halilović was asked by Judge Fouad Riad if he knew what the "percentage of fighters or of military people in the column" was. Halilović replied that when he saw a review of the 28th Division in Tuzla a few days after the fall of Srebrenica, "there were about 3,000 soldiers, 3,000 fighters amongst them, and the information media claimed that they came from the enclave to Tuzla together with the column."<sup>104</sup> Riad, a Muslim from Egypt, was obviously a little unhappy with this answer. Three thousand soldiers sounded like a lot. It also meant that at least half of the Muslim army of Srebrenica was already accounted for within days of the town's surrender. This wasn't exactly the retreat of the Grande Armée from Moscow.

Riad wondered how heavily armed the men of the 28th Division were. They "were armed with light infantry weapons," Halilović replied. Aha, Riad pounced, so "were they in a position to fight, to fight back?" No, of course not, Halilović responded. "They were exhausted, and a large number did not reach Tuzla at all, so that they were not in a position to defend themselves, to fight," he explained. (Riad's question as well as Halilović's answer was, of course, massively irrelevant. Any soldier with a gun who refuses to surrender is in a position to fight back; that he may be extremely tired does not make him any less of a legitimate military target.)

But Riad had the answer he wanted: the men of the 28th Division were lightly armed and very tired. How then, he wondered, could an artillery attack against this column be justified? It couldn't be, of course. "For that kind of use of the artillery, there is no justification or reason, either human or military. The object was to destroy as many military-abled people as possible, or rather, as many Bosniaks as possible." Riad moved in for the kill: "So it was not a military target?" Having been spoon-fed the answer, Halilović obliged the court with the observation: "According to what I know, they were non-selective in their targeting, so it was immaterial whether they were military or civilian targets." The ICTY now had Halilović, whom it treated as a disinterested military expert, determining that the Serbs were indiscriminate in their targeting.

The judges nonetheless needed something more. They needed Halilović to say that the Muslim men were executed in cold blood. Perhaps targeting could be so indiscriminate that it amounted to execution? And perhaps executions could be so systematic as to amount to genocide? Riad suggested as much to Halilović: "You spoke about the indiscriminate shooting. What about the executions? Because you mentioned that there was a real hunt after

the men in the second part of the column, and upon surrendering or being captured, they were also killed at various sites. Now, was this killing also indiscriminate, or was it directed towards certain fighters or that sort of thing?" Halilović stepped up to the plate. Yes, he answered, "Everybody was killed at random, indiscriminately, regardless of whether they were fighters or civilians." Of course, since Halilović was not there, his claim was nothing more than an expression of opinion, and anything but a disinterested one.

Interestingly, the genocide-at-Srebrenica claims were being made even before the Serbs had captured the town. For example, on July 9, Izetbegović appealed to Clinton to use his "influence with the international community to fulfill its obligations toward this U.N. protected area and prevent this act of terrorism and genocide against the civilians of Srebrenica."<sup>105</sup> Yet, according to the ICTY's timeline, the executions didn't start until July 13. Western officials rushed to talk up the crisis, freely throwing around numbers that were based on nothing. On July 17, Emma Bonino, a European commissioner, announced, "We are facing a genuine case of genocide." How she arrived at this conclusion was a little puzzling, given her admission that "beyond the 4,000 missing, presumed to be in the (Serb held) Bratunac stadium, another 8,000 are unaccounted for. They've just disappeared."<sup>106</sup> On July 18, the *Philadelphia Inquirer* said that the "Bosnian government reports that as many as 8,000 men were being held as prisoners by Bosnian Serb forces."

On September 13, the International Committee of the Red Cross issued a press release that was to cause an enormous amount of confusion. The press release said that the ICRC was seeking to locate the whereabouts of 8,000 men. There were, first, "3,000 persons from Srebrenica whom witnesses say were arrested by Bosnian Serb forces."

The ICRC has also approached the Bosnia-Herzegovina authorities seeking information on some 5,000 individuals who fled Srebrenica, some of whom reached central Bosnia. After the fall of the enclave, the ICRC received over 10,000 requests for family news from civilians who were transferred to Tuzla in central Bosnia. About 2,000 of these requests were from different family members seeking the same individuals. An in-depth analysis has shown that the remaining 8,000 requests fall into two categories: about 5,000 concern individuals who apparently fled the enclave before it fell, while the remaining 3,000 relate to persons reportedly arrested by the Bosnian Serb forces.<sup>107</sup>

This press release was then either misunderstood or deliberately misinterpreted. The 8,000 number mentioned by the Red Cross was taken to be con-

firmation of the earlier claims that 8,000 men were either unaccounted for or being held prisoner by the Serbs. The Associated Press ran with a story quoting the Red Cross as saying, "About 8,000 Muslims are missing from Srebrenica, the first of two U.N. 'safe areas' overrun by Bosnian Serb troops in July."<sup>108</sup>

It didn't take long for Sarajevo and its champions in the West to put two and two together and declare that the men who were missing and unaccounted for were the ones the Serbs had held prisoner. They were first held prisoner, then they went missing. Obviously, the Serbs had executed them. On October 20, 1995, the U.S. State Department announced authoritatively that the missing from Srebrenica had been killed by the Serbs. State Department spokesman Nicholas Burns declared, "We think we know what happened to the 6,000-8,000 men and boys who are permanently, we think, missing from Srebrenica. We think they were killed. And we fear for the fate of the people who were detained, the men and boys who were detained in Banja Luka."

On what basis Burns made such an assertion wasn't at all clear since, as he explained, the U.S. government had no information based on aerial photography. All it had was material "produced by the United Nations and by Assistant Secretary [John] Shattuck and by the international community and the Red Cross, based upon conversations with hundreds, if not thousands, of these refugees." But such conversations couldn't possibly have yielded credible estimates of casualties.

In any case, what Burns said was entirely untrue. The Red Cross had made no claims about numbers killed. It had only talked about the missing from Srebrenica and the uncertainties involved in coming up with estimates. And the U.N. secretary-general in his report of November 29, 1995 – written more than one month after Burns' statement – said:

When ICRC tracing information is evaluated in the light of estimates of the population of the enclave and of the number of residents who are known to have arrived in Bosnian government territory, the best current estimate of the number of missing is perhaps between 3,500 and 5,500.<sup>109</sup>

In other words, as of late November 1995, there had been no determination that 8,000 men were missing.

However, once the U.S. government had thrown its authority behind the claims that the Serbs had killed 8,000 men, in no time at all the media were reporting, as established fact, that 8,000 Muslims had been executed follow-

ing the fall of Srebrenica. For example, on October 10, the *Guardian* was still reporting that, “Up to 8,000 men from Srebrenica are still unaccounted for.” However, by October 31, the *Guardian* was echoing the U.S. administration line laid down a few days earlier and asserting that, “After Srebrenica fell to the Serbs, up to 8,000 Muslims were killed in what ranks as probably the single worst war crime of the Balkan conflict.” On October 30, the *Independent* chimed in with the claim that “the Bosnian Serbs attacked and overran [Srebrenica], killing perhaps 8,000 people afterwards and burying them in mass graves.”<sup>110</sup> On November 3, *Washington Post* columnist Richard Cohen declared that “the Serbs butchered as many as 8,000 Muslims near Srebrenica. Some of the men were killed by artillery and some by sniper fire, but many were ordered to dig their own graves and were shot on the spot. Never again has happened again.”<sup>111</sup> It can’t be emphasized too strongly that no forensic evidence whatsoever existed to support these claims. The sources for these assertions were Sarajevo and Washington.

The precision and certitude that has persisted for more than 15 years concerning that 8,000 number are astonishing. Conditions in Srebrenica were chaotic. Many had fled the city long before its fall; many had arrived there from other towns. There was no up-to-date population register. While the ICTY’s estimates of the size of the retreating column range from 10,000 to 15,000, no comparable uncertainty clouds its definitive assertions about the number of men executed. While doubts as to the number of residents in Srebrenica in 1995 and as to the number of men in the retreating column are acceptable, no dispute as to the 8,000 executed men can be entertained.

The United Nations was initially unconvinced by the mass execution claims. There simply was no way to determine how many men were missing if there were no accurate estimates of Srebrenica’s population prior to the Serb attack. For example, Akashi claimed that the size of Srebrenica in July 1995 was 42,000 – but his number was based on calculations made in 1993. The special rapporteur of the Commission on Human Rights estimated the population of Srebrenica just before its fall to be between 38,000 and 42,000. This was also the estimate of the ICTY in its August 2, 2001 genocide judgment against Bosnian Serb General Radislav Krstić.<sup>112</sup> Izetbegović himself had claimed in August 1995 that Srebrenica’s population was somewhere between 35,000 to 36,000.<sup>113</sup> According to Boutros-Ghali, “UNHCR estimated the population of the enclave for food distribution purposes at 42,600” – but that number, for understandable reasons, had almost certainly been padded.<sup>114</sup> Judge Patricia Wald, one of the three presiding judges in the Krstić trial, has written that “Prior to the attack, Srebrenica was a village of some

37,000 inhabitants in Eastern Bosnia.”<sup>115</sup> So the population estimates range from 35,000 to close to 43,000.

While there is uncertainty as to the size of Srebrenica prior to its fall, there is no disagreement on the number of Srebrenica inhabitants who fled to Potočari. All of the sources agree that it was around 25,000. The sources also agree that the Muslim column that made its way to Tuzla comprised 10,000 to 15,000 men. Therefore, 40,000 would have to be the outside estimate of Srebrenica’s population.

In order to determine how many of Srebrenica’s residents were killed, one would first need to estimate how many of them survived. Testifying in the Krstić trial, Enver Hadžihasanović, chief of the general staff of the Bosnian Muslim army in 1995, claimed that the column that left Srebrenica consisted of between 12,000 to 15,000 people. It included the entire 28th Division of Srebrenica, which, according to him, comprised 5,500 to 6,000 troops.<sup>116</sup> On August 4, 1995, he recounted, the Bosnian Muslim high command established “the accurate number of the members of the 28th Division who managed to get through. The number was 3,175. We also established that the number of individuals who were killed in the column was between 8,300 and 9,722 ... One can claim for certainty that 2,628 members, both soldiers and commanding officers, members of the 28th Division, were killed.”<sup>117</sup>

However, Hadžihasanović’s numbers were somewhat at variance with those of Izetbegović. On August 13, 1995, the Bosnian leader claimed in a television interview that “some 3,400 soldiers from the 28th Division which was stationed in Srebrenica managed to come out. [Yesterday] we had an inspection of that unit.” He further added that “Between 28,000 to 29,000 people ... of the 35,000 to 36,000 that were there at the time ... managed to make their way out of Srebrenica with our help and our army’s action, the army’s advance towards Srebrenica.”<sup>118</sup>

Consider another source of numbers. In a July 19 cable sent to Annan, Akashi said that the total number of displaced persons (DPS) who had already reached Tuzla was about 25,000. Therefore, he said, “approximately 17,000 DPS are unaccounted for.” Of the 17,000, according to Akashi, “ABiH 2nd Corp report a further 4,000 DPS, mostly soldiers but including some civilians, have entered the Tuzla area having been involved in a fighting withdrawal from Srebrenica. BiH authorities inform that a further 4-5,000 DPS can be expected to arrive in this manner.”<sup>119</sup> That would leave around 8,000 unaccounted for. Using the ICTY estimate in *Krstić*, some 4,000 to 8,000 would be unaccounted for. Using Wald’s estimate, only 3,000 would remain unaccounted for.

Even these numbers are almost certainly overestimates. On July 27, 1995, the Tuzla field office of the World Health Organization reported on the health of “recently displaced people from Srebrenica,” a group comprising 34,341 *individuals*. Consider an Amnesty International report from July 1996, “To Bury My Brothers’ Bones.” “The evacuation from Potočari was completed by the end of the day on Thursday, 13 July, and the ICRC estimated that 23,000 people had been transported by bus to Bosnian Government territory,” the report said.

Once they crossed into Bosnian Government territory, the displaced persons were accommodated primarily in the Tuzla area, where they awaited anxiously for their relatives who had gone through the forest, and for news of those abducted at Potocari. On 21 July UNPROFOR left the enclave. By 4 August 35,632 people from Srebrenica were registered as displaced persons by the U.N. in Bosnian Government controlled areas; it therefore appears that at least 13,000 men successfully made their way through the forest.<sup>120</sup>

This number was confirmed in the Dutch Srebrenica debriefing report: “It appears from U.N. sources that 35,632 refugees had reached Tuzla” by August 4.<sup>121</sup>

“35,632 people from Srebrenica were registered as displaced persons by the U.N. in Bosnian Government controlled areas”! This is a stunning disclosure. Using Izetbegović’s estimate of Srebrenica’s population, it would mean that practically everyone had made it to safety. Using Wald’s estimate of Srebrenica’s population, there would be some 1,000 to 1,500 missing who needed to be accounted for.

The U.N. figure too was, more than likely, an overestimate. As the ICRC pointed out at the time, many of the people who reached Bosnian Muslim territory did not register with the U.N. agencies. They would include the members of the 28th Division. As soldiers, they reported back to their commanders for reassignment. Their return was not noted by the relief agencies. “The ICRC has learned that several hundred or even thousand men from Srebrenica have managed to reach the Tuzla area, but since the Bosnian government has not granted access to them it is not possible to determine their number or whether they have been able to contact their families,” the ICRC wrote.<sup>122</sup>

The U.N. secretary-general’s report, published on November 27, 1995, four months after the fall of Srebrenica, stated that the exact number of people “who arrived safely in Bosnian Government-held territory is not known.”

It was not known because those who “made their way to safety have simply not been registered by the appropriate authorities.”<sup>123</sup> In addition, Boutros-Ghali pointed out, “At least several hundred persons are believed to have been killed in armed combat. There are also accounts of men in hiding in Bosnian Serb-held territory.” The secretary-general also disclosed the origin of the bandied-about 8,000 number: the ICRC had received more than 10,000 tracing requests; it had “determined that 2,000 of the requests are duplicative, leaving a total of 8,000 tracing requests.” The ICRC then concluded that

5,000 of the tracing requests concern individuals who are said to have left the enclave before it was taken by Bosnian Serb forces. Some 3,000 requests concern persons who were taken from their families by Bosnian Serb forces during the expulsion itself ... When ICRC tracing information is evaluated in the light of estimates of the population of the enclave and of the number of residents who are known to have arrived in Bosnian government territory, the best current estimate of the number of missing is perhaps between 3,500 and 5,500.<sup>124</sup>

It is well established that thousands of those who were said to be “missing” had reached Tuzla or were killed in the fighting. However, as the ICRC reported, the Bosnian government was refusing to disclose how many soldiers from Srebrenica had reached safety. “The ICRC has learned that several hundred or even thousand men from Srebrenica have managed to reach the Tuzla area, but since the Bosnian government has not granted access to them it is not possible to determine their number or whether they have been able to contact their families.”<sup>125</sup>

The Bosnian Muslim leadership’s refusal to disclose the names and numbers of those reaching safety deepened the mystery of what happened to Srebrenica’s men. This enabled Western establishment media to ignore those reaching safety and instead to hunt down rumors of mass graves. The media discounted the possibility that Muslim men fleeing Srebrenica might have been killed in combat and unquestioningly accepted that the existence of bodies with bullet-holes was evidence of mass executions. Yet, given the paucity of information, common sense should have prevailed. Eight thousand executions and eight thousand dead bodies are hard to conceal. Satellite photos would surely have disclosed executions, burials, mass graves, excavations, and reburials. Yet the much-vaunted U.S. electronic eavesdropping technology produced a remarkable paucity of forensic evidence. Executions, burials, and reburials would have been particularly difficult to undertake, not to

mention conceal, in the circumstances prevailing in eastern Bosnia in July 1995. The Serbs were under enormous military pressure. UNPROFOR continued to be a ubiquitous presence. NATO, finalizing its preparations for the upcoming massive bombing campaign, was meticulously scouting Bosnian Serb territory.

### THE SREBRENICA NARRATIVE ENSHRINED

Facts were, of course, far less important than the propaganda value of the story of the 8,000 executions. Emotional allusions to genocide and the Holocaust ensured that there would be no serious inquiry into what really happened at Srebrenica. Starting in April 1992, Izetbegović had been invoking genocide in order to shame NATO into intervening in Bosnia on the Muslims' side. Now the U.S. government and the ICTY would take up his cry. Within days of the fall of Srebrenica, on July 24, the ICTY announced it was indicting Bosnian Serb leader Radovan Karadžić and Bosnian army chief Ratko Mladić, charging them with crimes against humanity. In November, the ICTY added charges of genocide to the indictment. The ICTY didn't even bother to conceal the political purpose of the indictments. ICTY President Antonio Cassesse exultantly told reporters, "The indictment means that these gentlemen [Mladić and Karadžić] will not be able to take part in peace negotiations ... I challenge anyone to sit down at the negotiating table with someone accused of genocide."<sup>126</sup> The comment was particularly revealing in that the ICTY had not as yet charged "these gentlemen" with genocide.

Then, on August 10, 1995, during a closed session of the U.N. Security Council, Madeleine Albright, U.S. permanent representative to the United Nations, showed aerial photos purporting to be of mass graves of Srebrenica victims. She "referred to two witness statements of survivors of alleged mass executions and presented a set of photographs showing ... large groups of persons being held in fields near Nova Kasaba," Boutros-Ghali reported.<sup>127</sup> She also showed photographs of "patches of freshly disturbed earth in these fields taken a few days later." According to Albright, those patches of earth were evidence of "recently made mass graves." The photos went together with the kind of emotionally overwrought presentation that had become a hallmark of Albright's tenure at the U.N. Her speech, delivered to the Security Council in open session that same day, claimed that 10,000 "civilians" from Srebrenica and 3,000 from Žepa were "missing and unaccounted for." She declared that there was "compelling evidence of barbarous and systematic

murder by the Bosnian Serbs.” She had no doubts that Serbs “beat, raped and murdered many of those fleeing the violence. These dead were not killed in the heat of battle, they were not killed in self-defense and they were not killed by accident; they were systematically slaughtered on the instructions of the Bosnian Serb leadership.”<sup>128</sup> Albright, needless to say, had not the slightest basis for making a single one of these claims.

The Clinton administration helpfully released three photographs, taken by a U-2 spy plane, supposedly showing disturbed soil. The government, however, refused to release the satellite photos that allegedly showed people crowded in a “soccer field,” claiming it was classified.<sup>129</sup>

The timing of Albright’s dramatic escalation of the rhetoric over Srebrenica caused some comment in U.N. circles. During the first week of August, the media, for the first time since the start of the Yugoslav conflict, had been presenting the Serbs in a sympathetic light. Croatia’s Operation Storm had led to the flight of hundreds of thousands of Serbs. The images of Croat tanks and aircraft pursuing helpless Serb refugees threatened to alter the accepted Balkan narrative of monstrous Serbs and their terrified, innocent victims. U.N. officials, therefore, suspected “sinister motives” on Albright’s part. According to the Dutch government’s report, U.N. military observers (UNMOS) had organized a press conference in Zagreb to discuss large-scale human rights violations by Bosnian Croats during Operation Storm.

The room was full of journalists and things were just about to start when an official from the U.S. Embassy in Zagreb suddenly entered and announced that a press conference was about to begin at the embassy where information would be released on aerial photos of possible mass graves around Srebrenica. The room emptied immediately. The UNMOS had an uneasy feeling that the announcement was planned to divert attention from the Croatian crimes.<sup>130</sup>

On the day of her U.N. presentation, Albright went on television to elaborate further on her story. There were about 400 to 600 people in the soccer field, she said. U.S. officials had interviewed a 63-year-old man who told them that people were “taken away in groups of ten, twenty, and taken to an area where [they] were shot.” The spy photos, she claimed, showed “fields originally that were undisturbed, completely. It was just farmland. And then later, those same fields, which are the pictures that you can see, that basically show that the earth had been totally disturbed. Really, looking at the pattern of mass graves with trails of – you could see the vehicle tracks from heavy vehicles where the people had been taken and then into that area and theo-

retically dumped into those mass graves.” Albright estimated that there were about 1,200 bodies in those graves. Spy planes and satellites can apparently see what’s going on even underground.

Though not a lawyer, Albright had no hesitation characterizing what happened at Srebrenica as “genocide.” “We do see this as a way to eradicate the Bosnians,” she explained.

I mean, this is a systematic way of taking people of a particular ethnic group, religion, and executing them, and what we are looking at is how systematic has it been, what is the trail of evidence to lead it to the highest members of the Bosnian Serb military and government, and to try to see whether this has been a policy of government, not just kind of accidental or in the heat of battle, where atrocities do happen unfortunately, but really looking at a systematic way of trying to eradicate a group of people.<sup>131</sup>

The Bosnians, of course! But weren’t Karadžić and Mladić also Bosnians? They must therefore have been seeking to eradicate themselves.

Needless to say, the complaisant reporter didn’t ask the obvious question: since killing and burying 1,200 people must take a considerable amount of time given the limited resources at the Bosnian Serbs’ disposal, and since the U.S. government purported to have in its possession photos of people ambling around in a soccer field as well as photos of disturbed earth, wasn’t it a little surprising that there were no photos of actual executions, no photos of dead bodies lying on the ground, no photos of the transportation of bodies, and no photos of burials? The sum and substance of Albright’s dramatic evidence were photos of (apparently) freshly dug earth and some tire tracks. (The practice of presenting photos of disturbed earth as evidence of mass graves came into its own during NATO’s 1999 bombing campaign. Just as in Bosnia, not one photo ever cropped up showing mass executions or mass burials actually in progress.)

The propaganda blitz emanating from Washington was taking place while the world was riveted by images of Tudjman’s forces, armed and assisted by the Germans and the Americans, driving out hundreds of thousands of Serbs from Croatia. These Serbs were not an invading army; they had lived in the Krajina for centuries. Not only was this ethnic cleansing on a scale dwarfing anything that had taken place in Bosnia, not only were the much demonized Serbs now enjoying a certain measure of sympathy but, most seriously, evidence was coming to light of extensive collusion between the U.S. and Croatian governments. The Clinton administration thus had every reason to try

to change the subject. In fact, in this TV interview, Albright was asked if she would characterize what was taking place in Croatia as “ethnic cleansing.” Not surprisingly, her answer was a firm no:

I mean, I think that ethnic cleansing has gotten to be a very large term. I think that what the issue here is, is that the Croats – I’m not sure I agree – I know I don’t agree with the means – but we have to think about what they were doing. They thought that a piece of their country, the republic of Croatia, had occupied territory that was, in fact, trying to secede. They were calling themselves a republic, and they had wanted for some time to have a diplomatic solution to this. The diplomatic solution was not forthcoming, and they took military means. I think that we’re all concerned about the fact that there must be better ways, diplomatic ways or better ways to handle this situation. But if you – ethnic cleansing I think has gotten to be a very widespread term. Large numbers of populations are being moved against their will.

Ethnic cleansing is something Serbs do; others merely seek to gain military advantage when a “diplomatic solution” is not forthcoming. In much the same way, secession is something Serbs do; others seek their liberation. Albright of course failed to see the obvious contradiction in what she was saying. If the Croatian Serbs, who had lived on this land since the 16th century, are to be deemed occupiers, then Albright must be taking them to be non-Croats – Serbs, in other words, the same Serbs who were living across the border in Bosnia and in Serbia. In which case, how can Albright at one and the same time claim that this land belongs to Croatia and that the Serbs living there are Croatians, not Serbs? It’s so much easier just to blame everything on Milošević.

Determining how many died following the fall of Srebrenica has become almost impossible. The ICRC list of missing persons from Srebrenica was drawn up following public appeals for relatives and friends of Srebrenica missing to come forward. But as there were no population records for the safe area in July 1995, the ICRC had no control data against which it could verify its list. The most recent population records for Srebrenica were from 1991. At that time, Srebrenica had a population of 37,211, of whom 27,118 were Muslims and 9,381 were Serbs. Many who were listed as Srebrenica residents in 1991 were no longer living there in 1995. This has undoubtedly led to politically motivated padding of numbers.

There are also good reasons to doubt the identifications made by the International Commission on Missing Persons (ICMP) based on DNA anal-

ysis. Milivoje Ivanišević has undertaken research into those buried at the Potočari Memorial Complex. He found that there are bodies there of people not killed in July 1995; some of the bodies are of people who died much earlier, even in the early 1980s. According to Ivanišević, as of March 2007, more than 12 years after the event, a total of 2,442 bodies have been buried at the memorial. Among those, a total of 914, or more than 37%, were on the voting lists for the 1996 elections in Bosnia. Ivanišević claims that “at least 100 people” buried at the memorial died of natural causes. He also charges that the remains of several hundred soldiers as well as civilians were transferred to the Srebrenica memorial from other cemeteries and reburied, with Muslim burial rituals. One of these was the body of Hamed Halilović (1940-1982), which was transferred from the nearby cemetery in Kazani. Halilović had apparently died a full 13 years before the fall of Srebrenica. Using captured records of the Bosnian Muslim army, Ivanišević lists more than a dozen names of soldiers whose families were granted housing and social benefits that are due to families of soldiers killed in action before November 11, 1993, which is when the documents were captured by Bosnian Serb army forces.

The propaganda value of Srebrenica is far more important than the mundane task of determining facts.



## KOSOVO: THE DENIAL OF SOVEREIGNTY

Following the signing of the Dayton Accords, the United States returned to the stance it had adopted at the start of the Yugoslavia conflict. Milošević was the source of evil in the Balkans. There could be no peace until he was gone. This was an extraordinary turnaround. The Americans were well aware that it was Milošević, more than any other leader, who ensured agreement at Dayton. During the signing ceremony in Paris, Clinton himself had told Milošević, “I know this agreement would not have been possible without you. Whatever our differences in the past, you made Dayton possible.”<sup>1</sup> Clinton also said that he was counting on him “to keep the Bosnian Serbs from derauling implementation.”

As usual, the media followed the government’s lead. They stopped referring to Milošević as president of Serbia or Yugoslavia; he reclaimed the sobriquet of Serbia’s “strongman” or Serbia’s “dictator.” However, it wasn’t their oft-professed commitment to peace and stability that made U.S. officials so keen to be rid of Milošević. Their hostility to Milošević was rooted in more basic fears. Milošević had rejected NATO membership as well as the “shock therapy” economic program that member countries of the former Soviet bloc had enthusiastically embraced. The issue at the end of the 1990s was what it had been at its start: was the liberal, capitalist “market democracy” socio-political model the last stage of human development? Milošević’s continuing survival and popularity suggested that the answer might be no. John Norris, former communications director to Strobe Talbott, deputy secretary of state during the Clinton administration, disclosed the real reason for the U.S. hostility toward Milošević. What stuck in Washington’s craw, Norris wrote, was:

As nations throughout the region strove to reform their economies, mitigate ethnic tensions, and broaden civil society, Belgrade seemed to delight in continually moving in the opposite direction. It is small wonder NATO and Yugoslavia ended up on a collision course. It was Yugoslavia’s resistance to the broader trends of political and economic reform – not the plight of Kosovar Albanians – that best explains NATO’s war. Milošević had been a burr in the

side of the transatlantic community for so long that the United States felt that he would only respond to military pressure. Slobodan Milošević's repeated transgressions ran directly counter to the vision of a Europe "whole and free," and challenged the very value of NATO's continued existence ... It was precisely because Milošević had been so adroit at outmaneuvering the West that NATO came to view the ever-escalating use of force as its only option ... NATO went to war in Kosovo because its political and diplomatic leaders had enough of Milošević and saw his actions disrupting plans to bring a wider stable of nations into the transatlantic community.<sup>2</sup>

Milošević was the enemy – he did not belong to the "transatlantic community" and, mired as he was in old-fashioned nationalism, he did not share the vision of a nationless Europe "whole and free." By crushing him – or rather the values he supposedly represented – NATO would demonstrate to the world that it was more than a military alliance, it was an engine for spreading capitalist democracy, and the ennobling values that purportedly go with it, around the world. Norris's account of what Milošević supposedly stood for was, of course, highly misleading. Milošević's Serbia, unlike U.S. clients such as Croatia, retained its ethnic diversity throughout the wars.

Milošević, who had made one concession after another at Dayton – on Sarajevo, on the roadway linking the federation to Goražde, and on Brčko – was surprised and disappointed at this turn in U.S. policy. He believed that his valiant efforts on behalf of the Americans at Dayton should have earned Yugoslavia not only a lifting of sanctions but readmission into the international community. Yugoslavia received neither.

Unfortunately for Milošević, from 1995 to 1997, a number of the moderate, pragmatic figures with whom he had become used to dealing disappeared from the scene. They were replaced by politicians imbued with an almost fanatical commitment to waging war on behalf of humanity. In Britain, in May 1997, the government of John Major was replaced by that of New Labor leader Tony Blair. In New York, Boutros-Ghali was replaced as U.N. secretary-general by Washington's choice Kofi Annan, "whose strength on the bombing in August [1995]," Richard Holbrooke subsequently boasted, had "made him a private favorite of many American officials."<sup>3</sup> In Washington, Secretary of State Warren Christopher, a veteran diplomat, was replaced by Madeleine Albright, a woman determined to relive the glory days of fighting Hitler and Stalin. France was now under the leadership of Jacques Chirac, whose determination to reorient France back toward NATO made him ready to support the United States in all circumstances.

Sanctions against Yugoslavia were supposed to have been lifted following the signing of the Dayton Accords. However, through legerdemain, they were essentially kept in place. While U.N.-imposed sanctions were lifted, the United States made sure that the so-called “outer wall of sanctions” continued to apply. Yugoslavia was denied membership of the United Nations, the World Bank, and the International Monetary Fund. This served to ensure that no loans or foreign investment were forthcoming. The ostensible reason for maintaining the “outer wall of sanctions” was Serbia’s treatment of Kosovo. The U.S. House of Representatives declared that unless Serbia granted Kosovo extensive autonomy, there could be no relief from sanctions. In March 1998, a little more than two years after Dayton, the full panoply of sanctions was re-imposed on Serbia. The transition was seamless.

### BOSNIA REDUX

Western intervention in Kosovo was to follow the Bosnia script, much as Western intervention in Bosnia had followed the Croatia script, which in turn had followed the Slovenia script. There was the same insistence on interpreting a conflict that went back centuries – a conflict over nationality, land, history, and religion – as one pitting black-hearted villains against angelic victims. Key Western powers approached Kosovo, much as they had Bosnia, as if it were a human rights problem requiring a solution no more complicated than a vigorous NATO bombing. Those same powers made a show of evenhandedness even as they threw their unabashed support behind one of the parties to the conflict. There were the same take-it-or-leave-it “peace plans” – no matter how poorly thought out and illogical – backed up with threats to resort to force if lesser peoples refused to accept them unconditionally. There was the same substitution of ultimatums for diplomacy. On hand also were the politicians and reporters eager to reprise their Bosnia roles. Once again, the media coverage combined anguished outrage at the supposed atrocities perpetrated by Serbs with insouciant dismissals of atrocities perpetrated on Serbs.

Croatian nationalists had won international sympathy for their cause by blockading army barracks in order to provoke JNA retaliation. The strategy worked: the Western media tagged the once-venerated JNA as an occupation army that was bearing down on Croatia much the way the Red Army had once done in Eastern Europe. The pattern was repeated in Bosnia. Muslims used “safe areas” to attack Bosnian Serbs in order to provoke Serb retaliation.

Unquestioningly accepting Muslim claims that they had been subjected to unprovoked shelling, Western reporters, willfully credulous, would demand swift punishment of the Serbs with NATO bombs.

Kosovo was a re-run of this strategy. A ragtag paramilitary force, the so-called Kosovo Liberation Army (KLA), would attack or ambush Serb police or government officials. Serbia's security forces, following traditional counter-insurgency tactics, would launch operations against villages that also served as KLA bases. The inevitable civilian casualties would provoke NATO into issuing warnings about impending humanitarian catastrophe and threats to bomb Serbia in order to avert it. Serbia would then face a choice: surrender Kosovo to the KLA or suffer NATO bombing.

For NATO, Kosovo was to be the test of its new post-Cold War strategy of offering military solutions to non-military problems. NATO needed to justify its expensive, sophisticated military hardware but wanted to be seen to be using it for a morally worthwhile end. However, bombing could not but appear as a bizarre kind of humanitarianism. And NATO's room for maneuver was extremely limited. While the West could in theory cite alleged "foreign" (i.e., Serbian) intervention in Bosnia as a justification for its military involvement – even though it only became "foreign" as a consequence of its own misconceived recognition policy – no such justification was available in Kosovo. Kosovo was a part of Serbia and, according to the determination of the Badinter arbitration commission, there could be no forcible changes to the internal borders of Yugoslavia's republics. Yugoslavia was not threatening any other state, let alone a NATO member state. And the U.N. Charter prohibits the use of force for any purpose other than self-defense. It also bars intervention in other states' domestic affairs. The North Atlantic Treaty, NATO's founding document, follows the U.N. Charter in committing member countries to "settle any international dispute in which they may be involved by peaceful means ... and to refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes of the United Nations."

NATO attempted to square the circle by coming up with a new doctrine, one that arrived dressed up in the kind of pseudo-historical verbiage that was sure to appeal to politicians who liked to think of themselves as intellectuals. This doctrine held that NATO had the right, even the moral obligation, to interfere in the internal affairs of other states whenever such states violated the norms of international humanitarian law. States had a right to resort to force in order to enforce moral precepts.

For the legally fastidious, however, NATO offered a backup argument. International law, NATO claimed, already permits states to go to war for reasons

other than self-defense. Chapter VII of the U.N. Charter gives the Security Council dispensation to take action “with respect to threats to the peace, breaches to the peace and acts of aggression.” Thus, if the U.N. Security Council decides that the way a state is addressing a domestic problem constitutes a threat to peace, then the council can take whatever action it deems fit. Security Council-sanctioned military action can’t be called aggressive war. Of course, as it turned out, NATO effortlessly dispensed with the bit about the Security Council. NATO adapted the argument to draw the conclusion that if key NATO powers decide that a domestic crisis somewhere constitutes a threat to peace, then NATO is permitted to take whatever action it deems fit.

### OVERTURNING WESTPHALIA

According to this fancy new theory of humanitarian intervention, there was once something called the era of the Treaty of Westphalia, which lasted from the end of the Thirty Years War to the end of the Cold War. This was the era of sovereign states and it found ultimate expression in the U.N. Charter, which had enshrined the principle that member states were equally sovereign under international law. This era, the public was informed, had supposedly come and gone. National sovereignty could no longer trump human suffering. NATO Secretary-General Javier Solana articulated this doctrine with characteristic unctuous pomposity:

[W]here does the sovereignty of a state end and where does the international obligation to defend human rights and to avert a humanitarian disaster start? Humanity means orienting our policies to serve the needs of man. Indeed, one could argue that a security policy which is not constructed around the needs of man and humanity will risk the worst fate – being ineffectual. That is indeed borne out by the narrow-minded nationalistic policies that have led to so many wars in Europe. Most of the conflicts we see today are between or within states that disregard fundamental human needs. It is thus no accident that the last years have seen an increase in the demand for humanitarian actions. Yet despite the obvious need, we have found ourselves restrained by the principle of non-interference.<sup>4</sup>

Solana’s argument, though in accord with prevailing E.U. fashion, wasn’t terribly convincing. Were “narrow-minded nationalistic policies” really what led to wars in Europe? One would think the Great Powers, their imperial

rivalries, and their use of smaller states as proxies were much more plausible – and relevant – explanations. Moreover, Solana's invocation of "humanitarian disaster" to justify NATO military action was threadbare and self-serving. Three years earlier, in 1995, neither NATO nor any Western country had bestirred itself to prevent Croatia's expulsion of its Serbian citizenry. Indeed, key Western powers, notably the United States and Germany, had encouraged, even assisted, Croatia's actions.

The humanitarian intervention doctrine received a powerful boost from the pronouncements of Kofi Annan, America's handpicked U.N. secretary-general. In an important address in June 1998, at a time when the U.S. government was seeking to instill enthusiasm for bombing Yugoslavia among its European allies, Annan declared that state frontiers "should no longer be seen as a watertight protection for war criminals or mass murderers. The fact that a conflict is 'internal' does not give the parties any right to disregard the most basic rules of human conduct." This was unexceptionable. International humanitarian law does indeed apply as much to civil wars as to wars between states. But that still doesn't give states the right to intervene in other countries' internal conflicts. Annan came up with an ingenious justification for intervention. Internal conflicts, he asserted, don't stay internal for very long. They "spill over" into neighboring countries. From this, Annan drew the facile conclusion that internal conflicts may so jeopardize the security and well-being of neighboring states that the latter may have no choice but to intervene militarily in their neighbor's internal conflict. Since this was an undesirable outcome, Annan suggested, the Security Council should pre-empt such action and intervene itself. Chapter VII of the U.N. Charter assigns responsibility for ensuring international peace and security to the U.N. Security Council. Therefore, it is incumbent upon the council to decide "that the internal situation in any state is so grave as to justify forceful intervention."<sup>5</sup>

Annan's reading of the U.N. Charter was certainly debatable. To be sure, the charter is confusing. Article 2(7) says that the U.N. doesn't have the authority to "intervene in matters which are essentially within the domestic jurisdiction of any state or [to] require the Members to submit such matters to settlement under the present Charter." On the other hand, the charter quickly adds that "this principle shall not prejudice the application of enforcement measures under Chapter VII." (Chapter VII deals with the prerogatives of the Security Council to act "with respect to threats to the peace, breaches to the peace and acts of aggression.")

It is arguable therefore that, in theory at least, the charter does permit the Security Council to determine that an internal conflict poses a threat to

international peace serious enough to warrant U.N. intervention. But Annan wasn't prepared to leave it at that. He knew as well as anyone that the Security Council wasn't likely to authorize military intervention just because leading NATO powers wanted it. Russia and China would almost certainly exercise their veto. Annan therefore had to cast around for other possible candidates who may be deemed to have the right to use force on behalf of humanity. The Security Council couldn't be the only international body that could intervene in the internal affairs of U.N. member states, he argued. The "fact that the Council has this unique responsibility does not mean that the intervention itself should always be undertaken directly by the United Nations, in the sense of forces wearing blue helmets and controlled by the U.N. Secretariat." Member states or regional organizations should also get involved.

However, he added confusingly, "they need to have the authority of the Security Council behind them, expressed in an authorizing resolution."

The most widely publicized articulation of the doctrine of humanitarian intervention came from British Prime Minister Tony Blair. Speaking before the Chicago Economic Club on April 22, 1999 in the midst of NATO's bombing campaign, Blair announced that the dark days of non-interference in the internal affairs of other states were firmly in the past. Like Annan, Blair brought up the destabilizing effect of refugees as evidence that internal conflicts could no longer be considered internal. "Acts of genocide can never be a purely internal matter," he declared. "When oppression produces massive flows of refugees which unsettle neighboring countries then they can properly be described as 'threats to international peace and security.'" However, he warned, the West couldn't right every wrong in the world. There was, in other words, no need for consistency. The West could pick and choose which adversaries to take on and which wrongs to right. The international community, he argued, had to be very circumspect in deciding when and whether to intervene. Blair put forward five considerations:

First, are we sure of our case? ... Second, have we exhausted all diplomatic options? ... Third, on the basis of a practical assessment of the situation, are there military operations we can sensibly and prudently undertake? Fourth, are we prepared for the long term? ... And finally, do we have national interests involved?<sup>6</sup>

Intervention is warranted, in other words, if the Great Powers say it is warranted. Otherwise, it isn't warranted. This wasn't so much humanitarianism as opportunism.

What was astonishing was the gullibility of supposedly educated people about the alleged newness of the doctrine of “humanitarian intervention.” Great Powers have been invoking the plight of oppressed peoples to justify their conquests and wars since time immemorial. Colonial powers needed to outlaw primitive peoples’ barbaric customs. The Hearst press in the United States ran lurid and entirely fabricated stories about the supposed horrors of life in Cuba under Spanish rule. The goal was to incite United States to attack Spain, which it duly did. One of the most eloquent exponents of the doctrine of humanitarian intervention in recent times was Adolf Hitler. Hitler made a specialty of justifying aggression by invoking the alleged horrors being visited on minorities. For example, speaking on October 6, 1939, just one month after his attack on Poland, Hitler claimed that

minorities living in that country had to suffer what amounted to a reign of terror. I do not consider it my task to speak of the lot of the Ukrainians, or White Russian population, whose interests now lie in the hands of Russia. However, I do feel it my duty to speak of the lot of those helpless thousands of Germans who carried on the tradition of those who first brought culture to that country centuries ago and whom the Poles now began to oppress and drive out. Since March, 1939, they had been victims of truly satanic terrorization. How many of them had been abducted and where they are cannot be stated even today. Villages with hundreds of German inhabitants are now left without men because they all have been killed. In others women were violated and murdered, girls and children outraged and killed ... It was quite comprehensible that such a state of mind interpreted German longsuffering as a weakness, that is, that every concession on Germany’s part was regarded as proof of the possibility of some further aggressive steps ... The warning to suspend or at least to take steps against the unceasing cases of murder, ill treatment and torture of German nationals in Poland had the effect of increasing these atrocities and of calling for more bloodthirsty harangues and provocative speeches from the Polish local administrative officials and military authorities ... What the Poles had erroneously interpreted as weakness was in reality our sense of responsibility and my firm determination to come to an understanding if that at all was possible. Since they believed that this patience and longsuffering was a sign of weakness which would allow them to do anything, no other course remained than to show them their mistake by striking back with the weapons which they themselves had used for years.

In fact, invocation of high moral purpose and selflessness is the norm for Great Powers. "Civilized nations," Hegel argued, are entitled "to regard and treat as barbarians other nations which are less advanced than they are ... in the consciousness that the rights of these other nations are not equal to theirs and that their independence is merely formal."<sup>7</sup> The last thing Great Powers would want to admit is that they were picking on weaker opponents for sordid material gain or in order to intimidate others.

While NATO's spokesmen pontificated about Westphalia, its powerful PR machine went into high gear seeking to persuade the Western public about the rightness of the new strategy. The media were flooded with horrific tales of Milošević's depredations in Kosovo. Milošević embodied the Old World; he represented the nationalism and tribalism from which mankind was seeking to escape. Arrayed against Milošević were the new post-nationalist states: the United States and its junior partner, the European Union, joined at the hip in NATO. As Madeleine Albright was to put it, "I believed in the ultimate power, the goodness of the power of the allies and led by the United States. We were dealing with such a basic evil, that could not be tolerated."<sup>8</sup>

Of course, Western policymakers knew perfectly well that invocation of high-minded ideals wouldn't persuade anyone but newspaper columnists, TV pundits, and the familiar pool of think-tank "experts" of the wisdom of military intervention. Hence their sudden preoccupation with the alleged threat to international stability posed by refugees. The terrifying prospect of Europe and North America collapsing under the weight of Kosovo Albanian refugees fleeing Milošević served to justify U.S.-E.U. policymakers' histrionic, not to say hysterical, obsession with the daily goings on in a tiny, impoverished province inhabited by a variety of peoples, about not one of whom any Western leader had the slightest knowledge.

Germany's leaders, well aware of how to play on their public's anxieties, were particularly enthusiastic proponents of the mass-refugee horror story. In February 1998, German Foreign Minister Kinkel complained that his country was host to 140,000 asylum seekers of Albanian origin from Kosovo, with 1,500 to 2,000 more arriving each month. "These ethnic Albanians were 'voting with their feet' against the situation in Kosovo." The situation in Kosovo, he warned, was under close scrutiny by Germany and the United States. "We'll not tolerate that 90 percent of the population is maltreated and oppressed by the other 10 percent." Going to war with Yugoslavia was certainly an unusual method of halting the flow of refugees.

Needless to say, concerns about teeming hordes of Kosovo Albanians fearing persecution and turning up in Germany were largely bogus. For evidence, one need look no further than the rulings of Germany's courts in 1998 and 1999. The courts repeatedly denied the asylum applications of Kosovo Albanians. Over and over, the courts determined that, as there was no systematic persecution of Albanians, they weren't entitled to asylum. For example, on October 29, 1998, the Bavarian administrative court said:

The Foreign Office's status reports ... do not allow the conclusion that there is group persecution of ethnic Albanians from Kosovo. Not even regional group persecution, applied to all ethnic Albanians from a specific part of Kosovo, can be observed with sufficient certainty. The violent actions of the Yugoslav military and police since February 1998 were aimed at separatist activities and are no proof of a persecution of the whole Albanian ethnic group in Kosovo or in a part of it ... A state program or persecution aimed at the whole ethnic group of Albanians exists neither now nor earlier.

On March 11, 1999, two weeks before the start of NATO's bombing campaign, the upper administrative court in Munster said that, "Ethnic Albanians in Kosovo have neither been nor are now exposed to regional or countrywide group persecution in the Federal Republic of Yugoslavia."<sup>9</sup> What's striking about these court rulings, and there were many, is how free they were of the sanctimonious cant that filled the speeches of the politicians. As Diana Johnstone wrote, "Either the authorities were downplaying the plight of Kosovo Albanians in order to reject asylum-seekers, or they were exaggerating the plight in order to justify war. Either way, the hypocrisy is manifest."<sup>10</sup>

While playing on fears about Albanian immigrants went down well in Germany, the tactic was unlikely to prove fruitful in the United States. U.S. policymakers therefore turned to that hardy perennial: falling dominoes. Fighting in Kosovo could spread to other countries, which, in turn, could draw other powers into the conflict. Hence the bizarre conclusion: The way to avoid drawing in other powers is to get drawn in oneself. "The time to stop the killing is now before it spreads," Albright said after a meeting with Kinkel. The two statesmen pretended to be unaware of the fact that to the extent that killing had spread, it had spread not from Kosovo to Albania but from Albania to Kosovo.<sup>11</sup> The sincerity of NATO's fears about the spreading war can be gauged from its repeated refusal throughout 1998 to heed the requests of Albanian Prime Minister Fatos Nano that it send troops to guard the border between Albania and Kosovo.

A variant of the domino theory was the nightmare scenario of a war between Greece and Turkey over Kosovo. For example, on March 17, 1999, one week before the start of NATO's campaign, Walter Slocombe, U.S. undersecretary of defense for policy, spelled out this horrific tale to the U.S. House Armed Services Committee. If Milošević "pursues his campaign of brutal counterinsurgency repression," there would be a massive flow of refugees.

There is a large Albanian population in Macedonia. The danger that you will get cross-border fighting, either because the Kosovars use those countries as sources of supply or use them as sanctuaries. You'll get cross-border operations by the Yugoslav, by the Belgrade forces. That will, by definition, immediately involve Albania, Macedonia. Anything that involves Macedonia involves several countries in the region: Greece, Bulgaria, Albania, obviously ... Anything that involves fighting and instability that affects Greece affects NATO directly in the most immediate sense. It obviously has potential for Turkey.

Why stop there? This is domino theory run riot. One must assume that only pressure of time prevented Slocombe from continuing his trek around the world and bringing in other potential combatants: Iran, Pakistan, India, China. Slocombe, like other policymakers, was vague about the reasons why other countries would be drawn in. To be sure, the Albanians do have irredentist claims on Greece, but it's hard to see why Yugoslavia should be blamed for that.

Following Slocombe's logic, Britain should have been prevented from fighting the IRA because Irish-Americans were sending guns and money to Ireland. That had the potential to bring the United States into the fighting in Ireland, which, in turn, could have drawn in the Soviet Union. Such amateur geopolitical speculations were laughable. One unpleasant scenario Western policymakers seemed disinclined to entertain was the one that would most likely follow NATO intervention and the one that very nearly did take place: confrontation with nuclear-armed Russia.

NATO's bizarre argument was that the best way to avoid military intervention by others was to launch an armed attack oneself, that the best way to avoid the Balkan powder-keg from exploding was to light the fuse oneself, that the best way to contain a crisis was to exacerbate it, and that the best way to avoid a flow of refugees was to launch a bombing attack that, as anyone with any sense could foresee, would cause everyone in the vicinity to flee as far and as fast possible.

## SERBIA AND KOSOVO

The Kosovo conflict was not about human rights. It was about rival national claims to a piece of real estate. Serbia was intent on keeping Kosovo. Kosovo's Albanians were determined to secede from Serbia. The Serbs see in Kosovo the origins of their state. For the Serbs, Kosovo is sacred land. As even Warren Zimmermann acknowledged, "Kosovo is to Serbs what Jerusalem is to Jews – a sacred ancestral homeland."<sup>12</sup> On June 28, 1389, the Ottoman army crushed the Serbian army led by Prince Lazar. The defeat marked "the end of the independence of the medieval Serbian state, and the beginning of more than four centuries of harsh rule by the Ottomans over the Serbs and other South Slavs."<sup>13</sup> The Serbs created an oral tradition recounting the Kosovo battle. The legend of Kosovo served to inspire Serbs as well as other South Slavs to reject the rule of foreigners. "The battle of 1389 was described as the most vital event in the history of the people. The conflict between South Slavs and Turks, Christianity and Mohammedanism, the West and the East, became the main motif of folk poetry not only among the Serbs and Croats, but also among the Slovenes, who never fell under Turkish rule."<sup>14</sup>

To be sure, the Albanians had their own claims to Kosovo. By 1913, when Kosovo came again under Serbian rule, the Albanians were the majority population in the province. By the late 1980s, Albanians comprised something like 80% of Kosovo's population.

Western humanitarian intervention in Kosovo might have been possible. But the West would then have had to intervene in a genuinely evenhanded way. The West would have had to weigh Serbia's historical claims against the Albanians' demographic claims. Instead, NATO barged in trumpeting loudly its belief that the Serbs were monsters from whose tyrannical rule the long-suffering Albanians needed to be rescued. Rather than pursue a negotiated outcome that took into account the interests of both Serbs and Albanians, NATO, desperate to prove the efficacy of military force and hence its continuing relevance, pursued an agenda of its own, namely, a regime change in Belgrade. For NATO, Kosovo's Albanians were only of interest as a battering ram against Belgrade.

Consequently, from the start, NATO had a problem meshing the demands of the Kosovo Albanians with its own requirements. Kosovo's Albanians made it clear that they weren't prepared to settle for anything less than full independence. In 1991, Kosovo declared itself independent of Serbia. Kosovo's declaration of independence, much like that of Croatia, served the interests of the majority population but those of no one else. It offered nothing to the

Serbs or to any of the other national minorities, who all preferred to remain in Serbia and Yugoslavia.

The powerful Albanian lobby in the West, particularly the one in the United States, strongly supported Kosovo independence. However, during the 1990s the West had been committed to Badinter's stipulation, which held that the borders of Yugoslavia's republics were unchangeable and had to be taken as international frontiers. This was the basis of the West's resolute rejection of the demand of the Serbs living in Bosnia and Croatia to stay in Yugoslavia. The Bosnian Serbs were to be designated as Bosnians and the Croatian Serbs as Croats. Kosovo's Albanians couldn't very well be permitted to do something that had been denied to the Serbs. How could the borders of Serbia be changed if those of Bosnia and Croatia couldn't? The Western powers, though very sympathetic to the Kosovo Albanians, had to reject their demand for independence. Once the conflicts in Croatia and Bosnia came to an end, however, the West changed its policy.

Just as every conflict must come with its pocket-size Hitler, so must it arrive with its pocket-size Gandhi. The West found him in the professorial-looking, scarf-bedecked figure of Ibrahim Rugova. Rugova took on the role of Kosovo's Izetbegović – he was to be the moderate, reasonable, multicultural, pro-Western foil for Milošević. Throughout the decade, Western leaders conferred regularly with Rugova, lauding his statesmanship and bestowing upon him all manner of honors and awards. It was unfortunate, therefore, that the anointed leader of Kosovo was no more prepared to accept the West's oft-proffered solution of "autonomy" than any Kosovo Liberation Army commander. As David Owen pointed out, Rugova was "softly spoken and apparently reasonable but at no time did he ever give me the impression that he would settle for autonomy."<sup>15</sup> (Needless to say, this insight did not prevent Owen from repeatedly berating the Serbs for not granting "autonomy" to Kosovo and for not negotiating with Rugova.)

Throughout the 1990s, Kosovo Albanian leaders never bothered to conceal that their goal was independence, not autonomy. Already in 1981, Albanians had protested violently against Kosovo's status as an autonomous province, demanding recognition as a fully fledged Yugoslav republic with the right to secession. Now, with four of Yugoslavia's six republics recognized as independent states, Albanian nationalists were hardly likely to accept autonomy as envisaged under the 1974 constitution or to settle for becoming a third republic within the diminished Yugoslavia.<sup>16</sup>

In the late 1980s, Serbia amended its constitution and reduced the autonomy of Kosovo. However, reduction, not abolition, was the appropriate

term here. The Serbs did not abolish the Kosovo assembly; they did not dictate either the manner in which a government of Kosovo would be formed or its composition. The Serbs did not reduce Kosovo's representation either in Serbia's parliament or in any of the federal institutions. The new, 1990 Serbian constitution continued to refer to the "Autonomous Province of Vojvodina and the Autonomous Province of Kosovo and Metohija." Moreover, Serbia's assertion of sovereignty was by no means absolute. For example, Amendment XLVI said that only on the "basis of prior approval by the assemblies of the autonomous provinces" could the assembly of Serbia "pass laws which apply universally throughout the territory of the Republic." Thus, if "either of the assemblies of the autonomous provinces withhold its approval, the law shall not be applied in the territory of the autonomous province in question." Amendment XLVII said that any changes to Serbia's constitution "cannot alter the position, rights and duties of the autonomous provinces," as established by the SFRY constitution.

Serbia's reassertion of sovereignty over its autonomous province was undoubtedly a blow to Albanian national aspirations. Kosovo Albanians could be expected to react with fury, and they did. But there had been no loss of autonomy. The 1989 constitutional amendments made explicit what had been implicit in previous constitutions: republican institutions took precedence over provincial institutions.

Following the constitutional changes, Kosovo's Albanian elected representatives proclaimed Kosovo a sovereign republic and no longer a part of Serbia – a move that Yugoslavia's constitutional court declared to be unconstitutional. Serbia responded by dissolving Kosovo's assembly. Kosovo's Albanians turned around and elected to boycott all Serbian institutions and to refuse to pay taxes and utility bills. They also set up parallel health and education institutions, the standards of which, naturally, couldn't match those of Yugoslavia's public services. The parallel health system, Diana Johnstone wrote, was "so inadequate that preventable childhood diseases reached epidemic proportions ... While winning much admiration abroad, these parallel institutions remained rudimentary and failed to provide the benefits of the state institutions that were shunned."<sup>17</sup> The boycott led to wild accusations in the West to the effect that the plight of Kosovo Albanians was comparable to that of blacks in apartheid South Africa. This naturally served to reinforce the prevailing media story that the Serbs were incorrigible racists.

For a brief moment in 1996, it appeared as if the Kosovo conflict might have a happy outcome. On September 1, Milošević and Rugova signed an education accord. Parallel Albanian educational institutions were to be inte-

grated into the Serb state system and Albanian children would return to the elementary and high schools. To be sure, the agreement was unlikely to get very far. The two sides interpreted it in very different ways. The Serbs claimed that the Albanians had agreed to accept the curriculum in use in schools throughout Serbia. The Albanians insisted that they would continue teaching their own curriculum, but that they would do it in proper state-provided school buildings.<sup>18</sup>

Into this world stepped a new, violent organization. The origins of the KLA remain somewhat murky. It grew out of a Marxist-Leninist party formed in the early 1980s by Albanians living abroad called *Levizja Popullare e Kosoves*. Killings of Serb policeman began in 1995, and in 1996 an organization based in Switzerland calling itself the KLA or UCK (*Ushtria Çlirimtare e Kosovës*) claimed responsibility for these attacks. Funding came from the drug trade as well as from Albanian criminal gangs.

KLA operations consisted of hit-and-run terrorist attacks on Serbian police outposts and alleged Albanian “collaborators.” The KLA strategy was one of provoking the Serbs in the hope that this would trigger NATO intervention. KLA leaders had learned the lessons of the Bosnian war. NATO had asked the Muslims to not use the safe areas as military bases from which to launch attacks. Yet it was only Serb retaliation to these attacks that were ever punished by NATO. KLA leader Hashim Thaçi explained the strategy in the BBC documentary *Moral Combat*: “Any armed action we undertook would bring retaliation against civilians. We knew we were endangering a great number of civilian lives.”<sup>19</sup>

Western intervention was not long in coming and was characterized by the insincerity that was its distinctive feature throughout the war in Bosnia. Publicly, Western policymakers ritually spoke out against terrorism. However, their harshest condemnations were invariably reserved for the Yugoslav authorities that were seeking to stamp it out. While proclaiming their unswerving support for the sovereignty and territorial integrity of Yugoslavia, Western policymakers denied Yugoslavia the right to exercise sovereignty on its own territory. While insisting that they opposed independence for Kosovo, Western policymakers condemned Belgrade for insisting that independence be off the table in any negotiations with Kosovo Albanian leaders. While claiming to be supporters of Ibrahim Rugova’s non-violent tactics, Western policymakers pushed him aside and threw their weight behind Hashim Thaçi’s KLA. While purporting to champion a multicultural, multiethnic, multiconfessional Kosovo, Western policymakers cheerfully turned a blind eye to the massive ethnic cleansing of non-Albanians from Kosovo that took place on their watch.

## SERBIA AND ALBANIA

From 1992 to 1997, Albania was ruled by Sali Berisha who, like the Albanians in Kosovo, speaks the Gheg dialect. The majority of Albanians speak the Tosk dialect. According to an International Crisis Group report, “Berisha made the national question a priority and forged strong links with the Kosovo Albanian leadership ... As a Gheg, with family ties to Kosovo Albanians, Berisha attached greater priority to unification with Kosovo than did many Tosk politicians.”<sup>20</sup> In 1997, Berisha was forced to resign following the collapse of various pyramid investment schemes that his government had encouraged. The state system disintegrated and Albania descended into anarchy. Looters raided army and interior ministry warehouses and depots and seized some 750,000 weapons. Most of these arms ended up in the hands of the KLA. As a result, not only did the KLA for the first time have a mass of weaponry at its disposal, it could run, without disturbance from Albanian security forces, training facilities in northern Albania near the border with Kosovo.

The May 1997 elections in Albania brought to power the socialist government of Fatos Nano. Nano, a Tosk, took a different approach to Kosovo than had Berisha. He wasn't preoccupied with the Albanian national question. As a consequence, relations with neighboring Greece and Macedonia, both of which are home to a substantial Albanian minority, improved. Crucially, Nano repaired relations with Yugoslavia. In November 1997, during a regional summit on the island of Crete, Yugoslavia and Albania normalized relations with one another and Nano came out in support of Kosovo becoming a third republic in Yugoslavia. He also stated that he considered Kosovo to be an internal Yugoslav matter. The Albanian foreign ministry started to refer to the KLA as “terrorists,” not as “freedom fighters” as it had done under the Berisha regime. Relations between Tirana and Kosovo Albanian leaders cooled. The Associated Press reported that Ibrahim Rugova had taken strong exception to “Nano's statement that the problems of Kosovo Albanians were a Yugoslav issue.” According to Rugova, “Nano's statement is incompatible with the political views and standings of Kosovo Albanians.” Albania had an obligation to acknowledge Kosovo's 1991 independence proclamation.<sup>21</sup>

Instead of the “red carpet treatment previously accorded to them under the Berisha administration, visiting Kosovo Albanians now make their appointments with government officials through the Kosovo ‘embassy’ in Tirana.”<sup>22</sup> However, the Nano government was scarcely in control of the country. Looting of arms depots continued, and the KLA went on operating out in the open in northern Albania beyond the reach of Tirana. Albanian border

towns were largely inhabited by people with relatives in Kosovo. This ensured a smooth transfer of arms into Kosovo. As a result, "any Albanian border patrols trying to apprehend Kosovo Albanians smuggling weapons into Kosovo would themselves be attacked by armed local inhabitants. In effect, Albanian border guards ... can do little but monitor the comings and goings of KLA fighters."<sup>23</sup>

Albania's reconciliation with Yugoslavia proved to be short-lived. The idea that the problem of Kosovo might be resolved under auspices other than that of NATO was anathema to the Western powers. On November 19, 1997, barely a fortnight after the Crete meeting, the E.U. intervened. German Foreign Minister Klaus Kinkel and French Foreign Minister Hubert Védrine wrote a letter to Milošević urging him to grant Kosovo special status. The Kinkel-Védrine letter was reminiscent of the Kinkel-Juppé initiative of November 1993, which dangled the possibility of a lifting of sanctions against Yugoslavia in return for a "modus vivendi" in Croatia. The E.U.'s failure to secure "special status" or "autonomy" for Croatia's Serbs did not stop Kinkel from, once again, issuing ultimatums and evanescent promises.

"Only a solution negotiated between representatives of the Federal Republic of Yugoslavia (Serbia and Montenegro), the Republic of Serbia and the Albanian community of Kosovo can lay the foundation for a stable and durable peace in the region and a third party, acceptable to the negotiating partners, should take part in the talks," Kinkel and Védrine wrote. In return, the ministers promised with customary E.U. vagueness, the "international community will react positively to any progress made towards a peaceful settlement to the problem of Kosovo."<sup>24</sup> Among measures they would consider were restoration of diplomatic relations between the E.U. and Yugoslavia and support for Yugoslavia's drive to rejoin the Organization for Security and Cooperation in Europe (OSCE). The E.U. had thus acted swiftly to undercut Nanno's attempt to allow Belgrade and Pristina to resolve the problems of Kosovo. The Kinkel-Védrine demand for outside participation – obviously U.S.-E.U., since no one else would be acceptable to the Albanians – in the proposed talks served to assure the Kosovo Albanians that the Western powers would be more committed to their cause than the government of Albania was.

Yugoslavia angrily rejected the Franco-German initiative. This couldn't have come as a surprise. No other country had had to endure such a flagrant violation of its sovereignty. No one had presumed to demand that Britain accept international mediation over Northern Ireland. Nor would Russia have tolerated such intervention over Chechnya, or China over Tibet. Croatia had not bothered to consult the "international community" before it expelled the

Serb population of Croatia. Kinkel and Védérine couldn't seriously have expected their proposal to get very far. The E.U. achieved something significant, though, through the foreign ministers' intervention. The E.U. had succeeded in casting the Serbs as the obdurate, unreasonable party even though it knew perfectly well that the Kosovo Albanians had no interest either in special status or in autonomy.

Rugova did not hesitate to express his lack of enthusiasm for the E.U. initiative. "We have to respect the political will of the people for independence, expressed in the [unofficial] 1991 national referendum," he said.<sup>25</sup> This didn't stop the West from raising the stakes and publicly admonishing Belgrade for the "tensions" in Kosovo. On December 9, during a peace implementation conference on Bosnia held in Bonn, representatives of 51 countries adopted a document deploring the "escalating ethnic tensions" in Kosovo. The Serbian delegation walked out of the conference in protest, which, doubtless, was the whole purpose of the exercise. The Serbs' gesture, as expected, was reported as further evidence of their intransigence and bloodthirstiness.

Meanwhile in Albania, Berisha, now in opposition, continued to support and to help arm the KLA. His family farm, the *New York Times* reported,

has become a base for the Kosovo Liberation Army ... Mr. Berisha's decision to turn over his birthplace to the rebels is part of his skillful manipulation of the crisis in Kosovo to mount a political comeback, Western diplomats say ... The stone farmhouse here, two miles south of Tropoje, with a red tile roof and small, narrow windows, was surrounded this morning with dozens of pack horses and 30 young men who were being issued AK-47 assault rifles from an underground bunker in a field.<sup>26</sup>

Berisha called the KLA's fight in Kosovo a "holy war" and denounced Nano as an "enemy of the Albanian nation" for failing to throw his weight behind the KLA.

The Nano government in Tirana, understandably, grew increasingly anxious about the deteriorating security situation in the north of the country. Unhappy about his government's inability to control large swathes of Albania's territory, let alone its borders, and seeking to stop arms smuggling into Kosovo, Nano asked NATO to station troops along Albania's border with Yugoslavia. NATO, usually eager to embrace a new mission, turned Nano down. NATO officials told him that the border was quiet and that there was no "urgent requirement" to send troops.<sup>27</sup> Paddy Ashdown was also a little surprised at NATO's strange reluctance to get involved. During the Milošević

trial, he recounted how, following a visit to the Kosovo-Albania border in June 1998, he urged Blair to do something about the arms smuggling:

[W]hen I ... made my report to the British Prime Minister, I recommended that if we wished to stop the actions of the KLA, which were destabilizing Kosovo at the time, that the way to do this would be to assist the Albanian government to ensure that the rule of law did run in the area of Bajram Curiju and Trepoje, and that we should assist in that process. I regret that that recommendation was at the time not followed, because it is the only way that I think could have, at this stage, acted in a way which would have brought about the conditions for peace.<sup>28</sup>

Ashdown's disclosure provides an interesting insight into the sincerity of Western professions of peaceful intent.

#### RETURN OF THE CONTACT GROUP

Early in 1998, the Contact Group of Bosnia was re-established. Pressured by the United States to target Milošević, the group fell into line without any resistance. Five of the group's six members, after all, were NATO powers and pursued a NATO agenda. To be sure, the group included Russia, but her membership was largely symbolic. Russia's disagreements with this or that proposal were noted and then ignored. Russia's reluctance to go along with her NATO partners could always be discounted as little more than an atavistic spasm stemming from her emotional bond with fellow Slavs or from the Eastern Orthodox faith that she and Serbia shared.

Of course, these dismissive explanations raised a question: why was Russia the only Slavic nation driven by ethnic solidarity? The wars in Croatia and Bosnia were fought among Slavs; newly inducted NATO members Poland and the Czech Republic, both Slavic nations, seemed to have no problem joining the 1999 NATO campaign against their fellow Slavs; and Serbia's Slav neighbors gleefully cheered on NATO's bombers on their way to Belgrade. Nor was there a great deal of Slavic solidarity during the Cold War (or even between the two world wars) when Yugoslavia and the USSR weren't exactly the closest of allies. That Russia's objections to NATO's policy may have been based on something more principled than simple tribal unity was, of course, a notion too outrageous to entertain seriously.

The Contact Group assembled in Washington on January 8. Following the meeting, the group announced that it “would continue to focus on Kosovo as a matter of high priority.” It condemned “both violent repression of non-violent expressions of political views and terrorist actions to achieve political goals.” At its subsequent Moscow meeting on February 25, the group again condemned the “violent repression of non-violent expressions of political views” as well as “terrorist actions.” These actions, the group pointedly noted, included “those of the so-called Kosovo Liberation Army.” The Contact Group also called on “both sides” to “be reasonable and flexible and focus on immediate steps to reduce tensions.”

This relatively evenhanded approach was not at all to the liking of the United States or Germany. They insisted that the Serbs be identified as the chief culprits in Kosovo, that Milošević be singled out for denunciation, and that the threat of NATO intervention be front and center in future Contact Group pronouncements. The Yugoslav leader, as was well known, only understood the language of force.

On March 5, just a few days ahead of the next scheduled meeting of the Contact Group in London, U.S. State Department spokesman James Foley denounced as “outrageous” the Serbs’ “excessive use of force” and announced the U.S. was reversing its decision to allow Yugoslavia to open a consulate, land its national airline in the United States, and expand the Yugoslav diplomatic mission to the United Nations. That same day, NATO issued a statement saying it was “profoundly concerned by the violent incidents” taking place in Kosovo. And, it added menacingly, “NATO and the international community have a legitimate interest in developments in Kosovo, inter alia because of their impact on the stability of the whole region which is of concern to the Alliance.” Germany’s foreign minister, Klaus Kinkel, called for an emergency meeting of the U.N. Security Council to discuss the situation in Kosovo.

On March 7, Madeleine Albright, newly installed as secretary of state, called for “decisive and firm action” against Serbia in order to end the violence. Giving voice to her familiar anti-Serb animus, she declared that, “We are not going to stand by and watch the Serbian authorities do in Kosovo what they can no longer get away with doing in Bosnia.”

Yet what was going on in Kosovo to merit these threats and heated denunciations? Yugoslav authorities were fighting a terrorist group seeking independence. Arms were pouring across the border from a neighboring country. Doubtless the war was brutal and doubtless innocent civilians had been killed. But no government in the world would stand idly by, lose control of its borders, and allow a guerrilla organization to take over a region on its

sovereign territory. Here's a contemporaneous account from the *New York Times* (hardly a pro-Serb outlet) from March 2 describing what was taking place in Kosovo:

The armed movement, also known as U.C.K. for its initials in Albanian, was organized six years ago to fight for independence and closer affiliation with Albania ...

The rebel group carried out its first attack in 1993, but it was not until the middle of last year that it began to mount regular and sustained assaults. In the last few months the rebels have overrun more than a dozen police stations, carrying away scores of automatic weapons. They have attacked many police patrols and checkpoints and claim responsibility for the assassinations of more than 50 Serbian policemen and officials, as well as of ethnic Albanians suspected of collaborating with the Serbian authorities.

The Serbian authorities say the hundreds of thousands of ethnic Albanians abroad provide money for the rebel movement. They say the rebels find sanctuary in Switzerland as well as Albania, where local lawlessness and official sympathy have permitted hundreds of looted weapons to be smuggled over the border into Kosovo.

There is evidence to support Serbian charges, including a fund-raising event for the rebels in Brooklyn on Feb. 11. The event, at an Albanian-American community meeting, netted \$16,000 for U.C.K. representatives visiting from Switzerland.<sup>29</sup>

Moreover, casualties at this stage were fairly limited, certainly not on a scale to warrant the overwrought statements emanating from the likes of Albright and Kinkel. According to U.N. Secretary-General Kofi Annan's report, as of June 4, 1998 – three months after Albright's blustery comments – estimated total casualties in Kosovo were “approximately 200 since fighting broke out there last February.”<sup>30</sup>

March 1998 was the turning point. Up to that time, the United States had more or less adhered to the Contact Group line that, though the Serbs were the most to blame for the violence in Kosovo, the KLA was nonetheless a terrorist organization with which no respectable state could have any dealings. During a visit to Kosovo on February 22, U.S. special envoy for the Balkans, Robert Gelbard, described the KLA as “without any question, a terrorist group.”<sup>31</sup> On March 10, however, during a press briefing, State Department spokesman James Foley distanced the U.S. government from such a characterization. Asked whether the KLA was a terrorist group, Foley responded:

No, we've not taken that decision. What we have said is that specific acts, terrorists acts, have been committed in Kosovo over the last weeks and months perhaps, but we've not made that determination ... To make a determination, as the secretary must about the status of groups as terrorists organizations or not, requires a significant amount of study, of legal analysis, of judgment over time to make that kind of an assessment.

Doubtless Foley was referring to the kind of significant study and legal analysis that Washington unfailingly undertook each time it accused Belgrade of massacres, ethnic cleansing, and genocide. Pressed by reporters to explain how a group that commits terrorist acts could at the same time not be a terrorist group, Foley engaged in the kind of apologetics and sophistry that U.S. spokesmen usually denounce as morally reprehensible when engaged in by others:

There have been terrorist acts committed against innocent civilians. We're not denying that in any way. But, let's look at the larger picture here. What's really happening is that Belgrade has refused to engage in a dialogue over the future status of Kosovo, a status that would meet the legitimate political needs of the people there. And that is the root cause of the instability. And it is hypocritical for Belgrade to claim that as a pretext to try to excuse the outrageous repression that's occurred there in the last few weeks.

On March 12, Gelbard echoed the new line while testifying before the House International Relations Committee: "Unfortunately and tragically, terrorist acts have occurred and they've provided the excuse for Milošević here. But, as I said, there is no question ... at all that the overwhelming brutal, repressive, despicable violence, the criminal actions, I believe, committed by the Federal Republic of Yugoslavia here are responsible for the tragedy we have at hand right now." The violence of Gelbard's language is illuminating, particularly in light of the war on terror that the United States was to declare not long afterward. In the case of the 9/11 terrorist attacks, evil terrorists carried out heinous acts to which America responded with bold and righteous action. But in Yugoslavia the terms were reversed: On one side were "terrorist acts." These were unfortunate and tragic. On the other side were the actions the authorities took in response: these were "brutal," "repressive," "despicable," and "criminal."

By March 1998, it was becoming clear that the United States was getting ready to use force against Yugoslavia. There had been a dramatic escalation

in the number and the intensity of the vituperations directed at Belgrade. Not only were Serbs brutal, despicable, and criminal, they also refused to make any concessions or even to engage in any negotiations. In March 1998, Washington began carefully to construct a fictional storyline, according to which Kosovo Albanians wanted nothing more than autonomy and the right to speak their own language, which the Serbs were brutally denying them. Western leaders knew perfectly well that this was a falsehood. The Kosovo Albanians had no interest in autonomy and they could already use their language without restriction. Nonetheless, Western leaders, helped along as usual by a compliant media, succeeded in persuading the public that it was the beastly Serbs who weren't prepared to discuss anything as eminently reasonable as autonomy.

On March 10, for example, the Serbian government offered to hold an "open and public dialogue" with Kosovo Albanian leaders. However, Serbian officials insisted that Albanians first "accept the constitution of Serbia and thereby Serbia as their state and denounce the call for secession." In other words, the Serbs wouldn't sit down to discuss an agenda that included independence for Kosovo. This was a position very much in conformity with the resolutions of the U.N. Security Council and the statements of the Contact Group. Rugova responded to the Serbian government offer with the statement that, "A political solution within Yugoslavia is not a solution. Autonomy would only be a source of new conflicts." He added that he would accept only "an unconditional dialogue" with international mediation.<sup>32</sup>

The State Department rushed to dismiss the Serb offer of talks as a "propaganda exercise." Spokesman James Rubin said, "the Belgrade authorities are proposing things that are designed to fail." What were these things? "Belgrade's offer," he explained, "involved only representatives at the level of the Serb Republic and not the level of the FRY." The Kosovo Albanians, he explained, "believe this would arbitrarily limit their options in any discussions." (This wasn't true, as Rubin well knew. The Albanians were asking for "unconditional" negotiations and "international mediation.") In any case, Rubin went on, the offer "consisted in large part of a justification for the use of force in Kosovo and contained no hint of remorse for the deaths of innocent Albanian victims." So, the United States was now imposing a new condition for talks: before the Kosovo Albanians could be expected to sit down to talk, the Serbs would first have to express remorse for having killed "innocent Albanians."

The U.S. government had pulled off a remarkable propaganda coup: it had managed to persuade the Western public that the Serbs were refusing to grant

autonomy to Kosovo when it was the Albanians who were refusing even to discuss autonomy. The United States had also managed to persuade the public that it was Belgrade that was refusing to engage in unconditional dialogue even though it was the Clinton administration that was imposing a variety of – essentially frivolous – conditions, guaranteed to ensure that no talks would ever take place. Henceforth, Albanian refusal to negotiate about anything other than Kosovo independence would be blamed on the Serbs and would constitute another reason to threaten them with NATO bombs.

Though Washington and its allies knew perfectly well that Yugoslav forces were conducting a counter-insurgency operation against a terrorist group, they continued to mislead the public by suggesting that Belgrade was attacking ethnic Albanians, a campaign undertaken for no reason other than malevolence and racism. On March 11, State Department spokesman Rubin accused the Serbs of engaging in “ethnic cleansing” in Kosovo. Asked to elaborate, he explained that “when civilians and people are targeted and killed based on their ethnicity and driven out of their homes based on their ethnicity, that is, in my book, ethnic cleansing.” This was a total absurdity, as the quiescent members of the press corps must surely have realized. The KLA and those who facilitated the operations of the KLA weren’t targeted because of their ethnicity but because they were armed insurgents. Following Rubin’s logic, one could argue that since Allied forces in Europe during World War II targeted only Germans, they must have singled them out for no reason other than their ethnicity.

Following its March 9 meeting in London, the Contact Group issued a statement that went beyond complaints about “violent repression of non-violent expressions of political views.” The group now condemned Belgrade for “the use of excessive force by Serbian police against civilians.” Sententiously, the group declared: “Our commitment to human rights values means that we cannot ignore such disproportionate methods of control. Government authorities have a special responsibility to protect the human and civil rights of all citizens and to ensure that public security forces act judiciously and with restraint.”

For good measure, the group also condemned “terrorist actions by the Kosovo Liberation Army” and insisted that “those outside the FR Y who are supplying finance, arms or training for terrorist activity in Kosovo should immediately cease doing so.” However, in accordance with a familiar routine, it reserved punishment exclusively for the Yugoslav government. Belgrade was ordered to “invite independent forensic experts to investigate the very serious allegations of extrajudicial killings.”

Naturally, in light of the Contact Group member countries' "commitment to human rights values," they felt "compelled to take steps to demonstrate to the authorities in Belgrade that they cannot defy international standards without facing severe consequences." These steps included: a request for the "Prosecutor of the ICTY to begin gathering information related to the violence in Kosovo that may fall within its jurisdiction"; a call for a total arms embargo against Yugoslavia; denial of visas for "senior FRY and Serbian representatives responsible for repressive action by FRY security forces in Kosovo"; "refusal to supply equipment to the FRY which might be used for internal repression, or for terrorism"; a "moratorium on government-financed export credit support for trade and investment, including government financing for privatizations, in Serbia." To top it off, the Contact Group also called for "the return of the OSCE long-term missions to Kosovo, the Sandžak and Vojvodina," – thereby putting two other regions of Serbia into play.

The Contact Group also ordered Milošević to begin "unconditional dialogue" with Kosovo Albanian leaders on the "status of Kosovo," who, as the Contact Group well knew, refused to negotiate unless independence was on the agenda. Since there was no possibility of such talks getting off the ground, their failure would inevitably serve to justify further Contact Group/NATO intervention.

### THE ICTY JOINS THE FRAY

On March 10, immediately following the Contact Group meeting, Louise Arbour got in on the act and asserted ICTY jurisdiction over the "recent violence in Kosovo." She announced that she was already "gathering information and evidence in relation to the Kosovo incidents and [would] continue to monitor any subsequent developments." Arbour's statement was widely praised and helped to intensify public animus toward the Serbs – as of course it was intended to do. What she said, though, made little legal sense. Violations of international humanitarian law – her remit, supposedly – can only occur in war, whether civil or international. There was no way that the skirmishing taking place at that time in Kosovo could be termed a war.

The applicable international humanitarian law on civil war is quite explicit on this issue. Article 1 of the Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), adopted in 1977 but never ratified by the United States, states that the protocol applies to *armed conflicts*

that take place in the territory of a signatory state. An armed conflict is what occurs “between [a state’s] armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations and to implement this Protocol.”

The protocol explicitly states that it does not apply “to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence.” It is hard to see how the few hundred (at most) fighters that comprised the KLA at that time could have been said to be under “responsible command” and able to conduct “sustained and concerted military operations.” Indeed, Veton Surroi, editor-in-chief of the Albanian-language newspaper *Koha Ditore*, the recipient of awards from such U.S. government-funded entities as the National Endowment for Democracy, and a long-standing favorite of Washington, dismissed claims that the KLA was an organized force. “The KLA is a movement of several small groups of desperate Albanians who have guns and are fed up with the Serb regime,” he said at the time.<sup>33</sup>

Least of all was the KLA capable of implementing the protocol, in other words of enforcing international humanitarian law through a system of courts. Certainly, the British government had never accepted that the crisis in Northern Ireland merited the label “armed conflict” to which the Geneva Conventions applied.

However, Arbour’s intervention was to prove significant. By asserting that the fighting in Kosovo rose to the level of an “armed conflict,” she legitimized the KLA as a genuine combatant entitled to all of the rights accorded to combatants. In addition, overnight, such KLA practices as the killing of policemen and government officials and the ambushing of police vehicles became labeled as attacks on legitimate military targets rather than as acts of terrorism.

Arbour would have served justice better had she paid heed to, and warned NATO about, Article 3 of the protocol:

1. Nothing in this Protocol shall be invoked for the purpose of affecting the sovereignty of a State or the responsibility of the government, by all legitimate means, to maintain or re-establish law and order in the State or to defend the national unity and territorial integrity of the State.
2. Nothing in this Protocol shall be invoked as a justification for intervening, directly or indirectly, for any reason whatever, in the armed conflict or in the internal or external affairs of the High Contracting Party in the territory of which that conflict occurs.

In other words, according to its remit, the ICTY had no business barging in on a government policing operation. The ICTY isn't the American Civil Liberties Union or the National Council for Civil Liberties. Not for the first time, and certainly not for the last, the ICTY had lent itself to shoring up support for NATO's propaganda campaign.

Much as in Bosnia, Western policymakers, reporters, and columnists unquestioningly accepted one side's claims and discounted those of the other side. The experience of Bosnia should have taught them that horror stories are a weapon of war and, as such, not necessarily true. Where the campaign to win world sympathy is as fierce as anything taking place on the battlefield, the release of falsehoods and wildly exaggerated atrocity stories is as much an act of war as the lobbing of a mortar. Lurid tales of Serb paramilitaries executing men, raping women, and poisoning children were relayed swiftly to Western officials who were invariably on hand to choke back tears and shake their fists at Belgrade without making the slightest effort to check the truthfulness of the allegations. And reporters, with Pulitzer Prizes beckoning, outdid one another in tales of "killing fields," "mass graves," "ethnic cleansing," and "genocide."

Yet the dubious nature of many of the allegations of human rights abuses in Kosovo should have been apparent from the sources that were transmitting them. Many of the stories originated in Kosovo Albanian organizations that had been lavishly funded by the U.S. government. One regular recipient of subventions from the U.S. government-funded National Endowment for Democracy was the Kosovo-based Council for the Defense of Human Rights and Freedoms. During the 1999 NATO bombing, this organization was crucial in providing uncorroborated, often false, accounts of bloody Serb rampages. Its "activists were often the first to interview refugees arriving in Macedonia. Journalists later cited the council's missing-persons list to support theories about how many people died in Kosovo," the *Wall Street Journal* reported.<sup>34</sup> But those numbers weren't based on any credible data, since the organization never released lists of missing persons. It was the council, for example, that put out the bogus tale of Serbs dumping dead Albanians down the Trepča mineshaft. Deutsche Welle carried the report in Albanian. A U.S. embassy official in Athens said there were "witnesses and still photos" of trucks carrying bodies. The media ran with the story, happily corroborated by a Pentagon spokesman who, when "quizzed about Trepča at the time, said, 'There have been several reports throughout the last 10 weeks of bodies being burned in former industrial sites in Kosovo.' Some commentators stated the theory as fact."<sup>35</sup> The story was a concoction from start to finish.

## BELGRADE IN THE CROSSHAIRS

The measures the Contact Group took against Belgrade on March 9 weren't enough for the United States. On March 19, the Clinton administration demanded that Yugoslavia withdraw all of its security forces from Kosovo. Should Belgrade refuse, additional sanctions would be imposed. Deputy Secretary of State Strobe Talbott grandly declared that, "The United Nations, the OSCE, the European Union and the Contact Group ... are all working in concert to prevent the brutal policies of Belgrade from triggering a fourth Balkan war this century." That same day, U.S. envoy for the Balkans, Robert Gelbard, contemptuously declared that the Yugoslav government did not "deserve to join the community of nations and well deserves instead its isolation."<sup>36</sup>

At its next meeting on March 25, in Bonn, Germany, the Contact Group, after again engaging in its customary moral symmetry routine – "Violence does not contribute to the search for a solution in Kosovo. This applies equally to Serbian police and Kosovar Albanian extremists" – made clear yet again that it would hold only Belgrade accountable for the violence in Kosovo: "Belgrade authorities cannot ... justify their repression and violence in Kosovo in the name of antiterrorist activities. We repeat that the way to combat terrorism is for Belgrade to offer the Kosovar Albanian community a genuine political process."

A tediously familiar pattern was now in place: the KLA would mount an attack; the Serbian authorities would respond with force; the United States and the Contact Group would come out with a statement condemning the excessive use of force and calling for the withdrawal of Serbian security forces; NATO would follow up with an announcement that it was getting ready to launch air strikes against Serbia. The upshot was that the Contact Group and NATO had given the KLA every incentive to continue and indeed extend its terror campaign. Militarily, the KLA was achieving very little, but politically it was triumphing.

On March 31, the U.N. Security Council adopted Resolution 1160, which imposed an arms embargo on all parties in Yugoslavia – but, significantly, no sanctions. Unlike the numerous Bosnia resolutions, 1160 pointedly did not call on member states "acting nationally or through regional organizations and arrangements ... to take all necessary measures" to ensure compliance with the resolution. In other words, no task had been assigned to NATO. This didn't stop NATO from issuing statements proclaiming its readiness to bomb Belgrade in the name of enforcing U.N. resolutions. There was nothing in Resolution 1160 calling on any party to use force to secure its enforcement.

NATO policy was running contrary to that of the Security Council. In Bosnia, the Security Council had dispatched a U.N. mission that, supposedly, required NATO protection. But there was no U.N. mission in Kosovo and thus no one in need of NATO assistance. In fact, the only mission NATO had been asked to perform was the one it was most reluctant to perform and the one that would have been the most in keeping with the tenor of Resolution 1160: monitoring the Yugoslavia-Albania border.

On April 29, ahead of a Contact Group meeting in Rome, Albanian leader Nano made his most urgent request yet for a NATO presence in Albania. In a letter to Lamberto Dini, the Italian foreign minister, Nano said "The situation (on the border with Kosovo) ... leads us to think that the presence of NATO in Albania is greatly needed as a factor of pressure and security against the conflict."<sup>37</sup> The Contact Group turned him down and came up with a better proposal: sanctions against the Serbs. The United States had already announced that if the Contact Group refused to "go along with a tough package of sanctions, [it] was prepared to take action on its own." The Contact Group duly deplored the "increase in violence in recent days," the "excessive use of force by the Yugoslav Army," and "the introduction of arms and armed groups from outside" (since the Contact Group didn't specify what or who these were, one must assume the reference was to the KLA).

The group commended Belgrade and Pristina for their "general willingness to open an unconditional dialogue." However, it noted that the "two sides have yet to agree with full authority on modalities for talks, particularly on the issue of international participation." The remedy for this deficiency? An immediate freeze on Yugoslavia's assets, plus the threat of a ban on all foreign investment within 10 days in the event of the group concluding that "dialogue is blocked because of Belgrade's non-compliance" – a low threshold of proof would suffice, needless to say. Russia, to its credit, refused to associate itself with these measures.

NATO also turned Nano down, promising instead to open a three-man NATO/Partnership for Peace office in Tirana, which would oversee implementation of Albania's specially tailored Partnership for Peace program. Albania's very real security concerns took second place to the immensely urgent matter of facilitating the country's eventual membership of NATO.

On May 15, Milošević met with Rugova. The next day, at its meeting in Birmingham, the Contact Group announced that, in light of this opening of a dialogue, it wouldn't put into effect the ban on new investment. The group promised that at the next meeting there would be a review of the implementation of the freeze on funds. This eminently reasonable step, suggesting as it

did that NATO bombing may be averted, aroused the fury of the interventionist crowd. Within days, the International Crisis Group (a so-called NGO but one staffed by retired generals, powerful financiers, and out-of-office politicians from NATO countries) came out with a report blasting the Contact Group for its timidity.

The United States was taking no chances. On June 10, two days ahead of the next scheduled Contact Group meeting, the Clinton administration announced that the United States was going ahead with implementation of the freeze of Yugoslav assets and the ban on new investment in Serbia. In addition, it would seek to restrict Yugoslavia's access to international financial institutions. Yugoslavia's use of excessive force in Kosovo, the administration declared, had "exacerbated ethnic conflict and human suffering and threatens to destabilize other countries in the region ... This threat to the peace of the region constitutes an unusual and extraordinary threat to the national security and foreign policy of the United States." A minor conflict thousands of miles away in a tiny, impoverished province that almost no one in the United States had ever heard of, much less be able to locate on an atlas, posed *an unusual and extraordinary threat to the national security and foreign policy of the United States*? One would be hard put to make such a claim and keep a straight face. In the rarefied world of foreign policy analysts, however, such absurdities are accepted with grave nods of the head and calls for the immediate dispatch of NATO aircraft.

Needless to say, the Contact Group followed Washington's lead and announced at its London meeting on June 12 that it, too, would go ahead with the freeze on assets and the ban on new investment. In addition, it would ban flights by Yugoslav carriers between member countries and Yugoslavia. The Russians again refused to associate themselves with these actions. As justification, the Contact Group cited the fact that Yugoslav security forces had "again intervened indiscriminately causing many civilian casualties and forcing tens of thousands of inhabitants to flee their homes."

Neither the Clinton administration nor the Contact Group bothered to investigate the events that had led up to the Yugoslav authorities' intervention. The mere assertion that it was indiscriminate and that its target was innocent civilians sufficed. Like the war in Bosnia, the Kosovo conflict was treated as a prize fight in which one of the contestants was always invisible. The Serb forces were the only ones landing any blows. The U.N. secretary-general's report, published on June 4, described the situation very differently:

The Kosovo Liberation Army has increased its attacks in recent weeks, and has shown an increased propensity and ability to attack government security forces. It has issued threats against police and military, as well as against Kosovo Albanians who allegedly cooperate with the authorities of the Federal Republic of Yugoslavia. Killing and abductions of civilians and police personnel are reportedly continuing on a daily basis in different parts of Kosovo. There are also reports of attacks directed against civilian population centres. The increased number of acts of violence on both sides and the heavy presence of the Serbian police, including special police units, as well as military forces, have been generating insecurity among the local population.<sup>38</sup>

This account suggests that Yugoslav authorities had very real security concerns that required their urgent attention. It was hard to see, therefore, how the Contact Group, without any investigation, could have arrived at the conclusion that Belgrade had “intervened indiscriminately.” U.N. observers on the spot had reported nothing of the sort.

There were some amusing aspects to the Contact Group’s posturing. In their June 12 statement, the foreign ministers warned Belgrade to “cease all action by the security forces affecting the civilian population and order the withdrawal of security units used for civilian repression.” Otherwise, “there will be moves to further measures to halt the violence and protect the civilian population, including those that may require the authorization of a United Nations Security Council resolution.” This chilling threat suggested possible resort to force. However, the likelihood of Security Council authorization for the use of force against Belgrade was slim to none. Consequently, the United States, in the person of its defense secretary, William Cohen, pre-empted the Contact Group’s warning by putting out a statement saying that NATO didn’t actually need any U.N. authorization to use force against Yugoslavia. According to a CNN report, Cohen was asked how NATO intervention could be justified. Cohen replied, “It could, strictly speaking, be collective defense in terms of the instability that could be created by the continuation of the situation.”

To make sure everyone got the message, on June 11, NATO defense ministers decided to conduct air training exercises, including simulated air attacks, over Albania and Macedonia. The aim, NATO explained, was to demonstrate “NATO’s capability to project power rapidly into the region.”

To top off a busy day, NATO Secretary-General Javier Solana issued a statement declaring that “President Milošević has gone beyond the limits of tolerable behavior.” NATO, therefore, had to “prepare to go further if required.” NATO would examine how it can use its “full range of military capabilities” to

“halt the systemic campaign of violent repression and expulsions” in Kosovo, “to support international efforts to secure a cessation of violence,” and to “help to create the conditions for serious negotiations that can achieve a lasting political settlement.” NATO, Solana promised, would “study and prepare for a wide range of military options including the possible use of NATO air power and the deployment of NATO ground forces into Kosovo.”<sup>39</sup>

NATO offered no details as to where these “ground forces” would come from, what exactly bombing would achieve, or how deployment in Kosovo without the consent of the Yugoslav government could be called anything other than armed invasion. That “NATO air power” and “NATO ground forces” would “create the conditions for serious negotiations” and “a lasting political settlement” is conventional wisdom among U.S. policymakers and their NATO acolytes. Its authoritative standing is understandable: the claim isn’t susceptible to disproof. Failure to achieve the desired result is invariably taken as evidence of the need for a more ruthless application of the strategy.

Bombing was the path that led from instability to stability. Or so NATO insistently claimed. But NATO had signally failed to explain what it meant by “stability” without resorting to circular reasoning. Milošević caused instability; therefore, bombing Milošević would lead to stability. Thus the sophisticated NATO scenario: first, it would threaten to use force. Second, Milošević would accept whatever NATO demanded. Third, the Serbs, their national pride injured, would overthrow Milošević. Alternatively, first NATO would threaten to use force. Second, Milošević would refuse to accede to NATO demands. Third, NATO would bomb. Fourth, the Serbs, aghast at the bombs raining down on them, would overthrow Milošević.

During a press briefing on July 7, State Department spokesman Rubin was asked to explain the justification for military action against Yugoslavia. He replied: “We believe that there is a threat to international peace and security that has been created by the refugees pouring out of the borders. There are tens of thousands of refugees in neighboring lands.” Refugees at least had some bearing on “stability.” However, given the massive flow of refugees that NATO bombing could be expected to trigger – and in fact did so – Rubin’s rationale illustrated just how transparently flimsy NATO’s justifications were. How could NATO bombs possibly stop the flow of refugees? NATO had no answer because it had no strategy other than to use bombing as threat or punishment: the bombs, or the threat of bombs, would be so terrifying that the Serbs would soon be begging for mercy.

### ALLIANCE WITH THE KLA

Sensing that NATO needed to come up with a strategy more coherent than monthly bluster and threats, the United States and Germany decided that a reversal of policy toward the KLA had become necessary. In its June 12 statement, the Contact Group had gone through its usual charade of showing balance; it issued its routine appeal to “the Kosovo Albanian leadership to make clear its rejection of violence and acts of terrorism.” “Kosovo Albanian extremists” were urged to “refrain from further violent attacks.” A political dialogue, the Contact Group lamented, was “unlikely to take root if violence continues to be espoused by members of the Kosovo Albanian community.”

However, as the Americans saw it, while NATO was still holding back, the KLA was already landing blows against the Serbs. Perhaps this shady, drug-trade-funded sinister group, hitherto burdened by the unfortunate label “terrorist,” could after all be a useful partner for NATO?

Within days of the Contact Group’s pious call for the “rejection of violence and acts of terrorism,” the media were reporting that U.S. officials were openly meeting with KLA leaders. On June 28, the *New York Times* revealed that Gelbard had met “two officials of the political directorate” of the KLA for talks “lasting more than four hours.” In a wonderful non-sequitur, the *Times* explained that President Clinton had “decided that a peaceful resolution of the crisis in Kosovo, where Yugoslav President Slobodan Milošević is cracking down on an independence movement among the ethnic Albanian majority, requires the political participation of the KLA.”<sup>40</sup> Holbrooke, too, met KLA leaders. A widely publicized photograph showed Holbrooke, shoeless, chatting comfortably with KLA officials, one of whom was proudly wielding a Kalashnikov. On July 1, the *Washington Post* quoted a State Department official as saying: “We feel that the negotiating team obviously has to reflect the views of all of Kosovar Albanian public opinion, and therefore, we are taking steps to encourage armed Kosovar elements, particularly the [KLA], to join the political process.”<sup>41</sup>

Needless to say, the Contact Group swiftly fell into line. Gone were the condemnations of “terrorist acts” and the warm plaudits for Rugova. Following its next meeting in Bonn on July 8, the Contact Group declared that in any future negotiations, “It is clear that the Kosovo Albanian team ... must be fully representative of their community in order to speak authoritatively.” German Foreign Minister Klaus Kinkel announced that he, too, would meet KLA leaders. A “senior U.S. official” was quoted as saying: “We have a situation today where the KLA has become an extraordinarily important force

on the ground in Kosovo, controlling 30 per cent of the territory by day and probably more by night. Fully-fledged war has virtually become apparent.”<sup>42</sup> The media took pains to present this NATO about-face not as collusion with terrorists but as a reluctant acceptance of reality, a consequence of the rapid growth and success of the KLA. Contacts with the KLA were necessary in order to bring this organization under Western control. This, too, would further the cause of “stability.”

Not for the first time – and certainly not for the last – U.S. officials had come to believe their own hype. They had convinced themselves that the KLA was a serious fighting force, which could, if not defeat, then at least sufficiently weaken Yugoslavia’s security forces to such an extent that Milošević would be unable to survive. Kosovo was to be a replay of Central America or Afghanistan in the 1980s, with the United States financing and training “freedom fighters” in order to bring down so-called Marxist-Leninist regimes. To be sure, at some point NATO might enter the fray with tactical aerial support but the bulk of the fighting would be carried out by the KLA.

There was a problem with this scenario. The KLA really wasn’t much of an army and didn’t have a clue about how to fight a guerrilla war. Its strategy was the same as that of the Muslims in the Bosnian war – mounting offensives in order to provoke a Serb reaction and then pleading for NATO intervention to avert a supposed humanitarian catastrophe. While KLA had shown itself able to implement a program of random assassinations, ambushes, arms smuggling, prostitution, drugs, and kidnapping it had yet to demonstrate any fighting prowess. However, as had happened before in Bosnia, the more the United States touted the military skills and battlefield triumphs of its client, the more convinced U.S. adversaries became that they had to do something urgently to bring this growing military threat to an end.

In 1995, the U.S. media exulted over how well the Bosnian Muslims were allegedly faring against the Serbs. The consequence was the Bosnian Serb decision to attack the two eastern Bosnian enclaves of Srebrenica and Žepa. Similarly, Belgrade could not but look on in alarm at the apparent growth in KLA strength.

On June 19, the *New York Times* breathlessly reported that “Rebel bands control as much as 40 percent of the province, and the ranks of the guerrillas have swelled since March from a few hundred fighters to more than 3,000. Weapons, carried by pack horses and mules, can be seen arriving nightly across the rugged border with Albania. There seems to be no shortage of volunteers to join the burgeoning separatist army.”<sup>43</sup> The *Washington Post* followed suit, excitedly relaying the news that “The Kosovo rebels have stunned

Washington ... with their explosive growth in military and political strength since March. A year ago they could boast no more than 100 fighters and little popular support ... Today, according to U.S. assessments, the rebels control about one-third of Kosovo's territory and command the sympathies of 80 percent of the populace in the province."<sup>44</sup>

Thirty percent, forty percent, eighty percent – the numbers kept rising. Yet even as the media celebrated this formidable guerrilla army that was supposedly reprising the role of the wartime Partisans, and even as U.S. officials engaged in lengthy discussions with guerrilla leaders, the KLA was facing rout. The Serbs mounted an anti-KLA offensive and swiftly retook everything they had lost. First, the key Pristina-Peć road was brought under government control. Then the government captured one KLA stronghold village after another: Glodjane; Likovac, where U.S. envoy Christopher Hill met commanders of the KLA; Lapušnik; and Mališevo. Finally, the Serbs retook Junik, the KLA's organizational center and chief weapons distribution point and scene of Holbrooke's friendly, shoeless meeting with KLA leaders.

As the OSCE/Kosovo Verification Mission (KVM) report was to lament subsequently, the KLA's "inability to hold Orahovac/Rrahovec town in July 1988 clearly demonstrated the failure of the UCK to operate in an urban environment ... The UCK attempted physically to hold villages by means of trenches, which proved futile under a VJ bombardment. The concept of the hit and run guerrilla tactic was only partially applied."<sup>45</sup> In other words, contrary to the breathless media accounts, the KLA was utterly clueless as to how to wage a guerrilla war.

With KLA fighters fleeing advancing Serb forces and facing debacle, NATO dramatically stepped up its threats against Yugoslavia. Belgrade was engaging in a war of terror against civilians. Contrary to NATO's wars, in which civilian casualties are always "unintended," "unfortunate," "accidental," or "collateral damage," Belgrade's war against the KLA deliberately targeted civilians. Civilian casualties in Kosovo were not a consequence of the KLA's campaign of terror; they were not collateral damage. No, they were intended; they were part-and-parcel of Milošević's "ethnic cleansing" campaign.

Milošević's actions have pushed Kosovo to the brink of a "humanitarian catastrophe," the U.S. State Department fumed.<sup>46</sup> The fighting, like all counter-insurgency operations, had resulted in a flow of refugees. Daily media reports describing this flow were accompanied by the usual wailing by reporters and pundits demanding to know why NATO wasn't already bombing. Remarkably, no one blamed NATO for this fiasco. By recklessly threatening to get involved in the fighting if media images of casualties become too harrow-

ing, NATO had effectively encouraged the KLA to mount its poorly organized insurgency.

On August 12, Solana announced that NATO was all set to begin bombing. The North Atlantic Council, he said, had just “reviewed military planning for a full range of options to bring an end to violence and to create the conditions for negotiations.” These options included the “use of ground and air power and in particular a full-range of options for the use of air power alone. They ensure that NATO can act swiftly and effectively should the need arise.” In addition, NATO was approaching “nations informally about the forces which they would be ready to commit to possible air operations.”

However, with the KLA on the brink of defeat, a significant NATO intervention had ceased to be feasible. While “plans for possible military intervention in Kosovo were nearly complete,” a NATO spokesman ruefully admitted, “with the KLA on the run, it appeared likely that fighting could subside simply because the Serbs have gained the upper hand.”<sup>47</sup>

So what did NATO do? On August 17, it held yet another exercise in Albania – intended, the *Times* helpfully reported, “to bolster the morale of the ethnic Albanians in Kosovo and underline the West’s determination to discourage any move by the Serb forces to drive the ethnic Albanians from the province.”<sup>48</sup> However, if NATO’s goal was stability, that was the last thing its exercises delivered. Within days, Albania was once again on the brink of civil war. An opposition politician was assassinated. Sali Berisha, Albania’s former leader and the KLA’s chief patron, immediately accused the Nano government of having carried out the assassination and ordered his supporters out onto the streets. Riots followed; tanks were seized and government offices were burned and ransacked. Nano quit, and a panic-stricken NATO was soon issuing statements calling for “a return to a peaceful and stable environment.” President Chirac of France declared that “France and the international community strongly support continued stability in Albania. The resolution of the crisis in Kosovo also depends in part on this.”<sup>49</sup> Chirac’s comment was very revealing. It was a tacit admission that NATO could no longer sustain its claim that Kosovo was the cause of instability in Albania. There was no “stability” in Albania to be “continued”; it had been obvious for some time that it was precisely the instability in Albania that was behind the current Kosovo crisis.

With Albania in turmoil, NATO’s claim that Milošević was the source of “instability” in the Balkans – and who therefore had to be subjected to armed attack – was becoming an even harder sell.

NATO’s room for maneuver was narrowing. Albania was in crisis. The KLA had turned out to be a damp squib. Suddenly the media began to report that

KLA leaders were more preoccupied with assassinating rival Albanian politicians than with fighting Milošević:

Albanian politicians are now living in fear of assassination. In Pristina, Kosovo's capital, panic is spreading among associates of pacifist Kosovar leader Ibrahim Rugova after Sabri Hamiti, his closest adviser, was gunned down ... Hamiti is the third Albanian politician connected with the war to be shot in less than 10 days ... After a summer of catastrophic KLA defeats at the hands of the Serbs, Kosovo's revolution is beginning to implode. Many now believe a weakened KLA is turning its guns on ethnic Albanian politicians associated with Rugova because they fear that, profiting from this weakness, he will make a compromise deal with the Serbs that will fall short of independence.<sup>50</sup>

NATO decided that it had to make its move; otherwise the opportunity to demonstrate its newfound mission would be lost. As usual, the ICTY was on hand to offer valuable service when it was most needed. On September 8, apropos of nothing, the ICTY suddenly ratcheted up its rhetoric against Belgrade. The ICTY's president, Gabrielle Kirk McDonald, wrote a letter to the U.N. Security Council declaring that Yugoslavia had displayed "contempt for the Security Council. Not only does the [FRY] consider itself to be outside international law, it has become a haven for fugitives from international law." She demanded that the Security Council do something about such "reprehensible conduct."

What had Yugoslavia done to merit this vituperative outburst? Yugoslavia had apparently refused to recognize the jurisdiction of the tribunal. One could hardly blame it for that. From the moment of its creation, the ICTY scarcely bothered to conceal its anti-Serb bias, the most venomous expressions of which were often to be found in the pronouncements and judgments of McDonald herself.

The U.N. Security Council responded by passing yet another resolution on Kosovo. This was supposed to keep some of the more legalistic-minded NATO members in line. But Resolution 1199, adopted on September 23, failed to deliver what the United States, Britain, France, and Germany – the key powers seeking NATO action against Yugoslavia – were seeking. It went no further than Resolution 1160 in terms of authorizing the use of force. Its strongest statement was a warning that "should the concrete measures demanded in this resolution and resolution 1160 (1998) not be taken, [the Security Council would] consider further action and additional measures to maintain or restore peace and stability in the region."

The resolution was relatively evenhanded: expressions of concern over the “excessive and indiscriminate use of force by Serbian security forces and the Yugoslav Army which have resulted in numerous civilian casualties” went together with condemnation of “terrorism in pursuit of political goals by any group or individual, and all external support for such activities in Kosovo, including the supply of arms and training for terrorist activities in Kosovo.” A demand that Yugoslavia “cease all action by the security forces affecting the civilian population and order the withdrawal of security units used for civilian repression” was balanced by insistence that “the Kosovo Albanian leadership condemn all terrorist action, and ... that all elements in the Kosovo Albanian community should pursue their goals by peaceful means only.” The Security Council wasn’t even moved by McDonald’s fervent letter. Resolution 1199 only called on the FRY authorities and the “leaders of the Kosovo Albanian community” to cooperate with the ICTY in the “investigation of possible violations within the jurisdiction of the Tribunal.” There were no threats to punish lack of cooperation.

No sooner did the Security Council pass this reasonably balanced resolution than the United States announced that, whatever 1199 might say, it would urge NATO to begin preparing for a military campaign. NATO obliged and, a day after the adoption of the resolution, announced the issuance of an activation warning for “a limited air option and a phased air campaign in Kosovo.” In keeping with the attitude of the Clinton administration, NATO noticed in the Security Council resolution only those bits that it liked and ignored those that it didn’t. The *New York Times* reported that NATO’s “military commanders have completed plans for a range of possible military actions against Mr. Milošević’s forces – from a limited cruise missile strike to an escalating air campaign first against military targets in Kosovo and then against targets throughout Serbia.” Defense Secretary William Cohen declared that NATO’s credibility was at stake. Milošević’s “crackdown” in Kosovo, he said, was a “challenge I don’t think NATO can afford to walk away from.”<sup>51</sup> Cohen didn’t explain – nor was he asked to – how Milošević’s actions in his own country posed a challenge to anyone. But Cohen’s stoic warrior pose was to be adopted in the following days by countless editorial writers: once again, the West was standing up to Hitler. It was certainly a more agreeable notion than the reality that the most formidable military power in the world was about to unleash devastating force against a tiny European country.

As Serb forces were finishing off the last remnants of the KLA, Western threats became ever more scathing. This was perfectly understandable. The United States wanted bombing, the media wanted bombing, but a number

of NATO member countries were becoming a little anxious. The Clinton administration had failed to convince them that NATO didn't need to go back to the Security Council for authorization to use force. However, Washington had not the slightest intention of going back to the Security Council: first and most obviously because the Russians would veto any proposal to use force, and second because the United States did not want to set the unfortunate precedent of seeking authorization from anyone to use force. But the administration's stance was upsetting a number of NATO countries. As the State Department's Rubin subsequently revealed:

Even our staunchest ally, the British, became a big problem. In early June 1998, the administration was furious when the British, without consulting us, floated a plan to seek U.N. approval. Sergei Lavrov, Russia's ambassador to the UN, had warned us that Moscow would veto any attempt to endorse the use of military force against Serbia. We had told the British this over and over. What were they thinking? There was a series of strained telephone calls between Albright and Cook, in which he cited problems "with our lawyers" over using force in the absence of U.N. endorsement. "Get new lawyers," she suggested. But with a push from Prime Minister Tony Blair, the British finally agreed that U.N. Security Council approval was not legally required. Our struggle with the other NATO allies continued throughout that summer.<sup>52</sup>

Albright's sneering reference to "lawyers" eerily anticipated George W. Bush's quip at a news conference on December 12, 2003: "International law? I better call my lawyer; he didn't bring that up to me." In fact, Albright was even more arrogant than Bush. According to Rubin, she argued against even attempting to seek U.N. authorization to use force. Bush at least tried, but failed, to win U.N. approval for the invasion of Iraq.

During the months leading up to NATO's bombing campaign, the humanitarian warriors would repeat ad nauseam Rubin's justification for ignoring the U.N. Since Russia was bound to veto the use of military force against Serbia, what would be the point? Rubin had omitted to mention China, doubtless because its opposition couldn't be discounted as a product of visceral pro-Slav prejudice. That the United States should complain about vetoes hampering the work of the Security Council borders on insolence. From 1966 to 2008, the United States used the veto 82 times. By contrast, the Soviet Union and Russia together used the veto 18 times. China used the veto six times, France 14 times, and Great Britain 29 times.<sup>53</sup> Moreover, unlike the United States, which regularly vetoes resolutions that criticize client-states such as

Israel, Russia voted for numerous resolutions that were highly critical of its supposed close ally, Serbia. As for the claim that Security Council refusal to authorize the use of force justifies taking matters into one's own hands, Michael Mandel put it well when he wrote, "It's like the police wanting to administer their own 'justice' on the street because they don't trust the courts to convict. It's not just that most of us trust the courts more than the police; it's that we feel better when there are some serious checks on the official use of violence."<sup>54</sup>

Besides, if the NATO powers felt so strongly that Russia and China were behaving irresponsibly in preventing military action to stop the humanitarian catastrophe in Kosovo, they could have gone before the U.N. General Assembly and made their case there. There was already a mechanism in place for them to do this. Adopted on November 3, 1950, U.N. General Assembly Resolution 377(V), the so-called Uniting for Peace resolution, allows the General Assembly to take upon itself responsibility for the maintenance of international peace and security if the Security Council fails to fulfill the duties assigned to it by Chapter VII of the U.N. Charter. It was the Americans who had pushed for the adoption of this resolution out of fear that the Soviet Union would veto their demands for U.N. Security Council authorization for their actions. Washington had assumed that the General Assembly would be a much more amenable forum to make its case than the Security Council.

Resolution 377 says:

[If the Security Council,] because of lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security in any case where there appears to be a threat to the peace, breach of the peace, or act of aggression, the General Assembly shall consider the matter immediately with a view to making appropriate recommendations to Members for collective measures, including in the case of a breach of the peace or act of aggression the use of armed force when necessary, to maintain or restore international peace and security.

If the General Assembly wasn't in session, it "may meet in emergency special session within twenty-four hours."

So NATO did not lack the means to circumvent the opposition of the cold-hearted Russians and Chinese. But NATO made no attempt to go before the General Assembly. It didn't do so, of course, because its chances of winning over the General Assembly were even slimmer than its chances of winning over the Security Council. And, if NATO was so eager to enshrine a new prin-

ciple of international law, namely, that national sovereignty doesn't override the right of states to address a humanitarian catastrophe taking place within another state, it could have asked the International Court of Justice (ICJ) at The Hague to issue an advisory opinion. Was the crisis within Yugoslavia severe enough to justify other countries using military force against it? NATO didn't do that either.

Some of the legal minds working at NATO HQ were almost certainly aware that the ICJ had in fact already addressed the humanitarian intervention issue. It had ruled on this matter in the case that Nicaragua had brought against the United States. The United States had sought to justify its resort to force by claiming that it was motivated by a concern for the state of human rights in Nicaragua. The ICJ firmly rejected the U.S. argument. The court's 1986 opinion was in fact highly pertinent to the Yugoslav case:

[W]hile the United States might form its own appraisal of the situation as to respect for human rights in Nicaragua, the use of force could not be the appropriate method to monitor or ensure such respect. With regard to the steps actually taken, the protection of human rights, a strictly humanitarian objective, cannot be compatible with the mining of ports, the destruction of oil installations, or again with the training, arming and equipping of the *contras*. The Court concludes that the argument derived from the preservation of human rights in Nicaragua cannot afford a legal justification for the conduct of the United States.<sup>55</sup>

NATO's lack of support or authorization from any international body didn't prevent it from repeatedly referring to itself as the "international community." Once the bombs started landing, it chose to refer to itself as "the Allies," which, if anything, was even more offensive, with its obvious suggestion that it was embarking on a replay of World War II with plucky little NATO taking on a mighty military machine on a matter of moral principle.

### THE MILOŠEVIĆ-HOLBROOKE AGREEMENT

With the adoption of Resolution 1199, the prospect of U.N. authorization for the use of force had almost disappeared. This didn't trouble Washington, but it did trouble the more legalistic-minded NATO members. NATO had one last shot at maintaining a united front on the use of force. In early October, the U.N. secretary-general was scheduled to publish yet another report on Ko-

sovo. If Annan could be prevailed upon to determine that Yugoslavia was ignoring the will of the Security Council, then NATO could still bomb and – sort of – claim that it was acting under the auspices of the United Nations.

Kofi Annan, Washington's handpicked secretary-general, now had one more crucial task to perform for his sponsors. NATO was understandably optimistic about his findings. Britain's foreign secretary, Robin Cook, said he would press for the expedited release of Annan's report. NATO ministers met in Brussels and announced that Annan's report will be decisive in determining whether to launch air strikes on Yugoslavia. Unless Annan reports that Yugoslavia is withdrawing its forces, a NATO official declared, an "extensive military campaign" was "likely within a few days. Obviously if Annan's report is negative, it will be the basis for a decision by NATO. We are not at the stage of action yet, it would take a few days, but we have incontrovertible evidence now that Milošević's attacks have gone beyond any legitimate actions, destroying villages, committing atrocities against old men – this is a form of war against his own people."<sup>56</sup>

A day before the appearance of Annan's report, McDonald, the ICTY president, stoked war fever by going before the Security Council and demanding adoption of "effective measures to ensure there is immediate compliance by the FRY with its obligations under international law. It is unconscionable for a State to be allowed to flaunt their obligations under international law. There comes a time when such defiance cannot be ignored. That time is now."

The next day, it was Annan's turn. Unlike his previous reports, his October 3 effort sounded as if it had been drafted in Washington and Brussels. The customary measured tone was replaced by NATO-style hyperbole: "I am outraged by reports of mass killings of civilians in Kosovo, which recall the atrocities committed in Bosnia and Herzegovina." Also, "I am particularly concerned that civilians increasingly have become the main target in the conflict ... There are concerns that the disproportionate use of force and actions of the security forces are designed to terrorize and subjugate the population, a collective punishment to teach them that the price of supporting the Kosovo Albanian paramilitary units is too high and will be even higher in future."

Annan did not conceal the source of his information. "As the present report was being finalized," he wrote, "the Secretariat received a factual report from NATO on the military situation in Kosovo following the adoption of resolution 1199 (1998). The information provided therein is reflected in the report."

However, though Annan had come close to parroting NATO verbiage – "terrorize," "subjugate," "collective punishment" – he was still not prepared to sign off on the efficacy of the proposed bombing. For one thing, Annan

couldn't fail to note that the Serbs weren't the only ones committing atrocities. "While the victims of the conflict are overwhelmingly ethnic Albanians," he wrote, "Kosovo Serbs are suffering as well. There have been a number of reports of the kidnapping and killing of Serbian and Albanian civilians by Kosovo Albanian paramilitary units. The village of Zocite, which was once half-Serb and half-Kosovo Albanian, now has only 30 Serbs, and 80 per cent of the houses were burned and destroyed during the period of several months when the village was under the control of Kosovo Albanian paramilitary units."<sup>57</sup>

Worse still for the bombing enthusiasts, Annan reported that the government of Serbia had publicly committed itself to meeting the requirements of Resolution 1199. "I welcome the good intentions contained in the conclusions of the National Assembly of the Republic of Serbia ... regarding the speedy resolution of all humanitarian problems in Kosovo," Annan wrote. "The National Assembly also indicated that the Government of Serbia would continue to cooperate fully with the International Committee of the Red Cross (ICRC) and UNHCR with the basic goal of reducing as much as possible humanitarian problems ... and would ensure the ability of humanitarian agencies to work unhindered."

Also, Annan's report took note of the astonishing absence of any serious pending negotiations. This was no accident, of course. While NATO governments had given vent to the familiar "diplomacy must be backed by force" rhetoric, they had not demonstrated nearly as much interest in diplomacy as in force. There were no political negotiations on the horizon and no Vance-Owen-style peace plan. No one even knew who spoke for the Kosovo Albanians. An OSCE report, added on as an annex to Annan's report, said that the KLA

sees any temporary agreement as a capitulation and has pledged to continue the fighting. But the fact that some returnees have handed over their weapons to Serb forces is seen as an indication that segments of the Albanian population are prepared to accept whatever interim political agreement is reached. In this respect there are increasing indications of splits among Albanian fighting groups. With sharp divisions within the Kosovo Albanian ranks, the problem of just who represents them will likely continue and the prospects of a ceasefire called by KLA and the Serbian authorities currently appear remote.

NATO had failed abysmally. For months it had threatened and blustered, yet no one had thought of putting forward a peace plan, proposing negotiations, or crafting a step-by-step peace process. Disappointment over Annan's re-

port was palpable. The *Washington Post* reported that U.S. officials were crestfallen. The “report fell short of U.S. and allied expectations that it would flatly declare the Yugoslav government had failed to comply with U.N. Security Council demands for a peaceful settlement of the crisis ... That left disappointed U.S. officials to initiate a new effort to persuade others that Yugoslavia is flouting the will of the United Nations by keeping many of its forces in place,” the *Post* said.<sup>58</sup>

Extraordinarily though, Annan’s mixed findings sufficed for yet another round of NATO threats and fist-shaking. “It’s a very strong report that makes clear Milošević is not complying with all the requirements of the Security Council,” the State Department’s Rubin declared.

Within hours of the report’s publication, Richard Holbrooke, acting as a special envoy for the Clinton administration, was on his way to Belgrade to issue yet another ultimatum to Milošević. Accompanying Holbrooke was U.S. Air Force General Michael Short, doubtless to add menace to the upcoming meeting. Even as Holbrooke and Short were boarding the plane, a number of NATO countries let it be known that they couldn’t sign off on NATO military action without an authorizing U.N. resolution. “France, Spain, Italy, Greece, Ireland and Luxembourg made it clear they wanted a further U.N. resolution authorising air strikes,” the *Independent* reported.<sup>59</sup> At an E.U. foreign ministers’ meeting in Luxembourg, only the Netherlands supported Britain’s calls for immediate military action.<sup>60</sup> With Russian opposition certain, at least three of the six Contact Group members were opposed to the use of force without U.N. authorization. Italy’s opposition was particularly awkward since NATO’s aircraft would be making their bombing runs from air bases in Italy. Moreover, following federal elections in Germany on September 27, the SPD-Greens coalition had replaced the governing CDU-CSU-FDP coalition. The Social Democrats and the Greens were more likely to be sticklers for U.N. authorization than the outgoing Kohl-Kinkel team had been. The Social Democrats said that they would be prepared to endorse NATO military intervention without a clear U.N. mandate only if it could be proved that Russia was “abusing” its right of veto on the Security Council.<sup>61</sup>

Despite the absence of support for bombing even within the Contact Group, U.S. officials were nonetheless adamant that NATO action was imminent. “We are continuing to push for early action,” Rubin declared. Moreover, these would not be “pinprick strikes,” Clinton himself warned. Unlike the bombing of the Bosnian Serbs, which was carried out by standard F-16 and F-15 fighter jets, the United States was readying itself for heavy, large-scale bombing. The administration had already “pledged two B-2 and six

B-52 bombers as well as 12 F-117 stealth attack warplanes” for the upcoming campaign.<sup>62</sup>

During one of the meetings in Belgrade, General Short warned Milošević that “if you cause me to start a bombing campaign your country will never be the way you see it today again. And in fact, we ought to stop the negotiations now, and you ought to go out and ride around Belgrade because the way it is today, it’ll never be that way again. And I genuinely believed that.”<sup>63</sup> Milošević probably believed it, too. As Holbrooke subsequently recounted this conversation, Short’s comments “kind of leveled the playing field, and Milošević knew he was up against the real thing. I think Mike Short’s presence in those negotiations ... was really important.”<sup>64</sup> Without the presence of Short, in other words, Yugoslavia would have been able to go on bullying and threatening the United States. Short’s threats were unquestionably a violation of international law. He had unambiguously pledged to destroy a European city and attack civilian targets. The humanitarians’ happy acceptance of this unlawful style of diplomacy was perhaps the most striking feature of the NATO campaign.

While the media were thrilled by these U.S. threats and maneuvers, they once again didn’t bother to ask what Yugoslavia had done to merit this bombing. NATO suggested that its objective was enforcement of Resolution 1199. But Resolution 1199 had not assigned responsibility for its enforcement to NATO. Moreover, as Annan’s report acknowledged, it was far from clear that Yugoslavia was in violation of 1199.

Military activity seemed to wind down in the last days of September. There was evidence of heavily armoured formations returning to their barracks. On 29 September, Federal Minister for Foreign Affairs Živadin Jovanović assured me that troops were returning to the places of their permanent location. According to the most recent reports, military forces withdrew from the Drenica and Prizren areas on 1 October and observers indicated a decrease in activities of the security forces.

So Yugoslavia’s security forces were in compliance, or at least seeking to be in compliance, with Resolution 1199. Even reporters accompanying Holbrooke were puzzled about the U.S. rush to bomb. According to the *Washington Post*, Holbrooke

declined repeatedly to explain why Belgrade’s partial pullback of security forces from the province and its decision to halt a major military offensive

fall short of the Security Council's demands. Instead, his response indicated that measuring Yugoslavia's behavior against the terms of the U.N. resolution – which he acknowledged is vaguely drafted – will not be the only issue at the heart of NATO deliberations on its course of action this week.<sup>65</sup>

Holbrooke complained that refugees had been unable to return to their homes. That was a violation of 1199, he said. Milošević assured him that refugees were free to return to their homes. Holbrooke replied that he had evidence that “some Serbian forces that took part in recent fighting are preparing for colder weather.” This was proof that there was little likelihood of any refugee returns. Refugees wouldn't return as long as Serb forces were present. So, even though the Serbs weren't preventing anyone from going home, they were in violation of 1199 and hence deserving of bombing.

Resolution 1199 did demand that Yugoslavia withdraw “security units used for civilian repression,” but it didn't get into specific numbers. Though the resolution had apparently been “vaguely drafted,” the United States professed to know the exact number of troops that Belgrade was obligated to withdraw from Kosovo in order to be in compliance with 1199. “U.S. intelligence puts Yugoslav army forces at 18,000 in Kosovo and special-police units at 11,000. Administration officials say this must be reduced to 12,000 and 6,500, respectively, in order to be in compliance.”<sup>66</sup>

The KLA knew what Washington expected of it. Expecting an imminent NATO attack, it announced a unilateral ceasefire. U.S. officials immediately hailed the announcement as a “hopeful sign of moderation.” There was no questioning of the sincerity of the KLA, no histrionic observations of the kind Clinton was to make a couple of days later: “Balkan graveyards are filled with President Milošević's broken promises.”

With Holbrooke still in Belgrade negotiating something or other with Milošević, a fierce campaign was being launched by Albright, Cook, and Solana to bring NATO members into line. Bombing was necessary, Albright told NATO defense ministers in Brussels, because of Milošević's “long-standing unwillingness to negotiate seriously and the accumulated barbarity of the last three months ... Time and again Milošević has promised us to do things he had no intention of doing. Time again he has taken half-measures to avoid the consequences of his actions.”<sup>67</sup> Albright then wrote to all of the NATO foreign ministers saying, “This is not a time to back down ... [W]e have made our commitment clear and we must follow through.” Albright's letter was followed by frantic phone calls by her and by Cook. “NATO's credibility is now on the line,” Solana and U.S. and British officials told the doubters.<sup>68</sup>

At NATO's headquarters, meanwhile, "there was an almost desperate determination to keep up military preparations, despite the political concerns."<sup>69</sup> One of these "concerns" was the distinct lack of enthusiasm for bombing on the part of almost everyone except Washington and London. Though the media continued to explain soothingly that the ongoing Holbrooke-Milošević negotiations concerned Yugoslavia's compliance or non-compliance with Resolution 1199, it was clear that the United States was after something far more important. It was no longer a matter of bombing the Serbs. Holbrooke wanted to introduce NATO troops into Kosovo. Some newspaper reports did indeed allude to this:

One stumbling block so far has been the West's demand for intrusive monitoring to ensure the government's compliance with the agreement, including a right to dispatch hundreds of monitors to Kosovo under the auspices of [the OSCE] and to conduct reconnaissance flights over Kosovo. Several Western officials said this issue is so important that NATO would launch airstrikes to force Yugoslavia to accept the monitoring ... U.S. officials also have begun discussing with Milošević the possible deployment of a NATO rapid-reaction force off Yugoslavia's coast, where it would be ready to protect the monitors from military threats.<sup>70</sup>

Even as talks between Milošević and Holbrooke were continuing in Belgrade, NATO was busily planning deployment of ground forces in Kosovo. The *Washington Post* reported that "NATO planners ... have drafted a peace-keeping force for Kosovo that would number about 26,000 and could involve up to a brigade-sized U.S. contingent of about 5,000 troops, military sources said."<sup>71</sup> The *New York Times* reported the same thing: "NATO's military commanders have drafted plans for a series of options in Kosovo, including a ground force that would enforce a cease-fire."<sup>72</sup> Such plans, we can safely assume, had been in the works for some time and would not have reached so detailed a stage without the active encouragement of key NATO governments. NATO would not have undertaken such planning had it not expected imminent deployment.

While NATO repeatedly insisted that the goal of the impending bombing was to ensure Belgrade's compliance with Resolution 1199, the U.S. government pointedly refused to say that compliance with the resolution was the key issue. Adherence to U.N. resolutions had never before or since been a high priority in Washington. Despite this apparent incongruity of messages, NATO governments raised no objections to the U.S. government conducting

“negotiations” with Yugoslavia on behalf of the “international community” without a single other power being present.

On October 12, Holbrooke suddenly broke off his talks with Milošević and flew to Brussels. He demanded that NATO issue an activation order.<sup>73</sup> Meeting in the middle of the night, the NATO council issued an activation order for “limited air strikes and a phased air campaign in Yugoslavia, execution of which [would] begin in approximately 96 hours.” Crucially, the bombing would start “without further recourse to the member states.”<sup>74</sup> The reason for the bombing was the usual one: the FRY had “still not complied fully with UNSCR 1199 and time is running out.” Time was running out, of course, only because the United States had said that time was running out. With the threat of NATO action in his pocket, Holbrooke flew back to Belgrade.

The reason for Holbrooke’s dramatic flight to Brussels soon became apparent. On the following day, negotiations between Milošević and Holbrooke came to an end. After nine days of talks, agreement had finally been reached. Yugoslavia would withdraw some of its security forces from Kosovo and the OSCE would send a monitoring mission comprising 2,000 unarmed civilians to Kosovo. The United States immediately proclaimed that it was Holbrooke’s middle-of-the-night demand that NATO issue its activation order that forced Milošević to cave in. The threat of bombing remained, U.S. officials warned, only its execution has been postponed.

The story of Holbrooke’s NATO maneuver and Milošević’s consequent surrender was an outright fabrication, concocted to allow the Clinton administration to save face. NATO had issued its activation order only *after* the deal had already been reached.<sup>75</sup> Holbrooke’s little night-time trickery enabled the Americans once again to assert that muscular diplomacy was the only way to get things done, particularly when one is dealing with the Serbs. Milošević, the pundits opined right on cue, only understood the language of force. Milošević had been forced to make a “big climbdown,” Robin Cook crowed. The high-fives were tempered only by laments that once again Milošević had escaped a good bombing.

As usual, the media didn’t bother to examine the agreement too carefully. U.S. threats and nine days of negotiations had actually achieved remarkably little. Even the most causal observer could have seen that it was NATO that had given way. Yugoslavia had been withdrawing forces from Kosovo since September in response to the diminishing threat from a defeated KLA. Though Holbrooke claimed to have extracted a promise from Milošević to negotiate some form of autonomy with the Kosovo Albanians, independence for Kosovo was off the table. This was all Milošević had ever insisted on as a

condition of agreeing to sit down with Kosovo Albanian leaders. While the OSCE would be sending a monitoring mission, it would be unarmed and, importantly, not under NATO's auspices.

Moreover, Yugoslavia had agreed to an OSCE mission even before Holbrooke had landed in Belgrade. In fact, it was Yugoslavia that had invited the OSCE to come to Kosovo and it was the OSCE that had declined the invitation. The *Independent* had reported on October 8 that the OSCE had "turned down an invitation from the Serbian authorities to send an observer mission to Kosovo. [The OSCE] said Belgrade had attempted to dictate in advance what such a mission would find, namely that the withdrawal of Serbian forces from the province had already taken place."<sup>76</sup> On October 12, the *New York Times* reported that "The Yugoslav leader has suggested that he would agree to about 1,600 unarmed civilian monitors from the [OSCE]. Administration officials have said an unarmed international presence would not be sufficiently serious to deal with the Yugoslav Army and units of the Serbian Interior Ministry's police in Kosovo."<sup>77</sup> The presence of unarmed OSCE verifiers was Yugoslavia's idea, not NATO's. In fact, the United States was against the dispatch of an unarmed OSCE mission. Milošević had suggested the mission before Holbrooke's night-time flight to Brussels to demand the activation order. To be sure, Milošević had agreed to surveillance of Kosovo by NATO aircraft. However, NATO would have to use non-combat planes and would be required to give advance notice of flights over Kosovo. Also, Holbrooke had failed to persuade Milošević to recognize the jurisdiction of the ICTY.

The United States did win some concessions, which would prove to be fateful. The Kosovo Verification Mission was to be under the control of the OSCE, not the United Nations. The OSCE was always likely to be far more amenable to NATO pressure than the U.N. Consequently, the United States would be spared embarrassing confrontations with the United Nations over the use of force. During the war in Bosnia, the United Nations had frequently succeeded in vetoing NATO bombing plans by citing danger to its peacekeepers on the ground.

It was the artificial NATO-created crisis of October 1998, rather than the minutiae of the Milošević-Holbrooke agreement, that was to have the longest-lasting effect. Without much serious debate, NATO had succeeded in jettisoning the North Atlantic Charter, with its clear stipulation that the military alliance was to be wholly defensive in character. NATO had taken upon itself to threaten to use force to resolve an internal conflict within a country that wasn't a member of NATO or even of NATO's Partnership for Peace and that threatened no NATO or even non-NATO country. And NATO had anointed it-

self as enforcer of some parts – though by no means all – of a Security Council resolution. However, NATO had no intention of being bound by that resolution or by any other U.N. resolution. In fact, NATO had made it clear that it needed no Security Council authorization to use force. No longer a military bloc of a few states huddled together for mutual defense in the event of a hypothetical attack from the Soviet Union, NATO was now presenting itself as the will and the enforcement arm of an “international community” that had taken little part in NATO deliberations, threats, and ultimatums.

There were a number of strange features to the so-called Milošević-Holbrooke agreement, not least of which was that no one really knew for sure what was in it. In its sprawling 2009 judgment in the big Kosovo case, the ICTY claimed that Rugova’s knowledge of the contents of the agreement “came from the media.” Yugoslavia’s foreign minister also “had never seen the Agreement and thus could not say what exactly its terms were with respect to withdrawal of forces and cessation of hostilities.”<sup>78</sup> Although the Serbian government had announced some of its key points, these all pertained to a timetable for negotiations on a political solution for Kosovo. There was nothing about any specific numbers of forces Belgrade had to withdraw from Kosovo.<sup>79</sup> Holbrooke neither confirmed nor denied Serbia’s account. In fact, the U.S. government revealed no details at all about the agreement. One had to rely on leaks in the U.S. media for information. Holbrooke himself, for example, “declined to be specific about how many soldiers or police officers Mr. Milošević was required to withdraw from Kosovo.”<sup>80</sup>

According to one report, a White House official said that “Milošević must reduce military forces in Kosovo at least to the level of last February [1998], when the government offensive began. This would mean that the 18,000 Yugoslav army troops there now would be pared to about 12,500 and that the 11,000 Serbian paramilitary policemen would drop to 6,500.”<sup>81</sup> At the same time, U.S. National Security Adviser Samuel R. Berger declared, “I’m not going to get into a numbers game.” That was only sensible since Resolution 1199 had made no mention of numbers. The State Department’s Rubin announced that even if Yugoslavia withdrew its forces from Kosovo, the order authorizing NATO air strikes would stay in place.

The agreement was even stranger in that it didn’t bind anyone other than the Serbian or Yugoslav government to anything. The United States had agreed not to bomb Yugoslavia for the time being. This wasn’t much of a concession. The United States couldn’t launch an attack in any case due to lack of NATO consensus on bombing. The KLA had vaguely promised a cease-fire but, since it was not a party to the agreement, it was free to do whatever

it liked. As Agim Çeku, a KLA leader and a future Kosovo prime minister, subsequently recounted, "The cease-fire was very useful for us, it helped us to get organised, to consolidate and grow ... We aimed to spread our units over as much territory as possible, we wanted KLA units and cells across the whole of Kosovo."<sup>82</sup>

Since Milošević was the only one who had committed himself to anything, he alone could be held to be in violation of any agreement. For the KLA, the so-called Milošević-Holbrooke deal was a godsend: it could take advantage of the vacuum created by the withdrawal of Yugoslav security forces and seize control of Kosovo. Alternatively, it could provoke Belgrade into taking military action and wait for the attendant flow of refugees to trigger yet another round of calls in Western capitals for NATO bombing.

On October 15, NATO top brass flew to Belgrade to deliver yet another message to Yugoslavia. General Wesley Clark, Supreme Allied Commander in Europe (SACEUR); General Klaus Naumann, chairman of NATO military committee; and Solana told Milošević that he had to "comply fully and immediately with the requirements of ... Resolution 1199." Three weeks had passed since the adoption of that resolution, yet "we are far from seeing the full compliance that the international community demands," the NATO worthies told him. NATO and Belgrade signed an air verification regime. Yugoslavia pledged that its air force would not conduct operations within a 25-kilometer radius of Kosovo whenever NATO aircraft were undertaking surveillance and NATO would give a warning before undertaking manned surveillance flights.

During this trip, Solana addressed some remarks to the Yugoslav public. "There has been too much suffering, too much intolerance and too much violence in this country and this region over the past few years," he said. "Much of this has been caused by political leaders who have misused their political power ... I urge you to open a new chapter in your history and to work for solutions through dialogue and reconciliation. The Alliance is there to help you in this endeavor; but you too must accept your responsibility and look to the future." Solana was clearly assigning blame for the wars in Yugoslavia on the Serbs, and particularly on their "political leaders."

Solana's heavy-handed pitch was extraordinary for another reason. As Solana must have known, Milošević's implacable opposition to the surrender of Kosovo was shared by almost all Serbs. There was no Serb leadership on the horizon that would agree to NATO's terms. NATO politicians and publicists had spent the better part of the decade denouncing Serbs as nationalist barbarians who had no business living in the 20th century.

Now NATO was expecting the Serbs to be good little Europeans, renounce their national heritage, and turn out of office a pragmatic politician who had in the past cooperated with NATO, at considerable political cost to himself. If NATO wanted to oust Milošević, its best bet would have been to reassure the Serbs that it had no intention of jeopardizing their historical claims to Kosovo. Milošević's popularity in Serbia fell only when he appeared to be too conciliatory to NATO: when he imposed a blockade on the Bosnian Serbs in order to force them to accept the Contact Group plan and when he refused to come to the aid of Croatia's Serbs during Operation Storm.

After Solana, it was the turn of the OSCE. On October 16, Bronisław Geremek, the OSCE chairman, flew to Belgrade to sign a ground verification regime. Geremek, who was also Poland's foreign minister, signed an agreement with Milošević establishing the Kosovo Verification Mission, the purpose of which would be to "verify compliance by all parties in Kosovo with [UNSCR 1199] and to report instances of progress and/or non-compliance." As it turned out, the true purpose of this verification mission was to set a trap for Belgrade to ensure that the United States wouldn't again be robbed of the opportunity to bomb.

## KOSOVO: THE SET-UP

The NATO – or U.S. – strategy (it was hard to distinguish the two) was the military equivalent of the current practice of U.S. capitalism: privatizing the gains and socializing the losses. The KLA, which was not a party to the Milošević-Holbrooke agreement, got a free pass. No matter what it did, it suffered no adverse consequences. Others, however, were not so fortunate. NATO focused its rage exclusively at the Serbs who, it fumed, were violating the Milošević-Holbrooke agreement. NATO ignored the obvious point that the Serbs could scarcely remain indifferent to growing KLA violence.

NATO justified its unbalanced approach by claiming that it had no means of influencing the KLA. The KLA's takeover of Kosovo in October 1998, following the enforced withdrawal of the Yugoslav security forces, NATO averred, was entirely the KLA's own doing, not alterable by any Western importuning. The West simply had no means of exerting pressure on a paramilitary organization. NATO could remonstrate with KLA leaders but it couldn't force them to listen. On the other hand, the moment Yugoslav forces took action and sent the KLA scurrying to the hills or across the border to Albania, the stability of the West was in peril. NATO, the world's guarantor of stability, had no choice but to issue its obligatory ultimatum and to place its military aircraft on standby.

While the ground and air verification missions imposed on Yugoslavia were supposed to “verify compliance by all parties with the provisions of UNSCR 1199,” the missions took care to monitor only the “compliance” of Yugoslavia's security forces and only their “compliance” with the Milošević-Holbrooke agreement. Since the KLA was not party to the Milošević-Holbrooke agreement, there could by definition be no KLA compliance to monitor. There was, of course, Resolution 1199, and the KLA, as NATO was only too well aware, was supposed to comply with that. Understandably, therefore, first the Clinton administration and then NATO changed the subject and stopped talking about Resolution 1199, focusing instead on the Milošević-Holbrooke agreement (even though no one knew precisely what was in it).

Needless to say, the United States and NATO had as much interest in living up to the Milošević-Holbrooke agreement as they had in observing Resolution 1199. No sooner was the resolution adopted than the OSCE announced that it would be unable to send anything like 2,000 verifiers to Kosovo any time soon. By late January 1999, only some 1,000 verifiers had arrived in Kosovo. As a House of Commons report subsequently admitted, “the deployment of OSCE verifiers was an important part of the Holbrooke agreement, and ... the international community did not display sufficient seriousness or urgency in fulfilling this side of the agreement.”<sup>1</sup>

There was a good reason for this insufficient “seriousness or urgency.” NATO was to have a hard enough time selling the spurious story of Serb failure to comply with international commitments. The presence of a substantial number of monitors, not all of whom could be guaranteed to remain under NATO’s control, would have made the sale all but impossible.

#### ENTER MR. WALKER

Determined to keep the Kosovo Verification Mission (KVM) under its control, Washington insisted that it be led by an American. Europeans vented their fury but, as usual, only to reporters and only anonymously.<sup>2</sup> The man Madeleine Albright personally selected for the job was William Walker. Walker had had an illustrious diplomatic career. During the 1980s, he had been deputy assistant secretary of state for Central America. He came under investigation by Independent Counsel Lawrence Walsh over his involvement in the Iran-contra affair. The Reagan administration had delegated to him the task of providing “humanitarian” aid to the contras. Walsh suspected that he was siphoning off money for military aid.

The Walsh investigation didn’t harm Walker, and he was appointed U.S. ambassador to El Salvador at a time when that country was embroiled in a vicious civil war. In El Salvador, the United States strongly backed the government against the Farabundo Marti National Liberation Front (FMLN) guerrilla army. In neighboring Nicaragua, it was the other way round. There, the United States strongly backed the guerrillas against the government. Walker shouldered these contradictory responsibilities with equal aplomb.

It was Walker’s extraordinary finesse in handling delicate tasks for his masters in Washington that made him such an attractive candidate to head a verification mission. One night, in November 1989, men wearing Salvador army uniforms seized five Jesuit priests from their beds at a Catholic univer-

sity and shot them to death. The killers were members of the Atlacatl Battalion, a counter-insurgency unit created by U.S. Special Forces in 1980.

"The murders came as tens of thousands of terrified civilians fled withering aerial bombardment by the military aimed at driving leftist rebels from densely populated neighborhoods in the capital," the *Boston Globe* reported. The murders took place just as the Salvadoran military had, with U.S. financing and encouragement, launched a major offensive against the FMLN. The Salvadoran military was said to have been

driving leftist rebels out of the city in block-by-block fighting that was laying waste to parts of neighborhoods and turning thousands of residents into refugees. Overhead, C-47 cargo planes equipped with Gatling guns, helicopters with machine guns and small jets with rockets fired on neighborhoods where the guerrillas have holed up in houses, apartment buildings, abandoned schools and offices. Although the casualty totals in the battle now in its fifth day were not precise, estimates neared 700 dead, including more than 80 civilians, with almost 2,000 wounded, half of them civilians.<sup>3</sup>

The murder of priests rarely goes over well. Washington had a public relations disaster on its hands and Walker was the man on the spot to put the best face on the situation. While denouncing the killings as a "barbaric act," he made sure to assign the blame where it really belonged: on the leftist guerrillas. "The evidence as far as I know is not in yet," he declared. "Whoever did this, whether from the extreme right or the extreme left, they did the work of the FMLN."<sup>4</sup> As for the massive civilian casualties, well, this was a price worth paying. The FMLN, Walker announced breezily, was "on the brink of both a military and political defeat." Avoiding civilian casualties, he explained, was "a virtual impossibility given the situation [the armed forces] face." As he lamented at a news conference, "Management control problems exist in a situation like this ... And it's not a management control problem that would lend itself to a Harvard Business School analysis."<sup>5</sup> These assertions were the exact opposite of the ones he was to make so vociferously in Kosovo. There, he was determined to apply a Harvard Business School analysis. In fact, as the El Salvador Truth Commission reported, the killers sought to ensure that the FMLN would be blamed for the murder of the priests: "In order to pin responsibility for the deaths on FMLN, the [killers] decided not to use regulation firearms and to leave no witnesses. After the murders, they would simulate an attack and leave a sign mentioning FMLN. It was decided to use an AK-47 rifle ... because the weapon had been captured from FMLN and was identifiable."<sup>6</sup>

On the day Walker made his statement absolving the San Salvador government of any blame for the killing of the priests, President George H. W. Bush phoned El Salvador President Alfredo Cristiani to commend him on his efforts “to avoid causing casualties to the civilian population”<sup>7</sup> – a nice illustration of the sincerity of the loud U.S. professions of horror at human rights abuses in Kosovo.

Interestingly, as late as January 1990, Walker was still telling congressional investigators that the “six Jesuit priests ... might have been killed by leftist guerrillas wearing Salvadoran military uniforms.” A congressman reported Walker as telling him that “anybody can get uniforms” and that “leftist guerrillas could easily have obtained them.”<sup>8</sup> And, Walker added, “The fact that they [the killers] were dressed in military uniforms was not proof that they were military.”<sup>9</sup> Revealingly, Walker made these claims *after* a U.S. army major assigned to the U.S. embassy in San Salvador had been informed that it was indeed Salvadoran military men who had killed the priests. Walker insisted, however, that, though he was the ambassador, this extraordinarily important piece of information was withheld from him for 10 days.<sup>10</sup>

It was not, therefore, sensitivity to human rights abuses that secured for Walker the job of Kosovo Verification Mission chief. Rather, the former U.S. ambassador had shown himself to be someone highly attuned to Washington’s needs of the moment.

Walker’s task was facilitated by General John Drewienkiewicz, the leader of the British team. No sooner did Walker and Drewienkiewicz arrive in Kosovo than they came into conflict with senior members of the KVM. For Walker and Drewienkiewicz, the KVM’s task was to pave the way for NATO intervention. Their job was to show that the Yugoslav authorities were uncooperative and thus in violation of their commitments. From the start, the two men made no attempt to hide their hostility toward the Serbs. Their approach was at odds with that of Walker’s principal deputy, Gabriel Keller, a former French diplomat to Belgrade who, naively, thought that the purpose of the mission was to bring peace.

Keller subsequently complained that the “even-handedness of the mission was questioned from the very beginning. We never managed to clear this impression. By the way, did we really try? After some weeks of our presence, the global image of OSCE/KVM was to be anti-Serb, pro-Albanian and pro-NATO.” This wasn’t due to any misperception or unintended slights:

Some of the mission members chose from the beginning to adopt very aggressive behavior with the official authorities ... The potential benefits of di-

plomacy were deliberately sacrificed. We never tried at the upper level of the mission to associate the Yugoslavs to our work ... A growing number of the mission members, national OSCE countries not belonging to NATO who did not approve this behavior, felt more and more uncomfortable in a mission which did not reflect the sensitivity of their countries.<sup>11</sup>

One member of the KVM, Captain Roland Keith, a Canadian, said that Walker “was not just working for the OSCE. He was part of the American diplomatic policy that was occurring which had vilified Slobodan Milošević, demonized the Serbian Administration and generally was providing diplomatic support to the UCK or the KLA leadership.”<sup>12</sup>

### THE NAUMANN-CLARK MISSION

For all the effusive self-congratulations NATO had showered on itself in the days following the Milošević-Holbrooke agreement, the organization was far from happy. It had been denied the opportunity to use force and to turn Kosovo into a Bosnia-like NATO dependency. Within days of the Milošević-Holbrooke and the air verification mission agreements, NATO was back to issuing threats. On October 24, the U.N. Security Council passed Resolution 1203 ratifying the Belgrade agreements on the unarmed verification missions. Ominously for NATO, both Russia and China abstained from the vote even though 1203 didn't include the vague warning of 1199 about “further action and additional measures to maintain or restore peace and stability in the region.” Needless to say, this didn't prevent Albright from announcing immediately after the vote that, “The threat of force remains in place.”

To demonstrate its concern for the susceptibilities of the international community, NATO dispatched Generals Klaus Naumann and Wesley Clark to Belgrade on the day of Resolution 1203's adoption to warn Milošević that, as he still wasn't in compliance with his commitments, NATO bombing was once again only days, if not hours, away. “The hammer is cocked, the clock is ticking, and you have got 48 hours to deliver,” the ebulliently charming Naumann told Milošević.<sup>13</sup>

Naumann and Clark demanded that Yugoslavia pull out all forces from Kosovo that were in excess of “peacetime establishment,” a number that would be determined by NATO. What was this number? The two NATO chiefs claimed that the “peacetime strengths for the Kosovo police” was 6,000. Six thousand was a modest total, certainly when compared to NATO's proposed

deployment of 25,000. It turned out that Clark and Naumann were wrong: the police peacetime strength was actually 10,000. Clark and Naumann agreed, which meant that the Yugoslav authorities “had to reduce their police force which was in Kosovo at the point in time by about 5,000 to 6,000, within 48 hours,” Naumann recalled later.<sup>14</sup> Whether Belgrade needed to remove 5,000 men or 10,000, failure to comply within 48 hours would be met with bombing.

Following the Naumann-Clark team’s meetings with Milošević, a triumphant NATO boasted that it had forced Belgrade to agree to the withdrawal of specific army and police units from Kosovo. Characteristically misrepresenting issues, the *New York Times* reported:

Western diplomats say that while some Yugoslav forces have been withdrawn already, the number is far from enough to comply with the agreement reached between [Holbrooke and Milošević]. To get that agreement, NATO also threatened air strikes, then suspended the threat ... to give Mr. Milošević time to reduce his forces to the level demanded by a United Nations resolution ... The United Nations said Yugoslavia must bring down the level of police and army forces in Kosovo to what it was in February, before a military offensive against ethnic Albanian rebels.<sup>15</sup>

But the U.N. had never insisted on any specific force levels, and had made no mention of February 1998 as some sort of golden age to which Yugoslavia had to return irrespective of anything else that might be going on in Kosovo. The only people bringing up February 1998 were U.S. government officials. And, as no one had any idea what, if anything, Milošević and Holbrooke had agreed to, it was easy to invoke this as some kind of a solemn and binding accord that the Yugoslavs had undertaken and were now, needless to say, violating. For the *New York Times* and for much of the liberal interventionist Western media, it was important to present U.S. and NATO demands as if they were emanating from the United Nations, or at least from an “international community” that comprised a membership a little wider than that of NATO. This served to confuse the public, as of course it was meant to.

The storyline was now set. Naumann and Clark, the *New York Times* reported, “got the Yugoslav military to agree on an exact list of police and military units to be withdrawn ... The generals got so precise in their demands that hours were spent discussing details like which Government checkpoints would have to be taken down, NATO officials say.”<sup>16</sup> But, yet again, Naumann and Clark refused to disclose what Belgrade had promised. NATO also kept

this to itself even as it insisted in background briefings to the media that the pledges were extremely detailed and specific.

Once the legerdemain of Yugoslav violation of international commitments was in place, the trap was set. It was now only a matter of time before NATO would make a determination that Belgrade had once again gone back on its word to the international community. Given NATO's refusal to divulge what precisely the Serb obligation was, the burden of proof wasn't likely to be high. "Facing the threat of strikes, Mr. Milošević even signed a schedule for withdrawals that detailed, in writing, the names and numbers of units that had to pull out of Kosovo or return to their barracks," the *New York Times* enthused. "The NATO and Administration officials, who spoke on condition of anonymity, said that those assurances appeared to be enough to avert strikes."<sup>17</sup>

NATO's reluctance to reveal Belgrade's commitments was of a piece with its secrecy over its own commitments. In fact, in return for Yugoslavia's agreement to withdraw forces from Kosovo, NATO had pledged to pressure the KLA to desist from terrorist activities. As the 2009 ICTY Kosovo judgment recounted, Milošević had told Naumann and Clark that the KLA would have to comply with any agreement reached. If the KLA failed to do so, Belgrade "would be compelled to return the VJ units to the territory from which they had withdrawn." According to the ICTY, "Clark and Naumann agreed to this demand and promised it would be taken care of."

Moreover – and this would prove to be a crucial issue – "the Agreement provided that, as a last resort, the FRY retained the right to respond proportionately and in self-defence to 'terrorist activity' or violations of the law that endangered the lives of its citizens and representatives."<sup>18</sup> This was extremely significant and it is understandable why NATO officials and the media kept quiet about it. Only by keeping this pledge a secret would NATO be able to claim that the return of Yugoslav forces into Kosovo to deal with the KLA was a violation of the Milošević-Holbrooke and Naumann-Clark agreements.

NATO's secretiveness had created an extraordinary situation. For the first time in its history, NATO was on the brink of going to war and no one knew why, other than that it had some "humanitarian" purpose in mind. Indeed, NATO went out of its way to boast that no one other than Milošević and NATO needed to know what pledges he, Milošević, had made to avert bombing. NATO officials informed the media that "the decision on whether or not to launch air strikes would be based on him [Milošević] fulfilling the steps agreed over the weekend by today," the *Independent* reported. And what were these steps?

NATO officials refused to say how many extra troop and special police units must be withdrawn from Kosovo by the deadline, saying only that Mr. Milošević must “lift the heavy hand of intimidation from the backs of the civilian population” and return troop and heavy-weapon levels in the province to the pre-March “baseline.” “We see no interest in making this public. The only one who needs to have the information is the man who makes things happen in FRY,” said an official.<sup>19</sup>

There was no need to make “this public” even though deadly bombing attacks were only days, perhaps hours, away. Not for the first time, the media were only too happy to let NATO policymakers keep their demands secret to ensure that they would be able to do whatever it is that they needed to do.

### THE RETURN OF THE KLA

The KLA seized on the Yugoslav army withdrawal as an opportunity to take control of Kosovo. As the KVM’s Keller described it:

The KLA never really tried as a whole to participate in the improvement of the situation on the ground ... Every pullback by the Yugoslav army or the Serbian police was followed by a movement forward by [KLA] forces, which the other side, of course, considered as a violation of the ceasefire. OSCE’s presence compelled the state forces to certain restraint, at least in the beginning of the mission, and UCK took advantage of this to consolidate its position everywhere, continuing smuggling arms from Albania, abducting and killing people, both civilians and militaries, Albanians and Serbs as well.<sup>20</sup>

None of this should have come as a surprise. As the ICTY put it, the KVM agreement “imposed obligations on the FRY and Serbia, but did not involve the KLA as a party or impose any obligations on that organization.”<sup>21</sup> However, reporters made a good show of astonishment at this entirely predictable re-emergence of the KLA. What transpired in Kosovo is what would transpire anywhere in the world if the police were suddenly to withdraw. Within days, criminal gangs would be in control.

On October 27, just two weeks after the signing of the Milošević-Holbrooke agreement, the *New York Times* reported the appearance of a possible “stumbling block to an early peace in Kosovo.” The paper’s reporter couldn’t help noticing that “The guerrillas of the [KLA] were back, three months after the

start of a brutal Government offensive that drove them away, and today they were moving into the territory as Government forces left it.”<sup>22</sup> The next day, the *New York Times* reported that the KLA, which “had been kept scattered and somewhat disorganized by the Government forces, were boldly re-forming and fanning out in large numbers into villages now freed of Government control by NATO threats.”<sup>23</sup>

“Though there is little combat, the war in this province of Serbia has taken a new turn,” the *New York Times* reported. “Ethnic Albanian rebels are spreading their influence to places they had not operated in until NATO threats made the Serbian government withdraw many police and army units. Expanding the area they control without having to fight for it allows the rebels to undercut American efforts to fashion a negotiated settlement because the rebels can gain territory while the talks drag on.”<sup>24</sup> The *New York Times* reporter naturally took it as a given that “American efforts to fashion a negotiated settlement” were genuine rather than a piece of theater for public consumption.

U.S. officials had known all along that the KLA would begin “spreading their influence” and gaining territory the moment Yugoslav government forces left Kosovo. Even as Holbrooke was demanding the withdrawal of forces and issuing his ultimatums, one newspaper quoted a Pentagon official as saying, “There is a big worry that [the KLA] will take advantage of things going their way. We need to convey to them: You are not to take advantage.”<sup>25</sup> Needless to say, the message never reached the KLA. Not that it would have made much difference if it had. The KLA, perfectly reasonably, had interpreted NATO’s entrance into the conflict to save it from defeat as an overt show of support. Even the Independent International Commission on Kosovo admitted in its *Kosovo Report* that, “Despite Contact Group rhetoric about not condoning KLA terrorist attacks, no attempt was made by the West to interdict the flow of arms and money to the KLA or to challenge seriously its provocative tactics. The actual U.S. capacity to restrain the KLA may have been quite limited at this stage, but there is no evidence that even an attempt was made.”<sup>26</sup>

The Yugoslav government may have hoped that once the KLA’s tactics became apparent to the KVM, the Western powers would reappraise their position and look upon Belgrade’s predicament with more sympathy. The continual threats to bomb would cease and Yugoslavia would be allowed to finish off the KLA. This was a considerable miscalculation. NATO had hitched its wagon to the KLA and had no intention of doing anything to thwart its activities. The U.N. secretary-general’s report of December 24, 1998, hinted at this:

Kosovo Albanian paramilitary units have taken advantage of the lull in the fighting to re-establish their control over many villages in Kosovo, as well as over some areas near urban centers and highways. These actions by Kosovo Albanian paramilitary units have only served to provoke the Serbian authorities, leading to statements that if the Kosovo Verification Mission cannot control these units the Government would ... Government officials have warned that recent incidents, particularly attempts by the armed groups to cross into Kosovo from Albania and killings of civilians, would justify a renewal of operations against Kosovo Albanian paramilitary units.<sup>27</sup>

Even as the KLA was openly taking over government checkpoints and asserting its control over the province, NATO continued to threaten Belgrade. On October 27, Solana informed Kofi Annan that NATO would maintain its activation order, the execution of which “would depend on NATO’s assessments that the [FRY] was not in substantial compliance with [SCR 1199].” This was a curious move by Solana since Annan was at that very moment noting the extraordinary coincidence of the Yugoslav withdrawal and the swift return by the KLA. In his report of November 12, Annan wrote, “Recent attacks by Kosovo Albanian paramilitary units have indicated their readiness, capability and intention to actively pursue the advantage gained by the partial withdrawal of the police and military formations. Reports of new weapons, ammunition and equipment indicate that the capacity of those units to resupply themselves is still fairly good.”<sup>28</sup> Yugoslav security forces, on the other hand, were adhering to the agreement and withdrawing: “The army and police presence has been significantly reduced since early October. The presence and disposition of the remaining Government forces indicate a strategy based on containing pockets of resistance and on control of high ground and the main arterial routes in areas dominated by Kosovo Albanian paramilitary units.” However, “Kosovo Albanian paramilitary units are asserting their own authority to supplant that of the Serbian police in areas from which the police have withdrawn, and have established their own checkpoints on a number of secondary roads.” Despite this clear evidence of the re-mergence and strengthening of the KLA, the Western powers continued to insist that Yugoslavia adhere to its commitment to reduce its forces to the levels of February 1998, before the start of the fighting.

Annan even noted that the displaced people of Kosovo had mostly returned home. “Of the 10,000 internally displaced persons estimated to be living under plastic sheeting before the 27 October military withdrawal, almost all had either returned to their villages or were staying with host families.”

Such information barely made it to the media, which were then completely in thrall to the frenetic cries of the humanitarian interventionist bombers.

### WAR FEVER AND THE ICTY

While NATO was finalizing its preparations for the upcoming attack on Yugoslavia, the ICTY did its bit to ratchet up the anti-Serb fervor. On October 15, Louise Arbour, the ICTY chief prosecutor, announced that she needed to go to Kosovo immediately to conduct a war crimes investigation. Accompanying her would be a 14-member team. The urgency of a war crimes probe was not readily apparent. The Kosovo conflict was comparatively low-key and, as it was still ongoing, the ICTY was in no position to conduct a proper, dispassionate investigation. The Yugoslav authorities announced that, while Arbour and some of her colleagues could be issued with single-entry, seven-day visas to attend a conference in Belgrade, they would not be permitted to conduct a criminal investigation in Kosovo. Though Arbour had, of course, expected this rejection (Belgrade had never recognized the tribunal's jurisdiction), she made a great show of indignation and announced that she would not attend the Belgrade conference.

Predictably, the ICTY's McDonald immediately got in on the act. She issued a statement denouncing Belgrade's rejection of the visa application as yet another example of the FRY's "utter disregard for the norms of the international community." Yugoslavia, she declared, was nothing less than "a rogue State." Now, such a designation has powerful resonance in the United States. Rogue states are those states that get bombed on a regular basis by the United States and Israel. Just in case anyone didn't get her message, McDonald reiterated that Yugoslavia posed a "direct challenge to the authority of the Security Council." She insisted the council "vindicate its authority and respond forcefully to the action of the FRY." The day after she issued this statement, McDonald wrote to the Security Council demanding "measures which are sufficiently compelling to bring the Federal Republic of Yugoslavia into the fold of law-abiding nations."

Succumbing finally to pressure, the U.N. Security Council duly passed a resolution on November 17 condemning Yugoslavia for its failure to cooperate with the ICTY. Nonetheless, it didn't recommend any punishment for this delinquency.

This was nowhere near enough for McDonald, and she now upped the ante. Furiously, she took out the heaviest rhetorical weapons in the armory.

The time had come to invoke ... the Holocaust! Two days after the adoption of Resolution 1207, McDonald went before the U.N. General Assembly and announced that Yugoslavia was no different from Nazi Germany. Denouncing the Security Council for its passivity in the face of Yugoslavia's direct challenge to its authority, she called on the General Assembly to "state unequivocally that such action will not be countenanced for it threatens to undermine everything the United Nations stands for." But, she pointed out, condemnation alone won't suffice. It didn't suffice against Hitler, and it won't suffice now:

Following the ravages of the Second World War, the Nuremberg Tribunal was created to put the world on notice that the international community would not allow such atrocities to go unpunished. Hence the phrase, "never again." Yet, again and again such barbarity comes back to haunt us. Without a firm renewal of the commitment to the important principles underlying the work of the Tribunal, those who would slay innocents make a mockery of our pledge, "never again." ... We cannot stand by while such atrocities are committed. For if we do, surely we are as guilty as the perpetrators. The heinous crimes committed by the Nazi regime were allowed to happen because many bystanders looked the other way. They knew what was happening, but they feigned ignorance. They did not want to know. It was easier and safer for them not to know. Thus, I ask the Assembly: will you passively stand by and permit one State to flout the express directive of the United Nations? By omission, will you not become a participant? Or will you assert boldly and without reserve that the principles of peace and justice on which this Organization was founded a half century ago are worth more than the paper on which they are written? Will the aspirations and the expectations of those who support the international rule of law be given effect, or will one State be permitted to ignore its obligations with impunity?

The hysteria, bordering on insanity, underlying such comments, had been a standard feature of the rhetoric emanating from the likes of journalists such as the BBC's Martin Bell. Hearing it expressed by a former U.S. federal judge and a current president of a U.N. body was unusual. In a matter of only two weeks, Yugoslavia had gone from "rogue state" to Nazi Germany. Again few asked the most obvious question: what had Yugoslavia done to merit these wild accusations? It had not refused to punish war crimes; to the contrary, it had asked the ICTY to provide all evidence of crimes it had in its possession. The FRY simply wasn't prepared to cede jurisdiction over war crimes to the

ICTY. This was not an unreasonable interpretation of international law. The ICTY was an ad hoc tribunal. It had been set up by the U.N. Security Council. Whether the Security Council had the authority to create an international court of law was debatable, to say the least. The states over which the tribunal purported to exercise jurisdiction had had no say in its creation. Sovereign states are generally wary of ceding jurisdiction over their own citizens to foreign bodies. While resolutions issued by the U.N. Security Council did demand cooperation with the ICTY, they didn't state that every command issued by the ICTY had to be complied with, immediately and in full. The permanent International Criminal Court permits states to use domestic courts to try violators of international humanitarian law. The 1948 Genocide Convention states that national courts are the proper venue for trials of anyone accused of genocide.

Above all, how on earth could any sane person compare Yugoslavia to Nazi Germany? It hadn't attacked anyone. It hadn't even come to the aid of Serbs who, following the unilateral secessions of others, had expressed their wish to remain in Yugoslavia. As for the killings in Kosovo, the U.N. had estimated that, from February 1998 – when the KLA launched its campaign – to October, some 750 people had been killed on all sides. McDonald's extraordinary intervention served no purpose other than to enflame anti-Serb emotions on the eve of NATO's bombing campaign.

NATO was determined to make sure that there would be no let-up in the bombing fervor. On October 27, Solana announced that NATO would keep in place its activation order. He couldn't resist boasting that it had been NATO's

pressure and our credible threat to use force which have changed the situation in Kosovo for the better. NATO's unity and resolve have forced the Yugoslav Special Police and military units to exercise restraint and reduce their intimidating presence in Kosovo ... We know that President Milošević only moves when he is presented with the credible threat of force. The burden of proof of compliance clearly rests with him.

Bluster of this sort, apart from its obvious lack of relationship with reality, was hardly conducive to a peaceful resolution in Kosovo. Touting the alleged success of NATO bullying was only making further threats of violence acceptable. A self-adulatory NATO was not about to abandon a strategy that appeared to be yielding such fruitful results. Besides, according to NATO's logic, if bombing threats don't get the job done, it only means there needs to be more of them. NATO was on to a winner.

On November 19, NATO yet again announced that it was deeply concerned about the deteriorating security situation in Kosovo. "Since the beginning of November there has been a sharp increase in tension resulting from incidents created in some cases by Serbian security forces and in other cases by armed Kosovar elements such as the UCK." NATO was lying, of course. It refused to admit in public what it well knew to be the case, namely, that the rise in violence in Kosovo had come about exclusively as a result of the actions of the KLA. As even the ICTY admitted, "in the second half of November and in December 1998, NATO observed an increasing number of incidents in Kosovo, most of them instigated by the KLA which was trying to fill the vacuum left by the withdrawing FRY/Serbian forces."<sup>29</sup>

NATO responded to the rapid disappearance of justifications for attacking Yugoslavia by accelerating its bombing plans. On December 5, NATO announced the dispatch of a 1,500-man Extraction Force to Macedonia. The force's mission, NATO explained, would be to pull OSCE verifiers out of Kosovo in the event of an emergency. Everyone knew what that meant. Extraction of the verifiers would be preliminary to the start of NATO bombing. This time, unlike in Bosnia, NATO would not allow its bombing plans to be held hostage by the presence of international verifiers or peacekeepers. There wouldn't be two keys, one for the United Nations and one for NATO, with the U.N. secretary-general holding the power of veto over NATO action. The OSCE was a very different kind of body from the U.N. Under the chairmanship of Norway and Poland, respectively a NATO power and would-be NATO power, the OSCE was only too happy to cede authority over its personnel to NATO. Since the decision to bomb would be NATO's and NATO's alone, Brussels had to put in place a mechanism that would ensure that OSCE verifiers could be pulled out of Kosovo at a moment's notice.

Yugoslavia was outraged at NATO's step, something Kofi Annan noted in his report of December 24. The FRY, he wrote, had "objected strongly to the intention of [NATO] to deploy an extraction force in the former Yugoslav Republic of Macedonia in relation to the Kosovo Verification Mission and sought to put pressure on the new Government over the issue."<sup>30</sup> Yugoslavia's strong and consistent objections to the withdrawal of the verification mission from Kosovo renders absurd the subsequent claims of NATO and the humanitarian interventionists that Yugoslavia had always planned to expel Kosovo's Albanian population. Anyone planning to commit an atrocity would usually try to keep onlookers to a minimum. It was NATO, not Yugoslavia, that wanted the verifiers out of Kosovo.

### FRAUDULENT EVENHANDEDNESS

To ensure public support for the impending bombing campaign, NATO and OSCE were obligated to maintain a pretense of evenhandedness: NATO and the OSCE were honest brokers seeking only to bring the conflicting parties together to secure a peaceful outcome. Thus, violations of U.N. resolutions or of the so-called Milošević-Holbrooke agreement were routinely condemned whichever side had supposedly perpetrated them. But there was a crucial difference: Yugoslavia received bombing threats, while the KLA received a mild tongue-lashing. The worst the KLA had to fear, according to Madeleine Albright, was that it “would lose completely the backing of the United States and the Contact Group.”<sup>31</sup> However, since Albright, NATO, and most U.S. officials and commentators were loudly claiming that Yugoslavia was the embodiment of pure evil and the reincarnation of Nazi Germany, there was little likelihood that anyone waging war against it would lose the “backing of the United States.”

Actually, there wasn't much of a show of balance even when it came to condemnations of atrocities. While Walker and Drewienkiewicz required little evidence of official complicity in an alleged violation before venting their fury at Yugoslav authorities, they insisted on irrefutable proof of KLA involvement before condemning the organization. Since the claims of Yugoslav government officials were inherently suspect, the only proof of KLA involvement acceptable to Walker and Drewienkiewicz was KLA admission and only if it had been issued by its most senior figures. After all, the perpetrators may have been renegade elements, acting without the authority of the KLA high command.

Testifying at the Milošević trial, Drewienkiewicz revealed the good faith that guided him. During cross-examination, Milošević asked Drewienkiewicz about an incident in which a column of KVM and Serb security police vehicles came under fire. Milošević wondered why the KVM had taken its sweet time before condemning the KLA for the incident. Drewienkiewicz replied that he couldn't be sure who was responsible. “We later discovered that it was the KLA who had carried out the shooting,” he explained. Milošević then wondered why there should have been any doubt about the matter. Drewienkiewicz replied:

I was very concerned that it was a come-on and that Serbian police might well have carried out the shooting. Q. So you assume that the Serb police shot at the column in which there were members of the Serb police, is that it? A.

Yes, because the two sets of vehicles were quite separated. I think there were between 50 and 100 yards between them. Q. So that means only direct recognition by the KLA could finally change your judgment ... A. As I recall it, I spoke to everybody who had taken part in this incident, and when I reviewed everything ... I concluded that I didn't know who had done it, but the balance of probability pointed at a come-on by the MUP [Ministarstvo Unutrašnjih Poslova – Ministry of Internal Affairs]. Simultaneously, we were asking our people who were with the KLA to get to the KLA commander and to ask him his version of the event. In the course of the next day, I was told by my people ... that the KLA had admitted it was their people who had done it. We then encouraged them to own up to this. They declined and so we then stated in a press statement that it had been done by the KLA who had admitted it. That was the sequence of events.<sup>32</sup>

Clearly, if the KLA had continued to deny responsibility, Drewienkiewicz would have continued to claim that the Serbs had staged a “come-on.” In other words, while Walker and Drewienkiewicz were ready to believe that the Yugoslav authorities would stage incidents, plant weapons, and fabricate reports, no such suspicion was attached to the KLA. Of one incident in which Serb police claimed that they had killed terrorists and found weapons, Drewienkiewicz declared dismissively, “Anybody can go down into the cellar of the police station and pick up a selection of stuff and take it up onto a hillside and say, ‘There we are. We killed them because they are terrorists, and here are their weapons,’” he explained during his testimony. Of course, only Serbs would be capable of such subterfuge.

Drewienkiewicz's bosses in London went along with the farce of even-handedness. For example, on January 18, 1999, British Foreign Secretary Robin Cook informed the House of Commons that the KLA had “committed more breaches of the ceasefire, and until this weekend was responsible for more deaths than the security forces.” John Randall, MP for Uxbridge, responded to this announcement by asking Cook what “sanctions and threats” he intended to use against the KLA. The British foreign secretary replied:

We have vigorously denounced the KLA in just about every international forum. We have also, through Security Council resolutions, called on states neighbouring Kosovo and on others in Europe to act to try to cut off the flow of both funds and weapons to the KLA. We are actively reviewing what more we can do to apply pressure to the choke points in the supply of weapons to the KLA. We are not dealing with a state or, indeed, an organisation with any clear

political leadership or representation, so it is much more difficult to apply effective pressure, especially when the KLA refuses to take part in negotiations.<sup>33</sup>

So refusal to take part in negotiations is rewarded with release from having to endure Western threats.

Cook's profession of helplessness was a regular trope of NATO officialdom. Starting in November 1998, one NATO figure after another would flap his arms and lament his inability to restrain the KLA. Wolfgang Petrisch, the E.U. special envoy for Yugoslavia, said, "They [the KLA] were really growing ever stronger from day to day, and there was nobody to really stop them."<sup>34</sup> According to Klaus Naumann,

[W]e really lacked an instrument how to get the UCK or the KLA under control and how to influence them. We did not have an instrument to force them into compliance ... I was never allowed to talk to any UCK man or representative since we had – NATO had initially called these people terrorists. And the iron rule was that NATO will never negotiate with terrorists. That is also – that's something which is not unimportant if you look at the composition of NATO, since in some NATO countries we have terrorist movements, and for that reason, these governments insisted that we should not talk to terrorists directly. With hindsight, it was perhaps a mistake.<sup>35</sup>

Naumann's unctuous assertion that NATO was too high-minded and morally principled for its own good oozed shameless dishonesty. Albright admitted that NATO had ready means at hand to influence the KLA. NATO could simply threaten to withdraw its support. Holbrooke and Hill had openly consorted with KLA leaders; Holbrooke was even happy to pose with them for photographers. Now, however, in response to KLA terrorism, NATO spokesmen were asking the public to take seriously the claim that it was unable to exert any influence over "terrorists." Of course, if this was true and NATO really did lack the means to restrain the KLA, then it had no business demanding the unconditional withdrawal of Yugoslav forces from Kosovo.

It soon came out that NATO had lavished on the KLA something a lot more tangible than public support. From 1998 on, the European media regularly reported that NATO intelligence services had forged links with the KLA. In December 1998, the *Scotsman* reported that "the British Army's standard issue assault rifle is being used by Albanian rebels in Kosovo ... The rifle is extremely difficult to acquire outside official channels in Britain."<sup>36</sup> During the 1999 bombing campaign, it was reported that Britain's SAS was "actively

involved in the training of the Kosovo Liberation Army and is supplying it with electronic equipment designed to help guide NATO bombs on to Serb targets ... In the hands of the KLA, the equipment has allowed NATO aircraft to identify Serb targets inside Kosovo with greater efficiency.”<sup>37</sup> Later, it was reported that “Military sources in London have disclosed that British and U.S. involvement with the KLA involved the U.S. Defence Intelligence Agency, the Secret Intelligence Services (or MI6), former and serving members of 22 SAS, as well as three British and American private security companies.”<sup>38</sup> The *Sunday Times* (London) disclosed that U.S. “intelligence agents have admitted they helped to train the Kosovo Liberation Army before NATO’s bombing of Yugoslavia.” CIA officials had served as KVM monitors, “developing ties with the KLA and giving American military training manuals and field advice on fighting the Yugoslav army and Serbian police.”<sup>39</sup>

The CIA-KLA connection has been one of the worst-kept secrets of recent times. In any case, even if one were to disbelieve these media reports, NATO’s actions belie the self-serving pieties of its placemen such as Naumann about the strict prohibition on contacts with “terrorists.” NATO had never referred to the KLA as a terrorist organization. The U.S. government, the global anti-terrorist-in-chief, had repeatedly insisted (except for that Gelbard hiccup for which he quickly made amends) that it did not consider the KLA a terrorist organization. NATO had threatened to throw its heavy armor at Belgrade in order to save the KLA from total defeat and to facilitate its re-emergence in late 1998 and early 1999. This alone gave NATO extraordinary leverage. Moreover, as the House of Commons research paper disclosed, U.S. officials and KLA leaders continued to meet throughout the tenure of the Kosovo Verification Mission. In November,

the U.S. envoy to the region, Christopher Hill, launched an intensive diplomatic effort, shuttling between the Serbian and ethnic Albanian sides, in an attempt to flesh out the detail of the plan. On 6 November Mr Hill met with members of the KLA General Staff to discuss the latest version of the draft plan, prompting the representative of the KLA political directorate, Hashim Thaçi, to declare: “today’s meeting is of great importance, since it confirms our view that there cannot be a solid and a politically accepted solution without the participation of the KLA.” In return for involvement in the diplomatic process, the KLA apparently undertook not to widen the conflict to neighbouring FYR Macedonia and to avoid contact with Islamic extremist groups.<sup>40</sup>

Tellingly, there is no mention in the House of Commons report of Hill and other U.S. officials extracting any commitments from the KLA not to widen the conflict in Yugoslavia at a time when a ceasefire of sorts was supposed to be in place.

NATO's maneuverings had a predictable outcome. The conflict in Kosovo soon resumed. Though fighting between Serb forces and the KLA had decreased in intensity, this, according to the OSCE/KVM report *As Seen/As Told*, was "no more than a temporary lull." Serious fighting picked up "in December with a new Serbian offensive in the north-east." What had led to this renewed offensive? The KVM's Gabriel Keller explained what happened during testimony before the European Parliamentary Assembly on January 28, 1999, two months before NATO's attack:

There was relative calm until Dec. 24 when serious clashes broke out in the region of Podujevo ... The incidents in Podujevo were attributable to several causes. The [KLA] seized a number of positions which had been abandoned by the Yugoslav army and the Serbian police in the wake of the October agreements. These positions threatened the road between Belgrade and Pristina. The Yugoslav army reacted with extreme brutality and violence and we witnessed the first overt, savage violation of the cease-fire ... Eight soldiers from the Yugoslav army were taken prisoner on 8 January. Tensions rose. More troops were deployed in the area.

As before, the KLA had taken advantage of the Yugoslav army withdrawal to seize strategic positions. Yet it was the Yugoslav retaliation that was met with a chorus of NATO vituperations. *As Seen, As Told* gave details of some of the atrocities the KLA was perpetrating at the time:

On 14 December 1998, unidentified gunmen killed six young Kosovo Serbs in the Panda Bar in Peć. The attack was considered to be in revenge for the killing of 30 UCK members who had been shot while crossing the border illegally a few days earlier. On 17 December the Serb deputy mayor of Kosovo Polje/Fushe Kosove was abducted and murdered. The UCK claimed that they were not responsible for the killing. The deputy mayor of Kosovo Polje was a moderate Kosovo Serb politician who had done much to improve social conditions in his area.<sup>41</sup>

The report was published in November 1999. The NATO campaign was long over by then, so it was safe to go public with admissions such as KLA assas-

sinations of “moderate politicians” and KLA smuggling of arms across the Albanian border, all of which had taken place under the watchful, but uninterested, eye of Walker’s verification mission.

The KLA’s seizure of Podujevo was a very serious matter, as the OSCE/KVM report acknowledged. The KLA was now occupying and reinforcing “former vj trenches overlooking the main supply route in Kosovo from Serbia proper by Podujevo.” The Yugoslav authorities could hardly be expected to sit still. “Unsurprisingly,” the report stated, the security forces were “not willing to overlook this action, and immediately announced vj ‘exercises’ starting on 19 December 1998 in the vicinity. By 24 December, the vj were once again in control of the ground following three days of fighting. The importance of the main supply routes to the Serbs was reiterated by the strengthening of positions straddling the Dulje/Duhel Pass ... on 30 December 1998.”<sup>42</sup> Yet NATO continued as before, cheerfully denouncing the Serbs and ignoring everything else that was going on.

On December 4, the U.N. secretary-general reported that “the return of internally displaced persons to their homes has significantly increased. With the onset of winter, villages across Kosovo are being repopulated.”<sup>43</sup> However, “illegal traffic in arms and movement of members of Kosovo Albanian paramilitary units continue ... Kosovo Albanian paramilitary units have taken over checkpoints left by Serbian police in the interior villages, provoking incursions by Serbian armored vehicles and triggering occasional gun battles.” As for the reluctance of refugees to return, this was “mainly due to Kosovo Albanian paramilitary units and security forces remaining concentrated in certain areas, thus posing the potential of continuing clashes.”<sup>44</sup>

NATO continued in its somnabulatory course. On December 8, it issued a statement, which, while dutifully calling on both sides to comply with U.N. resolutions and to avoid provocative behavior, suggested that if the Serbs were to get rid of Milošević, NATO would ease the pressure on them. “We believe that stability in Kosovo is linked to the democratization of the FRY and we support those who are genuinely engaged in that process,” NATO announced. “In this regard, we condemn recent actions taken by President Milošević to suppress the independent media and political pluralism in Serbia. We welcome the steps the Government of Montenegro has taken to protect the independent media, promote democratic reforms and ensure respect for the rights of all its citizens.” In other words, Serbia should be taking its cues from Montenegro.

As usual, “democratization” meant removal of a government not to the liking of Washington or NATO. NATO’s cynical praise for the government of

Montenegro demonstrated nicely the sincerity of its call for “democratization.” NATO was reviving the E.C.’s failed 1991 maneuver to split Serbia and Montenegro in order to secure acceptance at The Hague of the Carrington plan.

The government of Milo Djukanović had one outstanding virtue for NATO, and it wasn’t the commitment to “democratic reform” or “respect for the rights of all its citizens.” Djukanović had decided he was better off becoming a client of Brussels and Washington than sticking with Milošević, his former ally.

Djukanović has been in power in Montenegro since 1991, most of the time as prime minister, some of the time as president. He is currently prime minister yet again. Given the sanctions and isolation under which Yugoslavia was suffering – including denial of membership of the U.N. and the OSCE – it was perfectly understandable that an opportunistic politician would seek to escape this burden. Predictably, as soon as Djukanović decided that cultivating bad relations with Belgrade would serve his interests, the Western media took to lauding him with epithets such as “young and popular,” “a reformer,” “charismatic,” “a modernizer,” “a committed pluralist,” and “fiercely independent.” Not everyone saw Djukanović in such a favorable light. Italian prosecutors, for example, claim that Djukanović is the head of an international mafia group that is closely linked to the Italian mafia and engages in cigarette smuggling, white slavery, money laundering, and various other unwholesome activities.

In addition, Djukanović’s election to the presidency of Montenegro in October 1997 was marked by fraud. He lost the first round of balloting by 2,000 votes. Even though the leaders of the smaller parties, which, between them won 11,000 votes, endorsed Djukanović’s rival, Momir Bulatović, in the second round of voting, Djukanović ended up with 29,000 more votes than he did in the first round. He thus supposedly won by a margin of 5,000 votes. Between the first and second rounds, however, more than 8,000 new names had been added to the voting lists.

This, then, was NATO’s sterling example of a “democratic” Balkans political leader: his sole qualification to be dubbed “democratic” was opposition to Milošević. The United States had been promoting the fortunes of Djukanović for some time. Already in March 1997, *USA Today* reported that “Djukanović, who has instituted a wide-ranging privatization program for his little state, has been an outspoken critic of Milošević – something U.S. officials encourage ... U.S. officials seek the potential for Montenegro to play a stabilizing role in the Balkans.”<sup>45</sup> Once again, the facile equation: privatization plus opposi-

tion to Milošević equals stability – something the United States was obviously keen to promote by provoking yet another conflict in the Balkans.

Montenegro – population 650,000 – was an odd horse to back against Serbia – population 10 million. By encouraging Montenegrin separatism, NATO was only making Milošević more popular in Serbia, not less. NATO and Washington seemed to have coordinated their anointment of Djukanović. NATO's statement about Montenegro's "democratic reforms" was immediately followed by a report in the *New York Times* disclosing that U.S. officials had "toughened their tone against Mr. Milošević in recent days and are openly supporting the democratic Government in Montenegro, a part of Yugoslavia that Mr. Milošević has hinted he might move against." The *New York Times* also quoted a senior U.S. official as saying, "There has been real progress toward democracy and economic freedom in Montenegro, and we want to support them any way we can."<sup>46</sup>

Any suggestion – particularly when it appears in an official newspaper such as the *New York Times* – that Milošević "might move against" someone has to be taken as a serious warning: it means the U.S. government had found a new pretext to justify using force against Yugoslavia, should the Kosovo route fall through. (The *New York Times*, needless to say, offered no evidence of hints by Milošević that he "might move against" Montenegro. None was necessary, since Milošević's malevolence was something *New York Times* readers were expected to take for granted.) Warnings to Milošević against making any moves against Djukanović were to become a NATO staple in the months ahead. At its 50th anniversary celebration in Washington in April 1999, NATO felt obliged to "reaffirm" its "strong support for the democratically elected government of Montenegro. Any move by Belgrade to undermine the government of President Djukanović will have grave consequences." The overthrow of Djukanović was yet another NATO nightmare fantasy – the failure to materialize of which NATO immediately took credit.

NATO leaders went on denouncing Milošević, even as they continued to receive briefings that unambiguously attributed responsibility for most of the violence in Kosovo to the KLA. On December 4, Walker briefed the North Atlantic Council in Brussels. According to Naumann, Walker informed the NAC that "the majority of violations was caused by the KLA." In fact, the confidential minutes of the NAC "talk of the KLA as 'the main initiator of the violence' and state 'It has launched what appears to be a deliberate campaign of provocation.'"<sup>47</sup> In public, however, Walker went on lambasting Belgrade for the violence in Kosovo. Testifying against Milošević, Walker introduced a nice distinction to explain why he chose to denounce Belgrade and to over-

look the violence of the KLA. While the KLA was responsible for more violations, he told the court, the Yugoslav government was responsible for more violence:

I would say in terms of numbers, the KLA probably committed a greater number of violations. But in terms of the scale of the violations ... the response by the government to whatever the provocation by the KLA was, was excessive. So in terms of numbers, if you're talking of numbers, I would say probably the KLA committed more. If you're talking about the scale, I think you're talking about the government far exceeding the KLA in terms of the violence.<sup>48</sup>

Walker's claim was very interesting. He was introducing a new standard to measure "excessive" force. Legitimate government authorities may use only as much force to uphold laws as was used to break laws. Thus, in apprehending a gang of criminals, the police may only use the same amount of force that the criminals had used immediately preceding their apprehension. It's certainly a principle that his employer, the U.S. government, was to adhere to religiously in Iraq, in Afghanistan, in Libya, and, of course, in Yugoslavia, to name just the most recent examples of Washington's carefully calibrated use of force.

#### RAČAK AND WALKER

Despite NATO bluster, as 1999 began, there were grounds for believing that bombing could be averted. The OSCE's mission had been forced to acknowledge that the KLA was the one instigating the violence. Were this information to get out, NATO bombing would be out of the question. Also, as Kosovo's population continued to return home, the story of the humanitarian emergency would become an ever-harder sell. "There are now no refugees known to be living in the open in the region," the Office of the U.N. High Commissioner for Refugees reported in December 1998.<sup>49</sup> For the Clinton administration, what it had dreaded was coming to pass. The October bombing fervor had faded. And now the opportunity afforded by the presence of the Walker mission was fast slipping away. Short of a galvanizing event that once again would focus public rage against the Serbs, NATO's chance to show off its military prowess would vanish.

It's a good bet that whenever policymakers are looking for an event that would get a desired war off the ground, one will turn up. That was certainly

the case in Bosnia. Whenever public interest in the war was waning or a peaceful settlement seemed a real possibility, something would happen to redirect Western public fury at the Serbs. The galvanizing events in Bosnia were the three horrific Sarajevo marketplace massacres, each of which took place at a key moment in the war. The Muslims accused the Serbs; the Serbs accused the Muslims. U.N. observers said they didn't know who was responsible. NATO's placemen denounced the Serbs and threatened punishment.

In mid-January, the Clinton administration got its triggering event, one that was guaranteed to stir editorial writers into a frothy lather. Unluckily for the Serbs, in Kosovo, unlike in Bosnia, there were no U.N. observers to cast doubt on the NATO-favored account. Investigation and the attendant publicity would be in the hands of the KVM, or rather its leaders, Walker and Drewienkiewicz.

On January 15, the Yugoslav authorities launched a counter-insurgency operation against the KLA in the village of Račak. Račak was no peaceful village. It was a KLA base<sup>50</sup> surrounded by bunkers and trenches. Hashim Thaçi himself admitted that "a key KLA unit was based in this area."<sup>51</sup> From camouflaged positions near Račak, the KLA had been launching well-prepared hit-and-run strikes against Serb patrols. Drewienkiewicz subsequently recounted that his impression was "that the KLA were not welcome in the village, that they had imposed themselves upon the village rather than being there and being made welcome."<sup>52</sup>

A week earlier, the KLA had ambushed a police patrol and killed three Serb policemen. On January 8, the KLA ambushed a Yugoslav army convoy and abducted eight soldiers. On January 10, there was another ambush close by, which led to the death of another policeman. The security forces thus had every reason to launch an attack on Račak and destroy the KLA base there. The attack was in conformity with the Milošević-Holbrooke agreement.

Prior to launching its attack, Belgrade notified the OSCE of the time and location of the operation. KVM observers stationed themselves on a hill above Račak and watched Yugoslav forces first surround the village, then go from house to house in search of KLA fighters. Throughout the operation, the KLA maintained a constant mortar barrage. Many of the houses were empty because most of the village's residents had already left in anticipation of a fire-fight. KLA commander Shukrit Buja testified during the Milošević trial that the KLA had made use of five or six houses to accommodate its soldiers.<sup>53</sup> Buja also testified that ten KLA soldiers were killed almost immediately after the offensive began.

At around 4 p.m., government forces withdrew. No sooner did they do so than the KLA returned to the village.<sup>54</sup> The KVM observers saw nothing unusual. In the evening, they met KLA commanders who reported no atrocities.

Walker had spent the day in Montenegro, chatting with Djukanović. The following day, however, a Saturday, Walker, accompanied by a huge entourage of reporters and cameramen, rushed down to Račak and, accompanied by KLA minders, verified the presence of 45 dead bodies in different locations in the village. One gully contained the bodies of 24 men. All of the bodies had gunshot wounds. The dead were all men except for one woman and one boy. Without any hesitation, Walker proclaimed to the world's media that they were present at the scene of a massacre of unarmed civilians. "To see bodies like this without faces, blown away by what was obviously arms held close to the head, I think I need few more minutes to determine what I really should say."<sup>55</sup> But he had no difficulty finding his words. Later, he again claimed, "I do not have words to describe my personal revulsion at the sight of what can only be described as an unspeakable atrocity." And again the words came to him with enviable ease: "Although I am not a lawyer, from what I personally saw, I do not hesitate to describe the crime as a massacre, a crime against humanity. Nor do I hesitate to accuse the government security forces of responsibility."<sup>56</sup> Though neither a lawyer nor a criminal investigator, he knew a crime against humanity when he saw it.

Thus Walker: the man who couldn't be certain that the Salvadoran military had murdered four priests even though the killers had worn Salvadoran army uniforms, the man who in December 1998 was unable to condemn the KLA for the murder of six Serb teenagers in a bar because he couldn't be completely sure that the killers really belonged to the KLA, the man who claimed to be out of the loop in his own embassy in San Salvador on a matter of grave importance to the United States, now pronounced himself certain beyond a shadow of doubt that Yugoslav government security forces had perpetrated a horrific massacre – and this without even the most perfunctory investigation. When it was the murder of Serb teenagers he was in a quandary: "We really didn't know what had happened in Peć. Yes, the government was saying it was KLA gangsters who had come in and sprayed this bar. When you don't know what has happened, it's a lot more difficult to sort of pronounce yourself."<sup>57</sup> Yet a month later, he had no difficulty at all to "sort of pronounce" himself. He did not "hesitate to accuse the government security forces of responsibility."

Walker's lack of hesitation in sort of pronouncing himself was something Milošević raised with him during cross-examination. Milošević asked:

In El Salvador, you explained that the fact that they were in uniform did not mean that they were members of the army, although a uniform does denote the army. Now, here civilian clothing in Račak was the criterion you used to say that they were civilians, although it is common knowledge that terrorists wear civilian clothing and that they need not be wearing uniforms. How, then, is it possible that one and the same man is using different criteria?<sup>58</sup>

It was an extremely pertinent question. Happily for Walker, he was able to avoid having to address it by Judge Richard May's rude interjection: "This is an absurd question, absolutely absurd. Now, you're wasting everybody's time with this." But Milošević had it exactly right. How could Walker conclude that the dead had all been civilians? Because they wore no military uniforms? But, as the KVM admitted in its own report, *As Seen, As Told*, within the KLA, "The vast majority of the rank and file remained villagers with a weapon and with, in the main, only a very rudimentary idea of infantry tactics."<sup>59</sup> Villagers with a weapon – very much as the Yugoslav authorities had claimed. The report also disclosed that the "UCK received orders to bury their weapons, get out of their uniforms and blend in with the crowd."<sup>60</sup> To add to the confusion, just about every home in Kosovo would have weapons, at least one hunting rifle. In other words, the KLA were under orders to ensure that any combat losses could be explained to the media as civilian casualties.

NATO officials and media eagerly accepted Walker's version of what had taken place. Yet there were other possible versions. Yugoslav authorities, for example, insisted that the scene at Račak had been staged, that the dead bodies were those of KLA fighters who had been killed in action the day before. The KLA had gathered up their dead and arranged them so as to make Račak look like the scene of a cold-blooded massacre.

NATO wasted no time waiting for the results of an investigation. Račak was the smoking gun, the violation of violations, positive proof, as if any more were needed, that racism and barbarity were inherent in the Serb DNA. Walker pounced on Račak as if his career depended on it, which in a sense it did. He immediately telephoned Wesley Clark and Holbrooke. He told Holbrooke cheerfully, "Dick, you can kiss your Nobel Peace Prize goodbye." In Washington, Clinton issued a statement condemning "in the strongest possible terms the massacre of civilians by Serb security forces that took place last night in the village of Račak. This was a deliberate and indiscriminate act of murder designed to sow fear among the people of Kosovo." Albright insisted the North Atlantic Council convene an emergency meeting. "We will urge that the NAC review and update contingency plans for implementation

of the October 27 activation orders which remain in effect. There should be no doubt of NATO's resolve to secure a just settlement of the Kosovo crisis," she announced. The Council duly met on Sunday and issued a statement denouncing this "flagrant violation of international humanitarian law" and demanding a full ICTY investigation of Račak, including "immediate and unrestricted access to Chief Prosecutor Arbour, and international investigators including Finnish forensic experts." NATO also declared that "Milošević must comply with all his commitments to NATO and to the OSCE which are based on UNSC Resolution 1199."

Referring to the elected president of a European state simply by his surname had become standard expression of NATO's contempt for the Serbs. More unpalatable was NATO's shameless deception. Milošević's "commitments" to NATO and to the OSCE pertained exclusively to the ground and air verification missions that were supposed to supervise a ceasefire – one the KLA had never accepted. None of this had anything to do with Resolution 1199, and the Security Council had pointedly refused to avail itself of the opportunity to ask NATO to enforce its resolutions.

Nonetheless, NATO once again dispatched Naumann and Clark to Belgrade to inform Milošević that key NATO powers were chomping at the bit to begin bombing. The two NATO worthies showed Milošević a list of five to ten incidents in which "the KVM had observed the use of disproportionate force." Milošević vehemently denied these charges. When Naumann and Clark reported back to NATO, they were forced to admit "that none of the incidents they had information about were instigated by the FR Yugoslavia/Serbian forces."<sup>61</sup> Nonetheless, they recommended that NATO's activation order be reinstated.

This resurgence of enthusiasm for bombing Yugoslavia had come at exactly the right time for NATO. As a *Washington Post* report admitted, "Until Friday's massacre, some NATO governments were inclined to blame the Kosovo Liberation Army for stirring up trouble by ambushing Serbian forces. NATO has withdrawn from the Balkan region most of the 300 planes mobilized by allied nations last October for possible bombing raids."<sup>62</sup> KLA provocations had been noted in the U.N. secretary-general's reports, by Robin Cook, and even in NAC meetings. Now, the focus was again back on the Serbs, precisely where the United States wanted it, and the talk once more was of NATO bombs.

Again, the ICTY rushed to facilitate NATO's task. During his round of telephone calls on January 16, Walker made sure to call Arbour. The ICTY prosecutor immediately issued a statement declaring:

I have launched an investigation into the most recent massacre in Kosovo. I will lead an investigative mission in Kosovo as soon as we can assemble our team on the ground. I have spoken to Ambassador Walker and sought his assistance ... In light of the information publicly available, the recent massacre of civilians falls squarely within the mandate of the ICTY, and the Federal Republic of Yugoslavia is required to grant access to investigators from my office. I call on the FRY authorities to facilitate our immediate access to the site.

Note the lack of such cautionary words such as “possible” or “suspected” that would befit a U.N.-appointed official. Arbour had no hesitation in claiming that a “massacre of civilians” had taken place. Her certainty was remarkable: all she knew about Račak was what she had heard from Walker over the phone.

On January 18, Arbour, in a wonderful piece of grandstanding, flew to Macedonia and tried to enter Kosovo. As she didn’t have a visa (and hadn’t even applied for a visa), she was denied entry, an eventuality she and NATO had been fully expecting. “I spoke to an officer who identified himself by badge number,” she told reporters. “I repeated to him that I am a prosecutor of The Hague tribunal with a mandate under ... the U.N. Charter, that I can enter all territories of former Yugoslavia to conduct investigations and that he should let me in. I took the position that I was entitled to enter the territory and I didn’t have to go through the formalities of visa application.”<sup>63</sup> Arbour was, of course, in no position to conduct any serious investigation, the outcome of which she had in any case prejudged by her earlier reference to a “massacre.” This was political theater of the highest order, one sure to yield rich benefits for NATO. As the media played it, the very act of refusing her entry was, in effect, an admission of guilt. Interestingly, while he was threatening Milošević in Belgrade, Clark took time off to call Arbour in Skopje.<sup>64</sup>

As Madeleine Albright subsequently admitted, Račak provided the pretext for NATO’s bombing attack and eventual seizure of Kosovo. Račak, she explained, was “a galvanising event, and the president really felt that we could then move forward, make clear that the U.S. was going to be a part of an implementing force.”<sup>65</sup> There could no longer be any objections to U.S. military presence on the ground. According to Clark, “Clearly, after Račak, extraordinary measures had to be taken.”

## THE RAČAK CASE

From the beginning, there was something about the Walker-Arbour-NATO version of Račak that didn't add up. First, the Yugoslav authorities had alerted the OSCE verifiers about their impending action. It would certainly be odd for security forces, already under intense scrutiny, to carry out a massacre in full view of international observers. It would be odder still for them to leave bodies lying around for the media to capture on film the next day. The Serbs had been accused of many things but insouciance about leaving behind clues of their crimes wasn't one of them.

Second, OSCE verifiers observed the military operation from start to finish. They saw fighting but no massacre. The Associated Press filmed the Račak operation and failed to record a massacre.

Third, the bodies of the victims were only discovered some 16 hours after the KLA had returned to the village. When Lieutenant-General Joseph Maisonneuve, one of Walker's deputy mission heads, visited Račak on Friday evening, he heard nothing about a massacre. Then there was Walker's strange conduct on Saturday. He unhesitatingly characterized what happened as a massacre of unarmed civilians. Yet Maisonneuve admitted during the Milošević trial that the KVM knew by Saturday that KLA members had been killed at Račak. The KLA's Buja admitted at the Milošević trial that ten KLA fighters had been killed during Friday's fighting. Buja met Walker at Račak on Saturday. He could hardly have failed to tell Walker that ten of his people had been killed the day before. KVM verifiers knew that Račak was a KLA stronghold: they saw the trenches and bunkers. They knew that the Račak operation had been launched in response to the killing of Serb policemen. Yet Walker, the KVM chief and a very experienced career diplomat, disclosed none of this when he made his emotional accusations.

Fourth, even as Walker was loudly calling for the killers to be brought to justice, he and his team were doing very little to secure the crime scene. Walker and reporters and cameramen wandered around, moving bodies, leaving footprints, sabotaging the very criminal investigation that NATO was demanding. Nor did Walker do anything to facilitate the work of local law enforcement authorities. To the contrary, at precisely the time that Walker was tearing up at Račak, Danica Marinković, the local investigating judge, was being shot at and prevented from entering the village. Even on the following day, Marinković couldn't enter the village. This time it was Drewienkiewicz who refused to allow her in. The British general told her that entering the village with investigators and police would be provocative. He suggested

that she and one forensic expert come in on their own, with unarmed KVM people providing them with security. Marinković, who had been shot at the previous day, understandably didn't accept Drewienkiewicz's generous offer. The general informed her that if she tried to enter the village with a police escort there would be a bloodbath, and that he would make sure that the ICTY prosecuted her for causing it. Not easily intimidated, Marinković tried again to enter Račak. Again she was shot at.

Not until January 18 were Marinković and her team able to go in. However, by that time the bodies had already been moved to a mosque. Oddly, only 40 bodies were at the mosque, although 45 people were supposed to have been killed at Račak. The Yugoslav authorities took the bodies to the Institute for Forensic Medicine in Pristina for autopsy. There, the Yugoslav forensic team was joined by a team from Belarus and, a few days later, by a team from Finland. Ignoring the strenuous objections of the KVM, the Yugoslav and Belarus pathologists began their autopsies right away, three days before the arrival of the experts from Finland. The Finns had been under contract to the E.U. since October 1998 to investigate alleged atrocities in Kosovo. The head of the Finnish team was Helena Ranta – a strange choice given that she was by no means the team's most qualified member. Indeed, she wasn't a forensic pathologist at all. She was an odontologist – a dentist, in other words.

At the end of January, the Yugoslav and Belarus forensic experts published a joint report concluding that the Račak victims had been killed in armed clashes. The experts had conducted a paraffin-glove test for gunshot residue. This test, they claimed, showed that the people killed had used firearms before they died. The cause of death was gunshots fired from different directions. Therefore, the Račak victims could not have died on their knees, execution-style. The Finns refused to sign the report. The media largely ignored the report's conclusions, preferring to focus instead on the Finns' reluctance to sign, which, needless to say, was taken as evidence of their rejection of the forensic findings.

The Finns promised to come up with a report of their own. However, for some reason they kept delaying its publication. Finally, on March 17, the Finns released their findings.

March 17 was a busy day for NATO. The Rambouillet talks had resumed in Paris two days earlier, with the Kosovo Albanians suddenly indicating their readiness to accept the U.S.-sponsored plan. Kosovo Albanian acceptance meant that NATO was finally in a position to bomb Yugoslavia. The ostensible justification would be enforcement of a peace agreement. Consequently, it would be hard to imagine a more useful service the Finns could perform for

NATO than to announce that Walker was right and that the Serbs had indeed massacred unarmed civilians.

However, the Americans didn't entirely trust the Finns and weren't about to take any chances. They remembered Kofi Annan's disappointingly inconclusive report in early October. On the eve of the publication of the Finns' report, the *Washington Post* ran a front-page story announcing the Finns' conclusion. The Finns, the paper said, had found that the

victims were unarmed civilians executed in an organized massacre, some of them forced to kneel before being sprayed with bullets ... Western officials say the team found that the angle of the bullet wounds in the victims' bodies was consistent with a scenario in which some of them were forced to kneel before being sprayed with gunfire from automatic weapons.

So there it was: the Serbs were what NATO all along had said they were: genocidal killers. Case closed.

Or was it? There was something very odd about the *Post* story. One particularly jarring feature was the reporter's strange warning that the Finns' report would most likely never see the light of day. Why? Apparently, NATO was so anxious for Belgrade to sign on to the Rambouillet plan that it was prepared to do anything to avoid triggering Yugoslav obduracy. Publication of the report would apparently so upset the Serbs that they might balk at signing the agreement. E.U. leaders, the *Post* said,

have asked the forensic team to withhold some of its most potentially inflammatory findings ... The request, they say, was made out of concern that the results will further polarize the two sides in the Kosovo conflict and impede the Belgrade government's acceptance of a peace agreement ... One Western official said the German government, which holds the rotating chairmanship of the [E.U.], had ordered the Finnish team not to release a summary of its probe, which includes details about how some of the victims appeared to have died.<sup>66</sup>

Now, neither NATO nor German officials had in the past shown any particular reluctance about making inflammatory statements. Nor, as we shall see later, were any of the key NATO powers particularly anxious for Yugoslavia to sign on to the U.S. plan. By March 17, NATO bombing plans were well advanced.

If the *Post*'s disclosure of this sudden sensitivity to the susceptibilities of the Serbs sounded bogus, that's because it was. There was a good reason why the *Post*, the bulletin board of the Washington policymaking elite, ran this

story. The Finns were about to announce that they couldn't sign off on the NATO-favored version of Račak. The *Post*'s story not only pre-empted the Finns' findings, it seriously and deliberately mischaracterized them.

The Finns did not conclude that the "victims were unarmed civilians executed in an organized massacre." Nor did the Finns determine that the victims had been "forced to kneel before being sprayed with bullets." The *Post*, on the eve of the long-anticipated NATO bombing campaign, had come up with an absurd and convoluted explanation of why the Finns had elected *not to* corroborate the Walker-NATO-State Department account of Račak. The Finns' reluctance was attributed to that familiar Washington bugaboo: the Eurowimps. The weak-kneed Europeans, queasy at the prospect of NATO bombing, had urged the Finns to withhold their most damaging findings in order to spare the Serbs' feelings. Due decorum would enable the Serbs, honor intact, to sign on to the Rambouillet accords and relieve NATO of the burden of bombing.

So what did the Finns conclude about Račak? It was hard to say. What the media called the "report" of the E.U.-Finnish forensic team wasn't really a report at all. It was a four-page press release written solely by Helena Ranta. To be sure, there was another "report," supposedly weighing 41 kilograms and comprising 3000 photographs. It was this document that was withheld from publication. However, as Ranta subsequently revealed, this massive "report" also was not really a report at all, merely a compilation of data from the 40 autopsies that her team had carried out.

Ranta announced her findings at a press conference in Pristina organized by the OSCE and the E.U. presidency, then held by Germany. Attending her press conference was Walker himself. Peculiarly, Ranta's press release opened with a statement that it constituted nothing more than "the personal view of the author ... and should not in any manner be construed as an authorized communication on behalf of the Department of Forensic Medicine, University of Helsinki or the E.U. Forensic Expert Team." It was hard to understand the scientific value of someone's "personal view." Even more bizarre was the title of the press release – "Report of the E.U. Forensic Team on the Račak Incident" – given that it was explicitly stated that it was nothing of the sort.

First off, the 22 men in the gully, she wrote, "were most likely shot where found." She didn't explain how she arrived at this conclusion. None of the pathologists had been at the gully at the time the bodies were there. The pathologists didn't see the bodies until the start of the autopsies in Pristina many days later. Ranta pointed out that the victims bore no identifying badges or insignia, and there were no bullets in their pockets. Thus her conclusion:

"There were no indications of the people being other than unarmed civilians." This was a dubious inference, since KLA members did not always wear badges or insignia. In any case, her lawyerly and evasive formulation was immediately contradicted by her claim that she couldn't "give a conclusive answer to the question whether there was a battle or whether the victims died under some other circumstances." If she was prepared to allow for the possibility of a battle, how could she at the same time conclude that the dead were "unarmed civilians"?

Ranta also engaged in some serious deception. She dismissed the forensic value of the paraffin-glove test for gunshot residue. In her press release, she noted that modern gunshot residue analysis uses the SEM-EDX technique (an electron microscope and X-ray method), not the paraffin-glove test. She then wrote that "Test samples for SEM-EDX were taken and they proved to be negative." This was a highly misleading, if not downright deceptive, statement. As Michael Mandel pointed out, her "tests were not performed on the bodies found at Račak at all. Tests on the bodies from Račak would have been useless if not taken within two to three hours of death."<sup>67</sup> Ranta's team didn't arrive until a week after Račak. Ranta had "ordered samples to be taken from certain other sites," not Račak. It was these that had proved negative, thereby proving ... nothing. Naturally, the media trumpeted these negative results as proof that the victims had not used firearms and must therefore have been unarmed civilians.

The *Guardian* crowed that Ranta had "rubbished a Serb 'paraffin test' used to check whether the dead had used firearms and said that the more modern SEM-EDX test showed no sign of gunshot residue on the victims."<sup>68</sup> So the paraffin test was rubbish, but a gunshot residue test carried out more than a week after the fatal events was conclusive! Even so, no such test had ever been carried out. Revealingly, as late as June 2002, NATO's Naumann was still peddling the nonsense about Ranta having supposedly definitively established that the victims at Račak had not used firearms: "[I]f you undertake an autopsy of someone who fought in combat, you will find traces of black powder on the hands if he had used a weapon, and Mrs. Ranta clearly stated that none of the victims had any traces of black powder on their skin."<sup>69</sup> Naumann was either lying or displaying his ignorance of forensics. As he should have known, a gunshot residue analysis cannot be undertaken a week after a gunfight.

Ranta did acknowledge that the Yugoslav, Belarus, and Finnish pathologist teams had worked together harmoniously, and she cautioned the media against attaching any significance to the Finns' refusal to sign the earlier autopsy findings. Their reluctance to sign, she explained, had been

erroneously interpreted as disagreement on the findings between the local experts and the Finnish Team. The view of the Finnish Team is that no professional conclusions on the basis of the autopsies should be made without a comprehensive analysis of the data gathered from the corpses. The analysis and tests were conducted at the Helsinki University Department of Forensic Medicine only after the Team returned from Kosovo. Therefore, arriving at conclusions or signing of reports in January would have been premature and thus out of place.<sup>70</sup>

She made no mention of angles of bullet wounds and execution-style killings, which the *Washington Post* story had featured that morning.

Predictably, the media seized on Ranta's press conference as confirmation that the Serbs had executed Albanians in cold blood at Račak. "The 40 ethnic Albanians killed in the village of Račak in January were all unarmed civilians, and their slaying amounted to a crime against humanity," the *New York Times* reported, thoroughly misleadingly, the next day. In typical *New York Times* fashion, Ranta's equivocations were left to the end of the story: "Dr. Ranta refused to draw conclusions as to the manner of death. She said it was not her role as a scientist to ascertain whether the killings were a massacre. She said she had not visited the gully herself, which lies 25 miles southwest of Pristina, and so could not judge the distance from which the victims were killed."<sup>71</sup> Moreover, while Ranta did say at the press conference that this was "a crime against humanity," the *New York Times* failed to disclose that she had immediately added that this "was true of everything that has happened in the Kosovo war,"<sup>72</sup> thereby rendering her characterization meaningless.

In subsequent years, Ranta recounted the pressure she was under to make her findings conform to NATO requirements. She told an interviewer from *Berliner Zeitung* that she knew at the time of her investigation that there were

KLA-fighters buried around Račak ... At that time I received information that proved that several Serb soldiers had been killed as well. Unfortunately, we will never know the exact number of Serb soldiers that died that night ... When Ambassador Walker said that there was a massacre at Račak, this statement had no legal value. I declared at that time that the OSCE-observers forgot to take all steps necessary to secure a crime scene: isolating the area, refusing admission to all unauthorized persons and collecting all material evidence ... [It was clear] that a bunch of governments were interested in a version of Račak that blamed only the Serb side. But I could not provide this version.

In October 2008, Ranta disclosed that the Finnish foreign ministry had pressured her to reach “more far-reaching conclusions.” She also described a meeting with Walker in which he “broke a pencil in two and threw the pieces at her when she was not willing to use sufficiently strong language about the Serbs.”<sup>73</sup>

Two days after Ranta’s Pristina appearance, Clinton, seeking to generate public support for NATO’s impending attack, declared at a news conference, “We should remember what happened in the village of Račak back in January – innocent men, women, and children taken from their homes to a gully, forced to kneel in the dirt, sprayed with gunfire, not because of anything they had done, but because of who they were.”<sup>74</sup> This was an outrageous lie, but one likely to press all the right buttons. Leave aside the total absence of any evidence to support Clinton’s version of what happened at Račak, Ranta had signally failed to support the story that the victims had been “forced to kneel in the dirt,” “sprayed with gunfire,” and killed simply “because of who they” were. There were also the bodies in the morgue and they manifestly disproved Clinton’s claims. Of the 40 bodies autopsied, 39 were men – there was one woman and one teenage boy. The average age of the victims was 42.

In 2001, the Finnish members of Ranta’s team published an article in a scholarly journal describing their work. While they refused to draw any conclusions about the circumstances of the deaths at Račak, what they disclosed rendered highly unlikely the story of a supposed cold-blooded massacre. The number of gunshot injuries the 40 victims sustained varied significantly, ranging from one to 20. One wound was found in six cases, and more than 16 wounds in two cases. The bullets came from different directions. Only one of the victims was believed to have been shot at close range.<sup>75</sup>

The Walker-NATO version never made much sense and, since 1999, no evidence has come to light to confirm it. However, even if NATO’s version were true and the Serbs had executed unarmed civilians in cold blood, NATO would still have had to shoulder its share of responsibility for this atrocity. It was NATO that had chosen to manipulate the conflict in Kosovo in order to pursue its own agenda, namely, the toppling of Milošević. It was NATO that had encouraged the KLA to provoke Belgrade in the hope that the Serbs’ over-reaction could provide the trigger for NATO intervention.

That the KLA’s entire *raison d’être* was provocation of the Serbs was known and commented on at the time. Kofi Annan’s report of January 30 described Račak as “indicative of the pattern of disproportionate use of force.” It was, however, “retaliation for provocations by Kosovo Albanian paramilitaries.” Even NATO was briefed about the KLA’s objectives. The North Atlantic Coun-

cil was told at a December 1998 meeting that the KLA was “the main initiator of the violence” and that it had “launched what appears to be a deliberate campaign of provocation.” Its goal was to push NATO to bomb and secure the detachment of Kosovo from Serbia. Knowing this, NATO continued to egg the KLA on by threatening to bomb Yugoslavia in the event of further bloodshed in Kosovo. In the days prior to Račak, the KLA had ambushed, kidnapped, and killed Serb policemen. So if NATO was right and enraged security forces had gone on a rampage and shot innocent bystanders, there was one simple expedient that would have averted this humanitarian catastrophe: NATO could have stopped threatening to enter the conflict in Kosovo on behalf of the instigators of the violence, the KLA.

For the Clinton administration, Račak was the moment it had been waiting for. Back in October, the administration had allowed protracted negotiations between Milošević and Holbrooke as well as governmental uncertainty in various European capitals to dampen Western enthusiasm for the U.S.-led bombing. This time, the Americans were determined to move quickly. On January 28, on the eve of a Contact Group meeting (the first in almost seven months), the U.S. government, ably assisted by Western media, launched a propaganda blitz. The message: Račak had been a “massacre” carried out on the direct orders of Belgrade. On January 28, the *Washington Post* led with a story that opened thus: “The attack on this Kosovo village that led to the killing of 45 ethnic Albanian civilians 12 days ago came at the orders of senior officials of the Serb-led Belgrade government who then orchestrated a cover up following an international outcry, according to telephone intercepts by Western governments.”<sup>76</sup> The next day, in Britain, the chief mouthpiece of the humanitarian intervention lobby, *The Guardian*, eagerly ran the spoon-fed story about Račak:

Western intelligence sources are now clear it was carried out by regular army and police units, acting on the orders of Belgrade ... But Western intelligence and diplomatic sources claim that the massacre was ordered from Belgrade in revenge for the death of three Serb policemen, that regular army and police units acting under tight military discipline were present during the massacre, and that a high level discussion took place in Belgrade on how to arrange an international cover up for the operation.<sup>77</sup>

That same day in Brussels, Solana issued a statement demanding that Yugoslav authorities “immediately bring the Yugoslav Army and the Special Police force levels, posture and actions into strict compliance” with the com-

mitments made to NATO on October 25. Solana made the standard gesture to demonstrate balance. “All Kosovar armed elements must immediately cease hostilities and any provocative actions, including hostage taking.” Help was at hand. NATO was apparently “intensively studying how to support measures to curb arms smuggling into Kosovo.” There were the usual sanctimonious claims that NATO was seeking to “prevent a humanitarian catastrophe” combined with Churchillian bluster: “What we have seen in Yugoslavia during the past decade is that it is very difficult to stop internal conflicts if the international community is not willing to use force – and when all other means have failed. We may be reaching that limit, once again, in the Former Yugoslavia.”

Solana’s choice of words was interesting. Almost word-for-word he was repeating a pronouncement made that day by Kofi Annan. The U.N. secretary-general had been at NATO headquarters delivering a speech to the North Atlantic Council. Aware that NATO was getting ready to bomb Yugoslavia and aware that there was not the slightest prospect of the U.N. Security Council being able to authorize this, Annan could have used this visit to reassert the Security Council’s unique prerogative, under Chapter VII of the U.N. Charter, to authorize any military action that goes beyond self-defense. But Annan’s priority was to keep his job. He told his NATO listeners what they wanted to hear:

The bloody wars of the last decade have left us with no illusions about the difficulty of halting internal conflicts – by reason or by force – particularly against the wishes of the government of a sovereign state. But nor have they left us with any illusions about the need to use force, when all other means have failed. We may be reaching that limit, once again, in the former Yugoslavia ... Alas, the horror no longer threatens. It is present, in the lives of hundreds of thousands of the people of Kosovo whose lives have been disrupted violently. And now, Račak has been added to the list of crimes against humanity committed in the former Yugoslavia.<sup>78</sup>

Annan’s assertion that Račak was a “crime against humanity” indicated the extent to which he had become little more than a mouthpiece for NATO. Following his meeting with Solana, Annan told reporters, “I am pushing very hard for a political settlement. If force becomes necessary we will need to look at that. The threat is essential.” Asked explicitly whether he agreed with NATO’s claim that it didn’t need another Security Council resolution to authorize the use of force against Yugoslavia, Annan replied cagily: “Normally,

you need the authorization of the Security Council for the use of force, I have always said that.”<sup>79</sup> Annan’s use of the word “normally” indicated that he did not consider these to be normal times. As CNN reported, Annan had “skirted the question of whether a U.N. mandate is needed to give a green light to NATO airstrikes.” Actually, there was no skirting. By not insisting that NATO seek a U.N. mandate, Annan had indeed given NATO the green light. Small wonder Solana gloated, “You have seen from the visit of the United Nations Secretary General to NATO earlier today that the United Nations shares our determination and objectives.”

Disgracefully, Annan had signed off on NATO’s humiliation of the U.N. Security Council. Annan did not ask why, if the “humanitarian catastrophe” was as dire as NATO painted it, key NATO powers Britain, France, and the United States – all permanent Security Council members – felt unable to go before the Security Council and argue their case. Annan also did not ask why, if Russia and China were such obstacles to U.N. Security Council action, NATO could not go before the U.N. General Assembly and present its case there. For a leader of a world body – rather than a trans-Atlantic coalition of powers – to be so cavalier in dismissing the views of two of the five permanent Security Council members was shocking.

### THE RAMBOUILLET SET-UP

On January 29, following its meeting in London, the Contact Group issued a statement “unreservedly condemn[ing] the massacre of Kosovo Albanians at Račak.” Tendentiousness notwithstanding, the most important part of the statement was a summons to “representatives from the Federal Yugoslav and Serbian Governments and representatives of the Kosovo Albanians to Rambouillet by 6 February, under the co-chairmanship of Hubert Védrine [the French foreign minister] and Robin Cook, to begin negotiations with the direct involvement of the Contact Group.” The choice of invitees was striking. Representatives of Kosovo’s other national minorities were not asked to attend. The Contact Group made light of this omission by offering the reassurance that it “recognized the legitimate rights of other communities within Kosovo [and that] it will work to ensure that their interests are fully reflected in a settlement.” How the Contact Group would ensure this if representatives of the national minorities weren’t present wasn’t explained. Doubtless, the views of the minorities didn’t count for much because, as one of the mediators at Rambouillet was later to explain, “[A]s we know, the other non-Alba-

nian ethnic communities are traditionally on the Serb side.”<sup>80</sup> So who cares what they think?

The Contact Group also issued what it called the ten non-negotiable basic principles that would guide the negotiators: an immediate end to violence; commitment to a peaceful solution through dialogue; an interim agreement for three years; no unilateral change of interim status; the territorial integrity of the FRY; the protection of the rights of all national minorities; free and fair elections in Kosovo under the supervision of the OSCE; no prosecutions of anyone for crimes related to the Kosovo conflict (with the exception of crimes against humanity, war crimes, and other serious violations of international law); amnesty and release of political prisoners; and international involvement and full cooperation by the parties concerning implementation.<sup>81</sup> These principles were never released to the public.

The next day, NATO echoed the Rambouillet summons. But NATO didn’t leave it at that. It also demanded that “those responsible for the massacre at Račak ... be brought to justice and that the FRY authorities ... cooperate fully with ICTY.” In addition, NATO ordered Yugoslavia to bring “force levels, force posture and activities into strict compliance with the NATO/FRY agreement of 25 October 1998; and [to end] excessive and disproportionate use of force in accordance with these commitments.” To demonstrate the sincerity of its search for a negotiated outcome, NATO warned Belgrade that if it failed to take these steps,

NATO is ready to take whatever measures are necessary in the light of both parties’ compliance with international commitments and requirements ... by compelling compliance with the demands of the international community and the achievement of a political settlement. The Council has therefore agreed today that the NATO Secretary General may authorize air strikes against targets on FRY territory.

This was an interesting formulation. One would have thought it was up to the parliaments and cabinets of the 16 NATO member states to “authorize air strikes.” Apparently, however, it was entirely up to unelected NATO chiefs to define the nature of a “humanitarian catastrophe” and take whatever “measures are necessary.” NATO not only didn’t need the U.N. Security Council, it had little use for elected representatives.

To demonstrate balance, NATO repeated Solana’s vapid statement from two days earlier: NATO was “studying how to support measures to curb arms smuggling into Kosovo.” Not, mind you, that NATO would curb arms smug-

gling; not that NATO would adopt measures to help curb arms smuggling; not even that NATO would support measures to curb arms smuggling – no, NATO would *study* how it can support measures to curb arms smuggling. NATO helpfully avoided specifying the identity of either the smugglers or the smugglees. Recall that, only a few months earlier, NATO had turned down Albanian leader Fatos Nano's request that it monitor the Albanian border in order to prevent arms smuggling. Once again, NATO demonstrated its wonderful propensity to throw up its arms in helplessness whenever it was useful to do so. Klaus Naumann revealed in his testimony in the Milošević trial that NATO had actually instructed him not to do anything about the arms smuggling: "We discussed all possible steps how to stop the flow of weapons. We proposed a couple of measures which the NATO council should consider. We were then not given the authority to stop – to take measures to stop the flow of weapons there, where it all started, and that is there where the money is collected to get the weapon – to get the money to buy the weapons."<sup>82</sup>

Yet again, NATO chose to be highly selective about which U.N. resolutions had to be observed (and which did not), and even about which parts of which resolutions had to be observed (and which did not). Security Council Resolution 1160, as NATO had conveniently forgotten, had demanded that all states "prevent the sale or supply to the Federal Republic of Yugoslavia, including Kosovo ... of arms and related matériel of all types, such as weapons and ammunition, military vehicles and ... prevent arming and training for terrorist activities there."

Rambouillet was NATO's alibi – a cover story to allow nervous Europeans to sign off on Washington's bombing campaign. It was all about public perceptions. NATO was now able to assert with a straight face that, since it was earnestly pursuing a peaceful settlement, it couldn't be accused of waging an aggressive war. Clinton admitted that this was the ploy in a telephone call to Blair on January 21: "If we do military action without a political plan, we will have a problem."<sup>83</sup> As the Clinton administration envisaged it, at Rambouillet, the Contact Group would present the Serbs and the Kosovo Albanians with a blueprint for the future of Kosovo. In a re-run of the Bosnian "peace plans," the blueprint would have to be accepted in its entirety. Whoever refused to sign off on it would be punished.

By January, the Clinton administration had come to realize that the bombing of Yugoslavia was impossible as long as debate focused on who was responsible for the violence. Račak or no Račak, the Contact Group had had to acknowledge that, at the very least, it was six of one and half a dozen of the other. Even in its January 29 statement, the group "condemned all provo-

cations by the KLA, which could only fuel the cycle of violence, and insisted that all hostages should be released.” Belgrade and the KLA, it declared, were both responsible for the “escalation of the violence.” (If NATO were to follow the lead of the Contact Group, it would have to bomb both or neither. But then NATO, as always, was highly selective as to which of the Contact Group’s findings it would take note of and which it would ignore.)

What NATO needed to do was to wrong-foot Belgrade, to show the world that while the Kosovo Albanians wanted peace, Yugoslavia didn’t. The obvious solution – ask the KLA to declare a ceasefire and then see how Belgrade responds – was unacceptable since an end to the KLA campaign would mean an end to Western pressure for regime change in Belgrade. What NATO needed to do was to continue to apply military pressure but combine this with a peace process that was rigged in such a way that the Serbs would be seen as the recalcitrant party. That way NATO could bomb and justify its action by citing an ostensible peace process that it was selflessly seeking to facilitate. Washington’s queasier junior partners could then go back to their skeptical publics and try to sell them the unlikely story that bombing had become necessary because that dreadful monster Milošević had refused to negotiate a peace agreement.

The Clinton administration had to think up a deal that the Kosovo Albanians would be sure to accept and the Serbs would be sure not to. One possibility was to promise independence to the Albanians. Belgrade was bound to say no. Unfortunately for the Clinton administration, an independent Kosovo had to be ruled out right away. Most of the world, including almost all of Washington’s NATO partners, opposed the idea of unilateral secession; Serbia’s case would therefore prevail. If negotiations between the Yugoslav government and the Kosovo Albanians collapsed over the issue of independence, the Albanians would be blamed for demanding the unacceptable. Bombing would then be out of the question.

Negotiations had to be manipulated in such a way that the Serbs, and the Serbs alone, would be held responsible for their failure. The State Department’s Rubin admitted that this was the U.S. strategy at Rambouillet. The Americans, he explained, sought

clarity where previously there had been ambiguity. And clarity as to which side was the cause of the problem and clarity as to which side NATO should defend and which side NATO should oppose and that meant the Kosovar Albanians agreeing to the package and the Serbs not agreeing to the package ...

Obviously, publicly, we had to make clear we were seeking an agreement, but privately we knew the chances of the Serbs agreeing were quite small.<sup>84</sup>

Albright used almost exactly the same words: “If the Serbs would not agree, and the Albanians would agree, then there was a very clear cause for using force.” NATO could not use force as long as the focus of the discussion was the violence in Kosovo. Even with Račak, NATO had failed to win that argument.

The Serbs had to be seen to be the rejectionist party. They would have to reject the package and the Albanians would have to accept it. This wouldn’t be easy: the Albanians weren’t prepared to accept anything less than independence. The Americans solved this dilemma ingeniously. They proposed a peace plan that avoided discussion of independence. However, secretly, U.S. officials promised the Albanians that Kosovo would be independent in the very near future. Within three years, they assured the Kosovo leaders, there would be a referendum on independence. Thanks to this adroit maneuver, the Europeans, reassured that NATO wasn’t seeking to detach Kosovo from Yugoslavia, could – for the time being at least – avoid giving the appearance that they had signed off on unilateral secession. Or, as the *New York Times*, always privy to official thinking, put it, “By then, some Western officials hope, Mr. Milošević could be history and more moderate Serb leaders might agree to let Kosovo go.”<sup>85</sup>

With the issue of independence fudged and the Kosovo Albanians and the Europeans on board, what remained was to craft a plan that the Serbs would be sure to find unacceptable. That wasn’t difficult. All the United States needed to do was insist on a NATO presence in Kosovo. While the Serbs would accept the Contact Group, the OSCE, or the United Nations as implementer of a peace plan, they would not accept NATO, particularly not after the bombing threats of the previous months. Therefore, the United States declared at the outset that any peace plan that wasn’t implemented exclusively by NATO was out of the question. These U.S. machinations were kept secret. The Contact Group was also kept in the dark. Even Washington’s NATO partners didn’t fully grasp what was really going on at Rambouillet.

The deception started the moment the NATO powers insisted that the only topic under discussion at Rambouillet would be “substantial autonomy” for Kosovo, not its detachment from Yugoslavia. But detachment from Yugoslavia was what Ibrahim Rugova had in mind and what he believed the Contact Group had in mind. Rambouillet, he said, was the first step toward independence for Kosovo. “We support an interim accord, with a referendum on inde-

pendence at the end of three years. Independence is the optimum solution, and the accord is a means to that end,” he told the *Independent*.

Procedurally too, Rambouillet was a thoroughgoing deception. The United States treated the Contact Group’s Rambouillet summons as an ultimatum: either sign by a certain date or else! However, the Contact Group’s January 29 summons had said that “participants should work to conclude negotiations within seven days. The negotiators should then report to Contact Group Ministers, who will assess whether the progress made justifies a further period of less than one week to bring the negotiations to a successful conclusion.” There was a suggestion here of a deadline, but no threats were attached. The United States untruthfully insisted that the Contact Group was demanding signature to an agreement within two weeks. Otherwise, NATO would begin bombing.

#### THE U.S. BLUEPRINT

The talks at Rambouillet were barely under way when the media began reporting that NATO was already drawing up plans to deploy forces in Kosovo. On February 7, AFP reported that “NATO will step up its planning this week to send as many as 30,000 troops into Kosovo to uphold the peace agreement that is due to come out of the Rambouillet talks ... U.S. General Wesley Clark, NATO’s supreme commander in Europe, will submit his plans for a Kosovo peacekeeping force to the Alliance’s military committee early in the week.”<sup>86</sup> No one had seen the Kosovo settlement proposal, there was no agreement among the parties, the Contact Group hadn’t signed off on anything, yet NATO was already planning deployment!

U.S. bad faith extended to the choice of delegates. To demonstrate its unremitting opposition to terrorism, the United States pushed aside Ibrahim Rugova – whose selfless devotion to his people and to peace Washington had touted for a decade – and appointed KLA chief Hashim Thaçi as head of the Kosovo Albanian delegation. (Belgrade’s objections to negotiating with a man of violence such as Thaçi were, of course, dismissed.) The “perception of KLA pre-eminence – largely created by the Americans – was a self-fulfilling prophecy, the bedrock upon which the KLA achieved actual ascendancy over other Kosovar Albanian constituencies with designs on power, such as Ibrahim Rugova’s Democratic League of Kosovo (LDK) and Bujar Bukoshi’s ‘Government-in-exile,’” wrote Dick Marty in his 2010 report on KLA criminality.<sup>87</sup>

Other than the Kosovo Albanians, only “representatives of the Yugoslav and Serbian governments” were invited to attend, as per the Contact Group’s January 29 order. All of the other ethnic groups of Kosovo – the Roma, the Turks, the Gorani, the Egyptians, not to mention the Serbs – were discounted. The Yugoslav delegation, on the other hand, did include representatives of these groups.

No negotiations ever took place at Rambouillet. Kept in separate rooms, the Yugoslav and Kosovo Albanian delegations received the plan for the future of Kosovo in dribs and drabs. This plan had been drawn up by Christopher Hill, the U.S. special envoy to Yugoslavia and U.S. ambassador to Iraq under President Barack Obama. Hill’s draft was about 80 pages long and, the Americans insisted, could not be changed in any way. The plan had to be accepted in its entirety. Rejection of any detail meant rejection of the plan as a whole, an act immediately punishable by NATO bombing. As for the nominal conference chairmen Robin Cook and Hubert Védrine, the only evidence of their presence at Rambouillet was their occasional press statements.<sup>88</sup> There were supposedly three mediators: a Russian envoy, Boris Mayorsky; an E.U. envoy, Wolfgang Petrisch; and Hill. Hill, needless to say, dominated the proceedings, showing little respect for the other mediators, the conference chairmen, and the actual parties. At one point, without warning, he hopped on a plane for Belgrade, doubtless to issue yet another ultimatum to Milošević. Affronted by his unannounced visit, Milošević refused to see him.

The civilian part of the plan was humiliating enough for the Serbs. Kosovo was to be, in Diana Johnstone’s words, “independent of Serbia, but Serbia would not be independent of Kosovo.”<sup>89</sup> Ownership of state-owned property would be transferred to Kosovo. Tax revenues raised in Kosovo would be spent exclusively in Kosovo. Serbia, on the other hand, would continue to provide various benefits such as pensions and disability allowances. Kosovo would get massive economic assistance; Serbia would get nothing – not even the lifting of sanctions. At no point in the Rambouillet talks did the NATO powers try to relieve Serb pain over the effective loss of Kosovo by a promise to end sanctions. The matter was “not under consideration,” Albright said flatly.

Kosovo would, of course, be free of sanctions. Yugoslavia also had to “ensure that Kosovo receives a proportionate and equitable share of benefits that may be derived from international agreements concluded by the Federal Republic and of Federal resources.” On the other hand, “all reconstruction projects that exclusively concern Kosovo shall be managed and implemented by the appropriate Kosovo authority.” In other words, Kosovo would get its cut

from any deal signed by the FRY, but the FRY would get nothing from any deal signed by Kosovo. Even if an international contractor insisted on signing a reconstruction agreement only with the FRY, federal authorities would have to “establish appropriate mechanisms to make such funds available to Kosovo authorities.”

In marked contrast to the interests of the Serbs, those of international investors would, happily, not be overlooked. “The economy of Kosovo shall function in accordance with free market principles,” the draft stipulated, as if such as a decision were entirely within the purview of U.S. policymakers rather than of Kosovo’s or Serbia’s elected representatives. This applied also to the FRY, which would have to “ensure the free movement of persons, goods, services, and capital to Kosovo, including from international sources.” Above all, the FRY had to “allow access to Kosovo without discrimination for persons delivering such goods and services.”

As for the future political set-up, Kosovo would have a guaranteed number of representatives in the Serbian national assembly and in the Yugoslav federal assembly. On the other hand, Serbia and Yugoslavia would have no representation in Kosovo. “Citizens of Kosovo,” as the plan tendentiously referred to them, would be guaranteed a say in laws passed in Serbia and Yugoslavia. On the other hand, the “Constitution and the laws of the Kosovo Assembly shall not be subject to change or modification by authorities of the Republics or the Federation.” Kosovo would be guaranteed one judge on the federal constitutional court, three judges on the Supreme Court of Serbia as well as a position in the federal government and a position in the Serbian republican government. On the other hand, the Serb and Yugoslav governments would have no presence in Kosovo’s government. There would be no Serb or Yugoslav judges sitting on Kosovo’s courts. And neither Yugoslavia’s courts nor Serbia’s courts could overturn the decisions of Kosovo’s courts. Kosovo supreme court rulings were to be recognized and executed throughout Yugoslavia. In addition, Kosovo’s courts would have jurisdiction even on matters of federal law. Recourse may be had to FRY courts on matters of federal law but only “after all appeals available under the Kosovo system have been exhausted.”

Hill’s draft, needless to say, offered the standard boilerplate for the protection of minority rights. However, the plan made it unambiguously clear that majority rule – and hence Albanian rule – could not be curtailed in any way. There was to be only one legislative body – a staggering departure from customary democratic norms. National minorities would have a guaranteed number of seats in the assembly but, as majority voting had to prevail, their

contribution to the legislative process would be purely nominal. Nations would have no veto powers. There was to be no recognition of the Serbs as a constituent nation of Kosovo with the right of veto on constitutional matters. Kosovo's constitutional and supreme courts were to adopt their decisions by majority vote; those decisions could not be appealed.

Since the Western powers had invented a fictitious "Kosovar" nation that inhabited the province of Kosovo, they were able to declare that their commitment to majority rule was a commitment to democracy. Majority rule in Kosovo meant installation in power of the Albanians, a national group that could be guaranteed to be pro-American and pro-NATO. NATO was handing over Kosovo, a province of Serbia inhabited by a number of nations, to one nation only in order to create a second Albanian – and therefore pro-NATO – state in Europe. One can be sure that were the Serbs the majority nation in Kosovo, the Americans would have been crying out for "minority rights" and insisting on all manner of checks on majority rule.

Hill's Rambouillet plan did not even envisage disarmament of the KLA, dishonest Western official claims notwithstanding. While all Yugoslav and Serbian security forces would have to withdraw from Kosovo, "Other Forces" (the plan's euphemism for the KLA) only had to "publicly commit themselves to demilitarize on terms to be determined by" the commander of the international implementation force. "To demilitarize" did not mean to disarm – it meant rather retaining one's arms but changing one's name. An armed paramilitary force calls itself a civilian police force and it is deemed demilitarized. (This in fact is what happened: the KLA did not disarm after NATO's entry into Kosovo; it merely changed its name to Kosovo Protection Corps.)

The U.S.-crafted Rambouillet proposal was a one-sided plan, highly disadvantageous in every possible way to Serbia. This, of course, didn't stop editorial writers who had not seen – let alone examined – the plan from hailing it as an eminently reasonable compromise.

### THE SERBS TRY TO USE GUILE

Aware of the trap that NATO was setting, the Yugoslav delegation tried to outmaneuver the Rambouillet's international sponsors. Craftily, the Yugoslavs proposed that the conference begin with the two sides signing on to the ten non-negotiable principles enunciated by the Contact Group. One of those principles involved the territorial integrity of the FRY. The Yugoslavs knew the Kosovo Albanians would never accept that. So did the Western co-chair-

men, which is why they swiftly rejected the Yugoslav proposal. There was no need to sign anything, they announced. The media were quick to express outrage at the presumption of the Serbs. Belgrade was blocking progress, a reporter for the *Independent* fumed, “by insisting the ethnic Albanians formally endorse the statement of 10 principles issued when the two sides were summoned to negotiate a fortnight ago.” The Albanians were reluctant to do so, the reporter helpfully explained, because “the document makes no reference to a referendum on independence once the three-year interim period covered by the draft agreement is over. But as Robin Cook ... complained ... the Serbian demand is irrelevant since both sides implicitly accepted the 10 principles when they agreed to come to Rambouillet.”<sup>90</sup>

The logic is instructive: the Serbs were being obstructionist by insisting that all sides sign on to the non-negotiable principles. The Albanians refuse to sign because, well because they don’t accept those principles even though the principles are supposed to be non-negotiable! Not to worry, Cook assures us, the Albanians have implicitly accepted those principles; otherwise they wouldn’t be at Rambouillet, would they? But if the principles were non-negotiable and the Kosovo Albanians refused to accept them, weren’t the Albanians the ones who were being obstructionist?<sup>91</sup>

Amusingly, even the ICTY drew attention to the disingenuousness of the Rambouillet organizers’ argument that there was no need for the parties to sign on to the non-negotiable principles because attendance already implied acceptance:

[T]he Chamber is of the view that this reasoning is circuitous and, in fact, confirms the position of the FRY/Serbian side. Had mere attendance automatically signified the acceptance of the principles, there would have been no reluctance on behalf of the Kosovo Albanians to sign them in the first place.<sup>92</sup>

An elementary piece of logic, one would have thought, but one that seemed to elude the reporters gathered at Rambouillet.

Threatened with NATO bombing and subjected to a sustained campaign of vilification in the media, the Serbs raised few objections to the civilian parts of the U.S.-sponsored plan. The ICTY admitted that the Serbs were prepared to accept the U.S.-sponsored political plan for Kosovo. The court quoted the testimony of Ratko Marković, the head of the Serb delegation at Rambouillet, according to which “the FRY/Serbian delegation was prepared to accept the political agreement provided that some corrections were made in the offered text. In particular, it wanted the constitution to reflect the fact that Kosovo

was an integral part of the Republic of Serbia and that Serbia had all state powers in Kosovo.”<sup>93</sup> Were the negotiations conducted in good faith, this demand shouldn’t have caused any problems. It was one of the Contact Group’s non-negotiable principles.

The Serbs even accepted without demur Hashim Thaçi’s appointment as leader of the Kosovo Albanian team. (The appointment of Thaçi, a gunman who had never been elected to anything, was calculated to trigger a Serb walkout, which did not take place.) It was the Albanians who were causing problems through their insistence on independence. And now, with the Yugoslavs agreeing to sign the Contact Group’s non-negotiable principles and on the brink of accepting the political arrangement, and with the Kosovo Albanians rejecting as insufficient the autonomy on offer and refusing even to meet the Yugoslav delegation, the carefully crafted Rambouillet set-up was threatening to unravel. The Americans’ worst nightmare was about to become reality: Yugoslav acceptance and Albanian rejection, the consequence of which would have to be no bombing plus reappraisal of NATO’s commitment to the KLA.

On February 14, a panic-stricken Albright flew to France to take control of the negotiations. She had to persuade Thaçi to accept autonomy as an interim measure. It would last only three years, she assured him. Once that was over, Kosovo could hold a referendum and then secede. However, Albright couldn’t admit publicly that she had made such a commitment to Thaçi. But securing Albanian acceptance wasn’t enough. She had to do something else: she had to make sure the Serbs rejected the Rambouillet proposal.

### **YUGOSLAVIA’S CHOICE: NATO OR BOMBS**

For Albright, the key to securing Serb rejection was insistence on NATO deployment in Kosovo. She knew perfectly well that while the Serbs might accept a U.S.-sponsored civilian plan, they would never sign on to a NATO presence on their territory. Even as Cook and Védérine were maintaining the pretense that genuine negotiations were taking place at Rambouillet, the United States was busily planning NATO’s deployment in Kosovo. Within days of the conference’s opening, U.S. officials were telling reporters that unless the Serbs agreed to NATO deployment in Yugoslavia, they would be bombed. It was quite bizarre. Journalists knew about the plan’s military provisions even before these provisions had been shown to the parties at Rambouillet. On February 10, the Associated Press reported that the Serbs had let it be known

that they wouldn't accept foreign troops on their soil. "The Americans say if they don't, NATO will bomb Serbia ... NATO planners are forging ahead with Option A minus, a plan that had been sitting on the shelf since October. It involves sending 25,000-30,000 troops into Kosovo."<sup>94</sup> According to AP, the mediators were holding back the most significant and the most troublesome part of the plan. The Serbs were to be ordered to sign on to a massive NATO deployment on their territory. "With just 10 days left to make a deal, however, they can't hold back too long. The Russians deny there is any military aspect at all." The question of NATO deployment was "being put off until the end of the talks to avoid a row with the Russians."

This assertion was only partly true. The Americans were holding back the provisions about NATO deployment until the last possible moment because they wanted to cut off any debate on the issue. That way, the Serbs could be blamed for the failure of the talks. Since there would be no opportunity for anyone to undertake even a cursory examination of the plan's military provisions, the media could be relied on to moan in unison about the supposed obduracy of the Serbs who, once again, had stood in the way of peace. According to the AP account, the State Department's Rubin had "said that if the Kosovo Albanians agree to a settlement, including peacekeepers, and the Serbs refuse, 'The Serbs will be subject to airstrikes. So they would be making a big mistake to hold up this agreement over the question of allowing forces in.'"

The Contact Group was scheduled to meet on February 14 to assess the Rambouillet talks. On that day, British Prime Minister Tony Blair published an article in the *Independent* arguing that an implementation force would be needed in Kosovo. "Only NATO has the necessary experience and capabilities to set up and lead such a force, as it has shown so successfully in Bosnia for more than three years. For this reason contingency plans have been drawn up in recent weeks to organize and deploy a force if it is needed," he wrote. Blair revealed that planning had been going on for some time and that this NATO force could be in Kosovo in a matter of days. "Such a force must be ready to deploy quickly to follow up the momentum of any such peace agreement. That means it has to be assembled well ahead of time. That is why we and our allies have put forces on standby, ready to go to the region at short notice. It is also why the Cabinet decided last week to pre-position the vehicles and heavy equipment that would form the mechanized core of any deployment."<sup>95</sup>

Blair's admission was extraordinary. NATO implementation plans were virtually complete even though the issue had not been presented to the delegations. NATO deployment had not been presented to Belgrade or even to the

Contact Group, under whose auspices the Rambouillet talks were supposedly taking place. Other than Blair, it seems that only the Clinton administration and NATO chiefs knew what was in these military plans.

As envisaged by the Americans, NATO alone would be responsible for the plan's implementation. NATO forces, including heavy weaponry and tanks, would operate "under the authority and subject to the direction and the political control of the North Atlantic Council (NAC) through the NATO chain of command." There would be no dual key: command and control would belong exclusively to NATO.

Serb rejection of NATO implementation would be taken as rejection of the plan as a whole. The United States was fiercely insistent on this point. The State Department's Rubin expressed the U.S. position on March 16, a week before the start of the NATO bombing: "Milošević has a habit of signing agreements and then not implementing them. The reason why we are insisting on NATO implementation is because we want to see this agreement implemented, and NATO is the only organization that we think can ensure that." Milošević was a bad guy, only NATO – the United States, that is – would be able to keep him in line.

Neither the Clinton administration nor Blair nor NATO could explain why 30,000 troops and so many vehicles and so much heavy equipment were necessary for what was supposed to be a civilian police operation. After all, under Rambouillet, there would be no Yugoslav security forces whatsoever in Kosovo. Back in October, Clark and Naumann had demanded that Milošević withdraw all VJ forces from Kosovo and reduce police forces in the province to 10,000. They issued their ultimatum while fighting was taking place between the security forces and the KLA. NATO would now be coming in as a purported peacekeeping force following the withdrawal of all Yugoslav forces. Against whom was NATO planning to use this force?

At the February 14 meeting, the Contact Group wasn't shown NATO's deployment plans. The Contact Group foreign ministers didn't even discuss the implementation issue. In fact, neither the Serbs nor the mediators nor the Contact Group had seen the Rambouillet plan in its entirety. (All that the Serbs had been shown at this stage were bits and pieces of the draft dealing with the proposed constitution, elections, an ombudsman, economic development, human rights, reconstruction, and so on.) Following the meeting, the Contact Group announced that the negotiators had the "discretion to table the remaining annexes on the implementation of the settlement."<sup>96</sup> *To table*, not to demand unconditional acceptance! The foreign ministers did urge conclusion of the negotiations by February 20, but the reason for the

haste, it explained, was avoidance of “further large-scale violence leading to humanitarian catastrophe,” not avoidance of NATO bombing. The Contact Group did not go beyond urging the Yugoslavs and the Kosovo Albanians to agree on the “proposals for self-government in Kosovo” and to “accept the implementation arrangements needed to establish this self-government including the development of a local police force and measures to end the military confrontation in Kosovo.” No mention whatsoever of NATO; nothing to confirm Blair’s claims in the *Independent* that morning.

Albright flew back to Washington and, characteristically ignoring the statement of the Contact Group, announced that “No NATO force is a deal breaker from our perspective.” If there is an impasse at Rambouillet, “it would be followed by NATO bombing.”<sup>97</sup> On February 15, the day after the Contact Group meeting in Paris, the *Irish Times* reported that “An appendix on the proposed 30,000-strong peacekeeping force, drafted by NATO, has not yet been shown to the delegations and is expected to cause major difficulties with the Serb side.”<sup>98</sup> In other words, the Serbs had not been shown the NATO deployment plan but if they dared to reject it, they would be bombed by NATO.

The Rambouillet operation was back on track. For a while, things seemed to be going swimmingly for the Americans. On February 18, Albright went on television to boast that she had just spoken to Milošević to warn him that

time was running out, that there is a deadline, [Feb. 20] noon, for an agreement to be reached, and if there is no agreement, and it’s because of Serb intransigence, that he can expect NATO airstrikes ... President Milošević should hear loud and clear that the deadline is [Feb. 20] noon, and that airstrikes will follow if he is the one who is responsible for the cratering of the talks ... [T]he Contact Group made that statement a number of times, and it’s very important that President Milošević know that we are less than two days away from that deadline and that it is time to really be very clear about the importance of these negotiations, both the political part and the military part.

Just as Washington had repeatedly and entirely falsely presented its threats as being in line with U.N. resolutions, so now it presented the Rambouillet ultimatums as the will of the Contact Group. The supine and lazy media, in a foretaste of their abysmal performance in the run-up to the 2003 Iraq invasion, were only too happy to go along with this charade.

Moreover, there was a conspiracy of silence on the key stumbling block: the Kosovo Albanians were demanding a public Western commitment to Kosovo’s eventual independence. The Americans had no problems with that;

not so their NATO partners. And as long as the Kosovo Albanians continued demanding independence, NATO would have to go on shelving its bombing plans. “Serbia’s acceptance in principle of the political deal while rejecting a military force, and the Kosovo Albanians’ reverse position, have left a mess that will be hard to resolve,” an anguished *Guardian* reported. On February 19, Albright was back in Rambouillet trying desperately to reassure the Albanians. The artificial deadline was due to expire that day. Nonetheless, Albright was “unable to persuade ethnic Albanian negotiators to accept the deal, making it harder for the United States to insist that the intransigence of [Milošević] be punished.” For four days, Albright sought to press Thaçi, whom she had likened to Gerry Adams, to sign the deal. Veton Surroi, a member of the Kosovo Albanian delegation, described her relentlessness: “She was saying you sign, the Serbs don’t sign, we bomb. You sign, the Serbs sign, you have NATO in. So it’s up to you to say. You don’t sign, the Serbs don’t sign, we forget about the subject. It was very explicit.”<sup>99</sup>

It was quite a predicament. Finally, Albright, in desperation, had to get tough. If the Kosovo Albanians wanted NATO to bomb Serbia, she warned, they had better get on board now. “If the talks crater because the Serbs do not say yes, we will have bombing. If the talks crater because the Albanians have not said yes, we will not be able to support them and in fact will have to cut off whatever help they are getting from the outside. If it fails because both parties say no, there will not be bombing of Serbia and we will try to figure out ways to continue trying to deal with both sides,” Albright told the media.<sup>100</sup> Cook delivered the same message: forget NATO bombing. “We are certainly saying to the Kosovo Albanians that if you don’t sign up ... it’s extremely difficult to see how NATO can then take action against Belgrade.”

The Albanians had to stop bringing up independence – at least for now. They had to understand that autonomy was just an interim measure. They would get their referendum, but there was no way in the world the Contact Group would agree to the insertion of a referendum in any settlement plan.

Albright went as far as she could go to reassure the Albanians. Though the “word referendum is not in the agreement,” Albright said, “we recognize that it is important after the three-year period to consider the voice of the people among other considerations.”<sup>101</sup> In other words, sign the document already and we can launch the bombing that we all want. Then, once the Serbs are beaten and demoralized, Kosovo would get its independence.

The Kosovo referendum issue showed U.S. policy at its most duplicitous. While publicly, the U.S. government continued to support the Contact Group line that Yugoslavia’s territorial integrity had to be respected, privately it con-

tinued to assure the Kosovo Albanians that such avowals weren't to be taken seriously. This emerged even from the House of Commons report on Kosovo, otherwise a feeble apologia for the Blair government. The report disclosed that "the U.S. sent a letter to the Kosovo Albanian delegation, noting that the U.S. regarded the agreement as confirming the right of the people of Kosovo to hold a referendum, consistent with the provisions of the Rambouillet agreement, on Kosovo's final status." Albright wrote the letter on February 22. It said that "this letter concerns the formulation ... of the interim Framework Agreement. We will regard this proposal, or any other formulation, of that Article that may be agreed at Rambouillet, as confirming a right for the people of Kosovo to hold a referendum on the final status of Kosovo after three years."

Implausibly, though entirely in keeping with its mission of shielding NATO from any blame, the ICTY claims that the letter offering a referendum was eventually withdrawn by Albright. However, the only source it cites for this assertion is E.U. mediator at Rambouillet Wolfgang Petritsch, the credibility of whose testimony it had already called into question more than once.<sup>102</sup> Indeed, the ICTY contradicted its own assertions by revealing that Clinton himself thought that the promise of a referendum was an unwise move. "President Clinton stated that the provision for allowing a referendum for the Albanians in Kosovo went too far and that, if he were in the shoes of Milošević, he probably would not have signed the draft agreement either."<sup>103</sup>

As the House of Commons report observed,

it appears that [Albright] was offering U.S. support for a referendum regardless of what was agreed at Rambouillet, rather than "consistent with the provisions of ... Rambouillet." It is difficult to envisage a situation where a referendum would be held and then disregarded by the international community. Thus even if the words of the agreement did not specifically provide for a binding referendum on independence, there was a ground for suspicion for the Serb side on this point. Certainly, the Albanian side continue[s] to believe that the Albright letter represents a commitment by the USA to a binding referendum.<sup>104</sup>

In other words, the Americans were deceiving everyone. They were deceiving the Serbs by suggesting to them that in return for acceptance of self-government in Kosovo, their sovereignty over Kosovo would be recognized. And the Americans were deceiving their junior NATO partners by assuring them that no referendum in Kosovo was envisaged.

The Albanians, understandably skeptical about U.S. machinations, remained reluctant to sign the accord. Albright had no choice but to extend the deadline. On February 20, she told a news conference at Rambouillet that the deadline was now February 23. This was more than Belgrade deserved, she sneered, for it had “taken every opportunity for evasion and delay.” To be sure, she had to admit that Belgrade had said “that it can accept the political settlement.” However, she hastily added, “my sense is that this is not completely firm.” (How could it be “firm” when much of the “agreement” had still been held back from them?) In any case, Albright said scornfully, “Serb refusal to even consider the presence of a NATO-led military implementation force in Kosovo is largely responsible for the failure to reach full agreement.” This was, of course, yet another Albright lie. Though she was granting more time, Albright was demanding “nothing less than a complete interim agreement, including Belgrade’s acceptance of a NATO-led force.” If there was no agreement by February 23, she warned, NATO Secretary-General Solana “will draw the appropriate conclusions.”<sup>105</sup>

Albright went on CNN on February 21 to threaten the Serbs yet again over their alleged refusal “to engage in any discussion of the military annex, which has NATO forces there.” The Serbs had to understand that “there is no question that the basis of the deal is a NATO-led force.” A CNN reporter asked her why the implementation force had to be NATO-run. Couldn’t it be run by the United Nations or the OSCE? Albright refused even to discuss such an absurd suggestion. “The United States’ position,” she announced imperiously, “is that it has to be a NATO-led force. That is the basis of our participation in it.”<sup>106</sup> Of course, that sidestepped the question of why it was necessary for the United States to participate in this force. After all, in Bosnia it had gone to great lengths to avoid participating in UNPROFOR.<sup>107</sup>

The Serbs had to sign by February 23 or face bombs. Yet it was not until the evening of February 22 that the Serbs were finally shown the NATO implementation plan. The Contact Group had taken no part in its drafting and saw it for the first time when the Serbs did. In fact, the three mediators had not even discussed the military annexes. According to the ICTY’s own narrative, it was only on February 23, at 9:30 a.m., that “both delegations received the final text of the agreement ... The delegations were asked to submit their responses to all these documents by no later than 1:00 p.m. that day.” In the meantime, the three mediators signed the draft document on behalf of the Contact Group. Russia’s Mayorski made it clear though that his signature did not extend to the implementation parts of the draft because “these had not been discussed by the Contact Group.”<sup>108</sup>

The Serbs, as expected, accepted the political blueprint but rejected the military annexes. Marković pointed out that what the Serbs had received on the evening of February 22 constituted “almost half of the full text of the agreement and that it was, therefore, impossible to respond to them within such a short period of time.”<sup>109</sup> However, that same day, Marković wrote to the Contact Group indicating that the “FRY/Serbian delegation would be ready to continue with the negotiations, and even discuss international presence, without restricting it to civilian presence.” On February 23, Milutinović, the president of Serbia, held a press conference in Paris in which he announced that the Serbs would be “willing to accept the political agreement from Rambouillet.”<sup>110</sup> A distraught Hill cornered the Kosovo Albanian delegation for lunch. Afterward, the Kosovo Albanians announced that they would sign the draft in two weeks’ time, but that at the end of the three-year interim period they would hold a referendum in Kosovo.

The Serbs had proved to be remarkably conciliatory at Rambouillet. Their agreeableness had caught the Clinton administration by surprise. Even without the NATO implementation provision, Hill’s plan was insultingly one-sided. The Kosovo Albanians were given complete control of Kosovo, free of any interference from Belgrade, along with a promise of a referendum within three years. The Serbs were offered nothing other than a vague U.S./E.U. promise that Kosovo would continue to be, for the time being at least, or at least during the time of the interim accord, a part of Yugoslavia – until, that is, the “international community” – the usual suspects, needless to say – decided otherwise. Given the intensity of the anti-Serb animus driving U.S. policy, there was no mystery as to what the “international community” would decide at the end of the interim period.

Alarmed at the prospect of the Serbs eventually accepting the Rambouillet plan, even with those NATO military annexes, and thus denying NATO the opportunity to execute the long-planned bombing campaign, Washington decided to raise the stakes. The blueprint had to be made so outrageous that the Serbs would be sure to reject it. The administration duly inserted into the plan the notorious Appendix B. This provision granted NATO unrestricted freedom of movement throughout the territory of Yugoslavia as well as total immunity for any and all violations of Yugoslav law.<sup>111</sup> NATO, Appendix B stipulated,

shall be immune from all legal process, whether civil, administrative, or criminal ... NATO personnel, under all circumstances and at all times, shall be immune from the Parties’ jurisdiction in respect of any civil, administrative,

criminal, or disciplinary offenses which may be committed by them in the FRY ... NATO personnel shall be immune from any form of arrest, investigation, or detention by the authorities in the FRY. NATO personnel erroneously arrested or detained shall immediately be turned over to NATO authorities.

Furthermore, NATO was under no obligation to observe Yugoslav laws. It may choose to follow Yugoslav laws but only if and when it feels like it. "NATO personnel shall respect the laws applicable in the FRY, whether Federal, Republic, Kosovo, or other," but only "insofar as compliance with those laws is compatible with the entrusted tasks/mandate."

Appendix B had a number of other interesting provisions. For example, NATO would be "exempt from duties, taxes, and other charges and inspections and custom regulations including providing inventories or other routine customs documentation, for personnel, vehicles, vessels, aircraft, equipment, supplies, and provisions entering, exiting, or transiting the territory of the FRY." Furthermore,

NATO personnel shall enjoy, together with their vehicles, vessels, aircraft, and equipment, free and unrestricted passage and unimpeded access throughout the FRY including associated airspace and territorial waters ... The authorities in the FRY shall facilitate, on a priority basis and with all appropriate means, all movement of personnel, vehicles, vessels, aircraft, equipment, or supplies, through or in the airspace, ports, airports, or roads used ... NATO is granted the use of airports, roads, rails, and ports without payment of fees, duties, dues, tolls, or charges occasioned by mere use ... The Parties shall, upon simple request, grant all telecommunications services, including broadcast services, needed for the Operation, as determined by NATO. This shall include the right to utilize such means and services as required to assure full ability to communicate, and the right to use all of the electro-magnetic spectrum for this purpose, free of cost ... The Parties shall provide, free of cost, such public facilities as NATO shall require to prepare for and execute the Operation. The Parties shall assist NATO in obtaining, at the lowest rate, the necessary utilities, such as electricity, water, gas and other resources, as NATO shall require for the Operation.<sup>112</sup>

In other words, NATO could do whatever it wanted to do, and whenever and wherever it wanted to do so, throughout the territory of Yugoslavia. As long as it was in furtherance of the "Operation," NATO could do it. And NATO alone would get to decide what that Operation was and what it required.

Given NATO's sweeping and one-sided interpretations of United Nations resolutions, it was likely that its understanding of the Operation would be highly idiosyncratic. Since NATO, through its repeated bombing threats, had given ample evidence of its hostility toward Yugoslavia, it was the height of absurdity to think that Belgrade would now accept this U.S.-led military bloc at its own valuation as a disinterested, neutral peacekeeping force.

Appendix B, like the rest of the Rambouillet plan, wasn't made public. Stories about it began to emerge only in April, by which time it was too late to change public opinion on the honorableness of NATO's intentions. The bombing was in full spate and, inevitably, "NATO credibility" was on the line. Commentators, most of whom were huge fans of the bombing, made light of Appendix B, if they bothered to address it at all, which by and large they didn't. Appendix B, the pundits argued, was nothing special. It was a standard Status of Forces agreement that countries hosting foreign troops sign every day with NATO or the United States. The Serbs were being typically unhelpful and paranoid in making such an inordinate fuss about it.

Even if the claim that Appendix B was a routine agreement were true (which of course it wasn't), the claim would be disingenuous for at least two reasons. First and most obviously, there is a world of difference between volunteering to host foreign troops and being forced at gunpoint to host them. Demanding that Serbs volunteer to host NATO was no different from Soviet leaders in 1968 demanding that Czechoslovak officials draft a letter requesting Warsaw Pact assistance to restore order in their country. Second, if Appendix B was what a status-of-forces agreement looks like, then it would surely have come as an unpleasant surprise to citizens of NATO countries. It is unlikely that very many people were aware that U.S. forces stationed on their soil and armed with dangerous weapons got to use public facilities for free and could commit any crimes they wished without facing punishment in the host countries' courts. NATO was celebrating its 50th birthday. This wasn't the time to scrutinize the sweeping privileges and immunities that the United States had extracted from its junior NATO partners.

However, the claim that Appendix B was just a run-of-the-mill status-of-forces agreement was untrue. Appendix B was vastly more intrusive than standard-issue NATO agreements. Status-of-force agreements do not offer the blanket immunities that NATO was demanding from Yugoslavia. Instead, they delineate the respective jurisdictions of NATO and host countries as they apply to criminal and civil offenses. The 1951 NATO status-of-forces agreement stipulates that "the military authorities of the sending State shall have the right to exercise within the receiving State all criminal and disciplinary

jurisdiction conferred on them by the law of the sending State over all persons subject to the military law of that State.”<sup>113</sup> However, “the authorities of the receiving State shall have jurisdiction over the members of a force ... with respect to offences committed within the territory of the receiving State and punishable by the law of that State.”

Moreover, the 1951 agreement makes clear that “authorities of the receiving State shall have the right to exercise exclusive jurisdiction over members of a force ... with respect to offences, including offences relating to the security of that State, punishable by its law but not by the law of the sending state.” In cases in which the right to exercise jurisdiction is concurrent, “The military authorities of the sending State shall have the primary right to exercise jurisdiction over a member of a force ... in relation to offences solely against the property or security of that State, or offences solely against the person or property of another member of the force ... of that State [and] offences arising out of any act or omission done in the performance of official duty.”

A leading international law textbook summarizes the standard NATO status-of-forces agreement this way:

[the sending state] may exercise criminal jurisdiction within the receiving state over all persons subject to the military law of the sending state and committing offences against that law. The receiving state may punish any breach of its own law by members of the visiting force ... [W]hen the breach is not also a breach of the law of the sending state ... this jurisdiction is exclusive. However, there is a large area of concurrence, and this treaty provides rules to decide which state has the ‘primary right’ to exercise jurisdiction.

The sending state has primary jurisdiction over offenses arising out of acts “done in the performance of official duty.”<sup>114</sup> In other words, the issue wasn’t immunity for NATO personnel but respecting one another’s jurisdictions. Appendix B insisted on blanket immunity for NATO; there was no mention of any Yugoslav jurisdiction over NATO personnel.

Upon presenting these details, the Rambouillet organizers demanded that the parties sign the agreement in its entirety by 1 p.m. on February 23, since this supposedly was the deadline imposed by the Contact Group. The Serbs insisted that the two sides first sign a constitutional framework agreement and then negotiate the implementation. Albright flatly ruled that out. There was only one deal on the table, not two, she declared. A “political agreement without the military annex is just a piece of paper ... a table top with no legs.”<sup>115</sup> The political and military terms couldn’t be split. They had to be

accepted in their entirety and immediately. Otherwise NATO would bomb – the Serbs only, of course. “The Serbian side believes it can have half a deal,” Albright fumed. “There are not two documents. There is one document with two parts to it.”<sup>116</sup> It was time for Milošević to “wake up and smell the coffee,” she continued. “It would be a grave mistake for Milošević to miscalculate our intentions.” Unless the Serbs accepted all of the provisions, “preparations for NATO military action will continue.”<sup>117</sup>

The Americans were obviously very confident that the Europeans were ready to sign on to an immediate start to the bombing campaign. The Kosovo Diplomatic Observer Mission (KDOM) Daily Report for February 22 noted that the U.S. embassy in Belgrade had been all but evacuated and that the “U.S. KDOM Mission in Pristina [had] departed Kosovo completely over the weekend and is now headquartered in Skopje from where it will watch developments for the foreseeable future. The KVM remains on alert standby status and is prepared to depart quickly should the evacuation order be issued.”<sup>118</sup>

Unfortunately for Albright, while she was ready to begin bombing right away, her allies were not. It wasn’t so much the U.S. demands on the Serbs that troubled them; it was Albright’s manifest failure to deliver the KLA. She couldn’t conceal from her NATO colleagues the obvious fact that the Kosovo Albanians were no more prepared to sign than the Serbs. Of course, Albright didn’t give two hoots whether the Albanians accepted the Rambouillet plan or not, but the Europeans did. While she squarely blamed the breakdown of the talks on the Serbs’ “refusal to even consider the peace implementation force,” key NATO countries weren’t so sure and were willing to go public with their doubts.

Lamberto Dini, the Italian foreign minister, for one, demurred: “It would be wrong to only blame the Serbs. The Serbs accept the formula for autonomy presented by the mediators. The Albanians have not accepted that.”<sup>119</sup> Even Cook wasn’t prepared to go along with Albright on the bombing. In a BBC interview, he pointed out that neither side was willing to accept the plan in its entirety. While the Yugoslavs were willing to accept the political part of the plan, they were unwilling to accept the NATO part. The Kosovo Albanians, on the other hand, were unwilling to accept the political plan but were all for NATO. “At the moment we have on the Belgrade side a government that is accepting the constitutional settlement for a self-governing Kosovo, but we don’t have the Kosovar side that is doing so. In that context, airstrikes on Belgrade are not going to help.”<sup>120</sup>

In fact, the U.S. demand that the deal be accepted unconditionally was an outrageous misinterpretation of the Contact Group’s mandate. In the first

place, if there was only one deal on the table, then it should have been presented in its entirety at the beginning of the conference, if not before. Instead, the mediators gave out the plan in bits and pieces, leaving the most contentious part, the part that would require the most scrutiny, for last. Submitting the implementation details just hours before the supposed expiration of the deadline was without question a maneuver to force Serb rejection and ensure collapse of the talks.

Second, everyone had always understood that an agreement on an interim political arrangement for Kosovo would come first, and negotiations on implementation afterward. Albright herself had admitted as much on February 4 in a TV interview. On that occasion, she outlined three possible outcomes to the coming talks at Rambouillet. If the talks failed on account of the Serbs, the Serbs would be “open to air strikes.” If they failed on account of the Kosovo Albanians, “NATO would not be there for them.” If the two sides agreed, however, “we begin to consider whether there should be a NATO force that would carry out the implementation of the agreement.”<sup>121</sup> In other words: agreement first, then talks on implementation.

The sequence was important. Of course, having already threatened the Serbs with bombing if they refused to sign on to the interim political plan, the United States would have had no hesitation threatening them yet again if they refused to accept NATO implementation. It would, however, have been hard to persuade NATO to go ahead with bombing if the Serbs were seen as favoring the interim solution but balking only on the issue of implementation.

It was therefore essential for the United States to perpetrate a fraud by suggesting that the Serbs had refused to sign *any* agreement at Rambouillet. This deception was compounded by a further deception, namely, that the plan put forward at Rambouillet, including all of the military annexes, had been agreed upon ahead of time by the Contact Group. For instance, on February 11, deputy State Department spokesman James Foley told a press briefing that “the plan, which encompasses the political and the military and police and other elements, in its near entirety was already agreed several weeks ago by the Contact Group. It remains fundamentally that same document.”<sup>122</sup> This was, of course, entirely untrue. The Contact Group had only agreed on what the basic elements of an interim solution should be. There had been no discussion of the military elements.

This point was crucial. The president of Serbia, Milan Milutinović, a member of the Rambouillet delegation, drew attention to it in a February 19 letter to the U.N. Security Council. He complained about demands that Serbs “accept a document, a military annex, namely foreign military troops on the

territory of the [FRY]. Neither this issue nor the document ... have been subject to discussion or approval by the Contact Group." Not only that, but while the meeting at Rambouillet was taking place, Yugoslavia was being "repeatedly ... subjected to public threats of military Aggression."

Public opinion in the West wasn't too perturbed about such Serb complaints. The Russians were a different matter, though. And Mayorsky, the Russian mediator, was publicly endorsing what the Serbs were arguing. The Serb and Albanian delegations were only supposed to be negotiating a political agreement, he said. "Neither any military aspects, nor introducing any forces on the territory of Kosovo, nor staging any operations involving the presence of military forces in Kosovo have been discussed," he said. "Russia made it clear to its partners that it would not take part in such discussions since it deems such an approach improper."<sup>123</sup>

The Rambouillet meeting broke up on February 23 with neither side agreeing to sign the U.S.-sponsored Kosovo plan. Despite considerable U.S. pressure, the Kosovo Albanians continued to waver. Wesley Clark, SACEUR, even flew in from Brussels for a face-to-face meeting with Hashim Thaçi to persuade him to sign. So desperate were the Americans to get the Albanian signature on paper that, as the ICTY put it, "Clark informed the Kosovo Albanian delegation about the existence of missing annexes 2, 5, and 7, dealing with the implementation side of the agreement, including military implementation."<sup>124</sup> At this time, of course, the Yugoslavs had not been shown any of the military annexes, all of which pertained to the military occupation of their country. The ICTY cited Petritsch's testimony that "at that point these annexes had been drafted internally by NATO experts but had not been circulated at the conference."

Thaçi withstood the U.S. pressure, agreeing only to sign on to the plan in principle and to return to Kosovo for "consultations." The bombing therefore had to be postponed. Albright was crestfallen over this outcome. "[A]s long as the Kosovo Albanians refused to sign the agreement," she acknowledged, "it didn't make sense to bomb the Serbs." Had the Kosovo Albanians agreed, that would have "changed the situation fundamentally," Rubin said. Then the Americans would have been "able to use the very real prospect of NATO military action to concentrate the minds of the Serbs."<sup>125</sup>

On February 23, the Contact Group met and announced breezily that "A political framework is now in place, as set out in the Rambouillet Accords, and the groundwork has thereby been laid for finalizing the implementation Chapters of the Agreement, including the modalities of the invited international civilian and military presence in Kosovo. It is essential that the agree-

ment on the interim accord be completed and signed as a whole.” The talks would reconvene in Paris on March 15. There was no mention of NATO, and the phrase “military presence” was preceded by the word “invited.”

On March 5, Milutinović again wrote to the Security Council. He complained that “a great sham stage-managed by the United States is in the offing.” The Americans were putting it about that a deal had been struck at Rambouillet and that nothing further was needed except signatures. This was clearly a lie. Yugoslavia had not accepted the military annexes. By suggesting, falsely, that an agreement had already been struck, Washington was getting ready to direct public fury at the Serbs for the inevitable breakdown of the upcoming talks and thereby to ensure public support for the NATO attack to follow.

For three weeks, the Americans applied relentless pressure on the Kosovo Albanians. Senate Majority Leader Bob Dole, a Republican and a long-time lobbyist for the Albanians, flew to the Balkans to persuade Thaçi to sign.

Finally, on March 15, the talks resumed in Paris and the Kosovo Albanians indicated that they were finally ready to accept the U.S. plan. At last, NATO policymakers crowed, the Serbs had their backs against the wall. They and they alone would be seen as the obstacle to a peace agreement. The Russians vainly tried to halt the stampede to war. On March 15, Mayorsky, the Russian mediator, spoke to Russian journalists and furiously denounced Western deception. The Russians, he said, had had no part in drawing up the texts dealing with the police and military implementation of the agreements. Those texts were drafted “behind our back.” The Russians didn’t even see the texts until several days after the beginning of the Rambouillet conference. At the Contact Group meeting in London on January 29, “not a word was said there that more documents on military implementation were coming.” Crucially, “The London document, which is a mandate for the Rambouillet process, does not provide for any military implementation.”<sup>126</sup>

On March 18, in a grand but meaningless ceremony, the Kosovo Albanians signed the Rambouillet “agreement.” Also signing were Cook and Védérine as well as two of the three mediators, Hill and Petrisch. The Yugoslav delegation refused to sign; Mayorski also refused to sign, quipping correctly but irrelevantly that, “It takes two to tango.” The Yugoslavs, however, signed an agreement that they had brought with them from Belgrade, “Agreement for Self-government in Kosmet.” Representatives of Kosovo’s other national groups who were members of the state delegation also signed the document.

So here was the culmination of NATO’s triumphant diplomacy: one side, the Kosovo Albanians, signed one agreement; the other side, the Yugoslavs,

signed a different agreement. Since the two sides hadn't agreed on anything, neither document was in any sense an agreement. However, NATO considered one to be valid and took to referring to it as the "Rambouillet agreement."

With the Kosovo Albanians finally on board, no impediment stood in the way of NATO bombing. The next day, March 19, the OSCE chairman in office, Knut Vollebaek, ordered the Kosovo Verification Mission to leave Kosovo, and William Walker, his task accomplished, marched the members of his mission into Macedonia. NATO countries began closing their embassies in Belgrade and flying their personnel out of the way of the impending bombs. That same day, Clinton announced at a White House news conference that NATO action could begin at any moment.

As usual, the ICTY was on hand to lend crucial support for NATO. On March 19, it released a letter Judge McDonald had sent to the U.N. Security Council drawing attention to Yugoslavia's "continuing refusal" to cooperate with the tribunal as evidenced by its refusal to permit Arbour to carry out her investigations in Kosovo. The release of this letter on the day of Clinton's announcement of imminent NATO action had to have been entirely coincidental. McDonald, after all, had nothing fresher to report than Arbour's well-publicized failed attempt to enter Kosovo two months earlier on January 18.



## KOSOVO: STANDING UP TO THE YUGOSLAV GOLIATH

The conflict in Kosovo “threatens our national interests,” Clinton explained on March 19. “If it continues, it will push refugees across borders and draw in neighboring countries. It will undermine the credibility of NATO on which stability in Europe and our own credibility depend. It will likely reignite the historical animosities, including those that could embrace Albania, Macedonia, Greece, even Turkey.”

Here, then, was the standard heady U.S. brew: a combination of wildly implausible scenarios, suggestions of falling dominoes, and chilling warnings about loss of “credibility.” It wasn’t the credibility of the mammoth NATO military machine that was in danger: it was the credibility of its bombing threats. There was an easy remedy for that. NATO could have tried something it had hitherto eschewed: diplomacy.

Clinton’s White House announcement was a typical Clinton event. In other words, almost nothing he said was true. For example, he asserted that “Today the peace talks were adjourned because the Serbian negotiators refused even to discuss key elements of the peace plan ... [I]t was an agreement worked out and negotiated and argued over, with all the parties’ concerns being taken into account.” This was an outright lie, made all the more shameless by the media’s reluctance to call him out on it. No discussions had taken place at Rambouillet; the U.S. plan was delivered as a take-it-or-leave-it package. Yugoslavia had not rejected the Rambouillet plan outright. Even the Kosovo Diplomatic Observer Mission (KDOM) Daily Report had admitted on March 12 – days before the resumption of the conference – that Milošević had “called the Rambouillet peace plan a good basis for a political settlement in Kosovo. [Milošević] said, however, that the deployment of NATO troops in Serbia (Kosovo) as a part of the implementation of such a plan remains unacceptable.”<sup>1</sup>

It was unrestricted NATO occupation that was at issue, something Clinton was understandably anxious to conceal from the public. His administration had known from the start that Belgrade wouldn’t accept the presence of NATO forces on Serbian soil, and Clinton officials had pointedly refused to enter-

tain alternatives such as a genuinely international peacekeeping force, one that would be under the authority of the U.N. or perhaps the OSCE. It was the Clinton administration that had refused to negotiate at Rambouillet.

There was no secret about any of this. For weeks, U.S. officials had continued to repeat in public that NATO and only NATO would be permitted to implement any agreement. No NATO meant no agreement, and no agreement meant NATO bombing. In February, for example, the State Department's Rubin had said, "There is no consideration [being] given by the United States [for] anything but a NATO implementation force, period. That doesn't mean it couldn't be endorsed by the United Nations, but as far as who would do the job and how it would operate, it's only a NATO force being considered."<sup>2</sup>

Contrary to Clinton's claim, the Rambouillet talks ended not because of anything the Serbs did but because the Americans no longer needed to maintain the façade that they were seeking a negotiated outcome. Once Albright had the signature of the Kosovo Albanians on paper, Washington's allies could no longer object to NATO's bombing.

### **NATO'S PROPAGANDA BLITZ**

Following Clinton's announcement of imminent military action, NATO figures embarked on an extraordinary propaganda campaign to present themselves not as bullies descending on a tiny country guaranteed to be unable to fight back, but as knights in shining armor rushing, with swords drawn, to rescue Albanian damsels in distress. The embarrassing history of the past two months – the non-negotiations at Rambouillet, the ultimatums, Albright's secret referendum promise, the NATO bombing threats, Appendix B – was rewritten. NATO had not issued the ultimatum: sign the Rambouillet deal or else! No, NATO, the public was led to believe, was acting in response to Serb aggression.

NATO now constructed a brand-new narrative, according to which the "Kosovars" – NATO's meaningless designation for the Albanian residents of Serbia's province – had to be rescued from Milošević's marauding hordes. NATO was seeking to halt and reverse ethnic cleansing. This was to be NATO's justification for a bombing campaign that had been in the works for at least a year, if not longer. The subsequent flight of Kosovo's population gave the NATO story a superficial plausibility but only to those whose only source of information was NATO statements and press briefings. One would have to be astonishingly credulous to believe, first, that bombing could ever stop civil-

ians from fleeing to safety. And, second, not to notice the precise sequence of events: the flight of refugees began *after* NATO launched its bombing. There was no humanitarian catastrophe in Kosovo on March 24, 1999, certainly none that could possibly justify NATO's massive and deadly attack.

Only one explanation for the bombing ever made sense. NATO was seeking to bully the Serbs into toppling Milošević. NATO's calculation was that the Serbs, diplomatically isolated, economically impoverished, and now fearing for their lives, would turn in fury on Milošević, the man who supposedly had visited this fate on them. Alternatively, Milošević would cave in to NATO's demands, in which case the rabidly nationalist Serbs would turn on him for his failure to stand up to NATO. Or, if neither of these scenarios played out, NATO's bombing would prove so devastating that, combined with the continuing sanctions regime, it would reduce Yugoslavia's economy to rubble and, Milošević or no Milošević, the country would disappear from Balkan power politics for decades.

Such sordid calculations played no part in the high-minded declarations of NATO leaders. Announcing the start of NATO "air operations" against Yugoslavia on March 23, NATO chief Solana explained that, "All efforts to achieve a negotiated, political solution to the Kosovo crisis having failed, no alternative is open but to take military action." NATO had no choice but to bomb because Yugoslavia had rejected the demands of the "international community." It had rejected "the interim political settlement which has been negotiated at Rambouillet; full observance of limits on the Serb Army and Special Police Forces agreed on 25 October; ending of excessive and disproportionate use of force in Kosovo."

Like Clinton, Solana had managed the seemingly impossible feat of issuing a statement of which not one word was true. *There had been no negotiations at Rambouillet*. Even so, Yugoslavia's leaders were ready to accept the interim political settlement that had been imposed on them. If there had been Serb non-compliance with the October 25 agreement (the details of which NATO had never published), this was due to intensified KLA activity. Since October 1998, as Solana well knew, Kofi Annan's reports had repeatedly noted that the KLA was seizing positions vacated by the withdrawing Yugoslav forces. Even the OSCE's reports noted this. Its report of February 20, 1999, stated: "The KLA has continued its attempts to consolidate its military strength in areas left by the FRY army and the Serb police forces. A number of reports of border incidents indicate that the infiltration of personnel and weapons across the Albanian border has continued."<sup>3</sup> One month later, on March 20, the OSCE reported that "Localized clashes between the KLA and Serb security forces

continued. Unprovoked attacks by the KLA against the police continued and the number of casualties sustained by the security forces has increased.”

Annan’s most recent report, from March 17, while demanding that Yugoslav authorities “immediately reduce the number of troops deployed in the field to the level established in October 1998,” also insisted that “Kosovo Albanian paramilitary units ... refrain from any provocative actions.” This was the point that Solana, Clinton, Blair, and Albright conveniently ignored. Belgrade had expected something in return for its withdrawal of forces from Kosovo, namely, NATO restraint of the KLA. Instead, NATO encouraged and legitimized the KLA as the political voice of the Kosovo Albanians – going so far as to ask its leader to head up the negotiating team at Rambouillet – even as NATO was dishonestly claiming that it had no means of pressuring the KLA.

As for Solana’s pious reference to “excessive and disproportionate use of force,” 19-nation NATO, the most formidable military power in the world, was about to offer the world a spectacular demonstration of what “excessive and disproportionate use of force” looked like.

The Western propaganda system was now on autopilot. The fairy tale that NATO had spun was familiar enough: virtuous Western allies – the heirs of Churchill and FDR – were up against an evil monster, an aggressor who had rejected negotiations and who had continually broken his word. In vain had NATO tried to persuade the Serbs to grant autonomy to Kosovo; the Serbs had refused all of its entreaties. If NATO didn’t stop Milošević in Kosovo, Montenegro would be next, then Vojvodina, then Macedonia, then Albania, then ... who knew? In May 1999, during the bombing, George Robertson, Britain’s defense minister, warned that if Milošević “got away with it in Kosovo, there’s Montenegro ... I don’t think it’s scare-mongering to say that Vojvodina would be next. He wants an ethnically pure Serbian state and he wouldn’t have stopped with Kosovo.”<sup>4</sup> It was absurdities such as these that secured for Robertson the coveted NATO secretary-general job. Luckily for Robertson, the Western public didn’t have the faintest idea where any of these exotic places were located or even how their names should be spelled or pronounced.

Robertson, Blair, and Albright didn’t seem to realize that their talking points about Montenegro and Vojvodina actually undermined NATO’s case. If Milošević were the totalitarian monster of their feverish imaginings, why had he done nothing about Djukanović, his junior partner in the federation, who had not only gone out of his way to be as offensive as possible toward him but had cheerfully hobnobbed with NATO leaders even as they were bombing the federation? As for Vojvodina, its status within Serbia had been changed

at exactly the same time as that of Kosovo. If Kosovo deserved a return to the pre-1989 era, then Vojvodina did, too. If an “ethnically pure Serbian state” were Milošević’s goal, wouldn’t Vojvodina have been a better place to start than Kosovo? Hungarians comprised only 16% of Vojvodina’s population. And what about Serbia’s Croats? Milošević must have been extraordinary absent-minded not to have seized on Tudjman’s Operation Storm as an opportunity to expel the Croats living in Serbia. The rest of the world would more than likely have shrugged it off as nasty but standard Balkan tit-for-tat.

On March 24, Albright explained to a TV interviewer that NATO had to go to war because it was “impossible to go on trying to have peace talks [given] Milošević’s actions, which were basically aggressive against the Kosovar people. He is the one that forced this by taking this action of moving additional forces, both the army and the special police, into Kosovo and was out of compliance with an agreement that he made with Ambassador Holbrooke in October.” Milošević “forced” this action even though U.S. officials had repeatedly threatened NATO bombing if Yugoslavia did not sign the Rambouillet plan. Happily, the officialdom-friendly interviewer didn’t bother to ask if Milošević had perhaps moved those “additional forces” into Kosovo in response to NATO’s repeated threats, not to mention the impending KLA offensive timed to coincide with the launch of the bombing. “Europe cannot accept having on its territory a man and a regime” with Milošević’s record, France’s President Chirac said. “Enough is enough.” Chirac didn’t explain when or how “Europe” or the E.U. or NATO acquired the right to decide which man and which regime would be permitted on its territory. Of course, if one took it for granted that Milošević was the reincarnation of Hitler, then there was no need to entertain any legal misgivings.

Hitler and the Holocaust were preying on Western leaders’ minds as they gravely shouldered – half a century late – the burdens of World War II. On March 24, a solemn Clinton told the American people that the U.S. government, having done everything that was humanly possible to secure peace, had no choice now but to go to war. American history offers few examples of presidential speeches packed with as many lies and outrageous distortions as Clinton’s televised address. There were first the run-of-the-mill lies: Milošević had denied the people of Kosovo “their right to speak their language, run their schools” (Albanian was an official language in Kosovo); had “stripped Kosovo of the constitutional autonomy its people enjoyed” (Serbia’s 1990 constitution explicitly refers to Kosovo as an autonomous province of Serbia); Milošević had “moved against Slovenia” (it was Washington’s ally Ante Marković who had done that; Milošević had never opposed Slovenia’s

secession); Serbia had “refused even to discuss key elements of the peace agreement” (it was NATO that had refused to negotiate, preferring to issue ultimatums); Russia had joined America’s “allies” in proposing the Rambouillet “peace agreement” (the Russians had repeatedly complained that they had not been shown key provisions of the plan).

But it was Clinton’s big lies, his outrageous misreading of history and, in particular, his repeated invocation of the Holocaust, that were the speech’s most repugnant feature. NATO had to act, he said, in order “to diffuse a powder keg at the heart of Europe that has exploded twice before in this century with catastrophic results” – a ludicrously ignorant statement. World War II was triggered by events in Yugoslavia? Yugoslavia “exploded” when Hitler attacked it in the spring of 1941, much as France “exploded” when Hitler attacked it in May 1940. As for World War I, the “powder keg” that exploded wasn’t the Balkans but a deadly combination of Great Power rivalry and the illusions of incompetent statesmen that wars can be won quickly and ultimatums issued without adverse consequences.

Clinton was so pleased with this point that he returned to it. “Sarajevo, the capital of neighboring Bosnia, is where World War I began. World War II and the Holocaust engulfed this region. In both wars Europe was slow to recognize the dangers, and the United States waited even longer to enter the conflicts. Just imagine if leaders back then had acted wisely and early enough, how many lives could have been saved, how many Americans would not have had to die.” Thus, Serbia was responsible for the Holocaust, and the European powers should have acted earlier to deal with the problem of Serbia once and for all – a belated recognition of the wisdom of the leaders of Austria-Hungary, not to mention that of its most famous citizen: Adolf Hitler. There was one 1914 analogy that escaped Clinton: like Austria-Hungary, the United States was using the rejection of an ultimatum, crafted precisely in order to be rejected, as the pretext for launching a long-planned attack on Serbia.

Clinton then recounted what had happened in Bosnia: “innocent people herded into concentration camps, children gunned down by snipers on their way to school, soccer fields and parks turned into cemeteries; a quarter of a million people killed, not because of anything they have done, but because of who they were. Two million Bosnians became refugees. This was genocide in the heart of Europe – not in 1945, but in 1995.” *Not because of anything they have done, but because of who they were?* Technically, this was true: in war, you kill as many of the enemy – usually members of another nation or group – as you can because of who they are, not because of anything they have

done. Clinton, who had famously said, "It all depends on what the meaning of the word 'is' is" and, "I did not have sexual relations with that woman" was deliberately confusing people to whip up war fever by invoking the killing of the Jews. The rest of Clinton's diatribe was on the same level of factual accuracy: for example, there were no concentration camps in Bosnia; there were prisoner-of-war camps but they had almost all been closed down by the end of 1992.

Albright also invoked the Holocaust: "This century has been the bloodiest ... the blood has been spilled because the people did not understand well enough how to stop tyranny and evil and ethnic cleansing and genocide early enough. And we now have an opportunity to gather together the lessons of the 20th century and stop this before it totally spins out of control before more people are ethnically cleansed." Happily, this Churchillian call to arms came unencumbered by any excessive demands for sacrifice. The United States would accomplish its noble ends with relative ease. Albright ruled out the use of ground forces: "That is not part of the plan." Victory would be swift: "I don't see this as a long-term operation. I think that this is something ... achievable within a relatively short period of time."<sup>5</sup>

Solana echoed the happy theme of high moral purpose going together with minimal pain: "We must stop an authoritarian regime from repressing its people in Europe at the end of the 20th century. We have a moral duty to do so. The responsibility is on our shoulders and we will fulfill it." NATO's leaders were so preoccupied with their nice moral quandaries that they failed to appreciate that it might be considered poor taste to deliver sermons about the evils of totalitarianism, the 20th century, the Holocaust, and what have you to people who – unlike Clinton, Albright, Solana, Blair, and Chirac – had actually lived through totalitarianism, the Holocaust, Hitler, Stalin, etc., rather than experienced it vicariously through TV shows and Hollywood blockbusters.

There was one issue the Western public was concerned about, one that NATO would have to address: how would the Russians respond? While the Western media weren't particularly worried about what NATO would do to Yugoslavia, they were anxious about the Russians. Wasn't Russia still a nuclear superpower? Didn't Russians share some special Orthodox bond with their fellow Slavs? It's one thing to smash tiny Yugoslavia's head against the wall; it's something else to displease the Russians. Consequently, NATO officials went out of their way to mislead the public by offering the soothing reassurance that the Russians were fully on board and that therefore NATO wasn't courting any danger by launching bombs against Russia's friend.

Clinton claimed that the Russians had endorsed the Rambouillet plan. At a March 25 news conference he said, “The Russians agreed that it was a fair agreement – they did not agree to the military involvement of NATO, but they agreed that it was a fair agreement.” Clinton’s cutely evasive “they did not agree to the military involvement of NATO” suggested that Russia had only disagreed with the NATO bombing. But the Russians had vehemently opposed discussion of military implementation at Rambouillet and, above all, they had rejected NATO’s demands that the Yugoslavs “invite” its forces into their country. In other words, the Russians’ position was the same as that of the Serbs.

Administration officials were clearly under instruction to put out this happy line about Russian backing for NATO. On March 24, Albright said on television, “I think there’s a level of frustration that the Russians share with the rest of us about the fact that Milošević did not want to engage on this document ... The Russians from the very beginning, however, have made clear that they are opposed to military action and we have understood that.” But Russian opposition to NATO’s policy was intense, and Western policymakers were seriously misleading the public by not disclosing the dangers they were running by provoking this confrontation with Russia.

### MASSAGING THE NUMBERS

Speaking on March 24, Solana smugly declared, “Clear responsibility for the air strikes lies with President Milošević who has refused to stop his violent action in Kosovo and has refused to negotiate in good faith ... We must stop the violence and bring an end to the humanitarian catastrophe now taking place in Kosovo. We have a moral duty to do so.”<sup>6</sup>

So how grave was the “humanitarian catastrophe” in March 1999? The heaviest fighting between Yugoslav forces and the KLA had taken place in the summer of 1998. In October 1998, as U.S. lobbying for NATO bombing was reaching fever-pitch intensity, the *Washington Post*, a consistently pro-bombing outlet, repeatedly cited the figure of 750 dead in Kosovo since the start of the fighting in February 1998: the crackdown “killed at least 750 people, most of them ethnic-Albanian civilians.”<sup>7</sup> Holbrooke was quoted as referring to the “unnecessary horror” of the past several months, during which more than 750 people were killed and tens of thousands of civilians were forced from their homes,<sup>8</sup> and Yugoslavia’s offensive against ethnic Albanian insurgents “has left at least 750 civilians dead and tens of thousands homeless.”<sup>9</sup> By late

January 1999, the 750 number had grown, but not by much. On January 27, the *Washington Post* claimed that the “11-month conflict ... has cost more than 1,000 lives.”<sup>10</sup>

It was at this moment – just as NATO was gearing up for its Rambouillet ultimatums and final push for bombing – that the media began citing a much higher number. On January 31, the Associated Press reported that “Fighting between ethnic Albanian separatists and Serbian security forces in Kosovo has left at least 2,000 people dead.”<sup>11</sup> Agence France Presse also went with the 2,000 figure: “Fighting in the province has claimed more than 2,000 lives over the past year.”<sup>12</sup> The *Guardian* plumped for the 2,000 figure in February: “More than 2,000 people have been killed in a year of clashes between ethnic Albanian separatists and Serbian security forces.”<sup>13</sup> Reuters also went with the 2,000 number. On March 16, it reported that “The accord aims to end a year of fighting in Kosovo that has killed about 2,000 people and forced hundreds of thousands to flee their homes.” So, in a matter of days, the 1,000 number morphed into 2,000.

On March 24, the day NATO launched its attack, the media consensus had settled on 2,000 killed in 13 months of fighting. Whether the true number was 750, 1,000, 2,000, perhaps more, perhaps less, there was no basis for any of these estimates. They acquired their authoritative status by dint of repetition.

The U.N. secretary-general’s March 17 report, his last before the NATO onslaught, described the security situation in Kosovo as characterized by random killings, abductions, and explosions:

While clashes between the Serbian security forces and Kosovo Albanian paramilitary units continued at a relatively lower level, civilians in Kosovo are increasingly becoming the main target of violent acts. An increasingly common pattern of individual killings throughout the region accounts for the majority of deaths. Most violent incidents have remained unclaimed.

The report said that, since January 20, 1999, “65 cases of violent death” had been registered by the Office of the U.N. High Commissioner for Human Rights. The report suggested a Kosovo more in the midst of vibrant criminal activity and gangland killings than war or counter-insurgency.

This was confirmed by an OSCE report of February 20, which was based on the observations of the members of its verification mission. During February, the verifiers reported, the level of military engagement between Yugoslav security forces and the KLA had dropped “significantly compared

with late December and the month of January.” However, there had “been an alarming increase in urban terrorism with a series of indiscriminate bombing or raking gunfire attacks against civilians in public places in towns throughout Kosovo. Although all of these attacks remained non-attributable, and it was not clear whether they were criminally or politically motivated, these incidents led to disruption and the spread of an atmosphere of fear.”<sup>14</sup> The report alluded to one likely motive for these apparently random killings: KLA murder of alleged collaborators. The KLA was “policing” the Albanians “and administering punishments to those charged as collaborators with the Serbs. In the area of Peć several Albanians said to be loyal to the Serbs were murdered in separate incidents. Most of the victims were highly educated males, described by Serbs as ‘loyal citizens of Serbia’ and killed by shots to the head.”

Since the 2,000 killed figure – invariably taken as comprised exclusively of Albanians – didn’t sound sufficiently large to suggest a humanitarian catastrophe, the media took to citing the estimated numbers of those displaced by the fighting. This sounded far more impressive. The media followed this up by referring to the displaced population as refugees. Talk of refugees was highly beneficial for NATO. First, the refugee number sounded big. Second, fleeing refugees provided at least some justification, no matter how flimsy, for intervening in other countries’ internal conflicts. The more nervous NATO members might be persuaded to accept the argument that, since fleeing refugees might pose a threat to the stability of others, NATO has the right to intervene in another country’s domestic conflict. Moreover, while the story of NATO’s selfless rescue mission on behalf of the Albanians might be a little hard to swallow, the claim that NATO had to bomb in order to ensure that Western Europe wasn’t inundated by a million or so Albanians had at least the merit of believability.

The alleged threat posed to the rest of Europe by the teeming hordes of Albanians was to become a favorite trope of NATO. “When oppression produces massive flows of refugees which unsettle neighboring countries, then they can properly be described as threats to international peace and security,” Blair explained in his Chicago speech. Of course, if NATO’s claim were true, then its bombing campaign would have been the first in history to halt rather than accelerate a refugee flow.

The media duly stepped up to the plate and began citing a variety of chilling numbers. For example, on March 20, 1999, the *New York Times* claimed that, “The conflict has created more than 400,000 refugees.”<sup>15</sup> That did sound bad, but the number was misleading. The *New York Times*, along with most of the rest of the media, was confounding two very different notions. “Refugees”

and “displaced persons” are not synonymous terms. The U.N. Convention Relating to the Status of Refugees defines a “refugee” as someone who “owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country.” A “displaced person,” on the other hand, is someone who, often temporarily, sometimes voluntarily, sometimes involuntarily, has moved away from his usual residence but who intends to return in the not-too-distant future.

There are many reasons other than fear of persecution why a person might leave his home. People move to other villages, other towns, other countries, sometimes for safety, sometimes to look for work, sometimes to stay with friends, sometimes as tourists – especially if they are living in a war zone. Life was very unsettled in the Balkans during the 1990s. Many people – Serbs, Albanians, Montenegrins – went abroad in the hope of making money or living a better life, above all in order to survive. There was nothing unusual about substantial movement among the Kosovo Albanians. Albanian social organization is based on large, close-knit families. Residents of a village in which Yugoslav security forces were fighting the KLA would go and stay with family members in a neighboring village or even with family members in Albania or in Macedonia or Montenegro, two republics with large Albanian populations. When fighting subsided, they would return to their villages.

People flee war zones. People have fled Iraq by the tens of thousands since 2003. In 2007, the UNHCR reported that “An estimated 60,000 Iraqis are being forced to leave their homes every month by continuing violence. As of September 2007, there were believed to be well over 4 million displaced Iraqis around the world, including some 2.2 million inside Iraq and a similar number in neighboring countries (in particular Syria and Jordan) and some 200,000 further afield. Around one million were displaced prior to 2003.”<sup>16</sup> So, according to the UNHCR, from 2003 to 2007, some three million Iraqis had been displaced. Yet no one accused the United States of conducting an ethnic cleansing campaign; no one accused the United States of destabilizing neighbors by triggering refugee flows.

So how dire was the situation for refugees and displaced persons in Kosovo when NATO launched its attack? The secretary-general’s report of March 17 estimated that the number of people displaced inside Kosovo was 211,000. On March 11, the Office of the United Nations High Commissioner for Refugees (UNHCR) claimed that “more than 230,000 people remain displaced within Kosovo. In all, the year-long conflict has driven 400,000 people out

of their homes. Many have had to flee more than once.”<sup>17</sup> On March 19, the UNHCR claimed that 443,000 people had been displaced. “This overall figure includes persons displaced within Kosovo itself (240,000), as well as to other countries and areas in the region (Montenegro: 25,000; other parts of Serbia: 30,000; the Former Yugoslav Republic of Macedonia: 9,800; Bosnia and Herzegovina: 10,000; Albania: 18,500; other European countries: 100,000.)”<sup>18</sup>

However, the secretary-general’s report cautioned, “To keep count of the numbers of displaced is difficult ... To assess the numbers of returns is even more difficult, given the long-term displacement of some, the short-term and sometimes repeated displacement, combined with return, of others.”<sup>19</sup> The March 19 figures are instructive. The number of people who had left Kosovo for other parts of Serbia exceeded the number who had left for Macedonia and Albania. It would suggest that, though Albanians far outnumbered Serbs in the province, Serbs and Albanians were leaving Kosovo in similar numbers.

It is important to keep in mind also that these numbers too were probably exaggerated. The head of the E.U. monitoring mission in Kosovo from November 1998 to March 1999, Dietmar Hartwig, a career officer in the Bundeswehr, recalled that in his experience, “Refugee numbers vary extremely; in the week of March, UNHCR reported some 3000 refugees and more ... along the road Pristina-Skopje. We had a team there twice – and the members never counted more than 300 to 400 people. After MUP actions, UNHCR publishes refugee numbers which exceed the number of inhabitants of the villages sometimes by two or three times.”<sup>20</sup> Exaggeration serves many interests: international agencies secure more donations, “victims” are guaranteed more food and resources, the media secure a bigger audience, and governments intent on military intervention acquire rhetorical ammunition.

### NATO’S MISCALCULATIONS

NATO quickly learned the perils of launching aggressive wars. Nothing goes according to script. The expectation of an easy victory soon proves to be illusory. The Clinton administration had complacently assumed that the Serbs only understood the language of force and would cave in the moment the first cruise missile landed. However, as anyone even remotely familiar with European history would have known, the Serbs are a proud people whose national identity was forged in fighting off great powers – Turks, Austrians, Germans, Russians. In the face of NATO’s awesome military machine, they refused to back down.

NATO had not expected Serb defiance and had no idea what to do next. It had taken its cue from Albright who, coming as she did from Central Europe, was supposed to know about these things. Albright had assured Washington's NATO partners that Milošević was playing chicken and that he would back off either before the bombing started or immediately afterward. "I don't see this as a long-term operation," Albright had confidently predicted on March 24. "I think that this is something ... achievable within a relatively short period of time."

The Americans had once again come to believe their own fairy tales. Time and again, U.S. officials had asserted that in October 1998 Milošević had backed down in the face of NATO's willingness to bomb. In Washington's contemptuous view, Milošević didn't care about anything except power. A National Intelligence Estimate issued in November 1998 concluded that "the October agreement indicates that Milošević is susceptible to outside pressure." Milošević would accept any outcome for Kosovo "from autonomy to provisional status with final resolution to be determined, as long as he remains the undisputed leader in Belgrade." However, Milošević would only accept a new status for Kosovo if "he believes his power is endangered" by "insurgents driving up the economic and military costs of holding onto the province, or the West threatening to use sustained and decisive military power against his forces."<sup>21</sup> Since Milošević's sole concern was to stay in power, he would cave in to NATO. The reasoning was absurd even on its own terms. It was standing up to NATO, not surrendering, that invariably strengthened Milošević's position.

The Americans nonetheless remained convinced that all NATO needed to do was to issue yet another threat to bomb and Milošević would back down and sign on the dotted line. With Milošević's signature on the Rambouillet plan, Albright's name could go forward as candidate for the Nobel Peace Prize. However, as we have seen, the Americans had seriously deluded themselves: Milošević had not climbed down in October. He did withdraw security forces from Kosovo, but he expected something in return: NATO action against the KLA. Having failed to deliver on anything – action on KLA funding, even a curb on arms smuggling across the border from Albania – NATO had little to offer other than more bombing threats. They didn't work this time. This, too, could have been foreseen: small countries have an annoying habit of getting tired of being pushed around.

Serb defiance posed all sorts of dangers for NATO. The longer the bombing campaign went on, the more NATO's pre-bombing diplomacy would come under scrutiny. The fraudulent negotiations at Rambouillet and the last-min-

ute insertion of Appendix B would come out. NATO's claim that it had gone the extra mile to avoid the use of force would be exposed as a lie.

Worse, NATO's actions were having horrific consequences. The bombs were causing people to flee in all directions. In no time, refugees by the tens of thousands were fleeing across the border into Albania and Macedonia and Montenegro. Everyone was fleeing. Serbs from Kosovo were fleeing to Serbia. Serbs from Serbia were fleeing to Hungary or any other country that would take them. This, too, was foreseeable. People don't sit still waiting for bombs to land on them. The bombing had brought about the very thing NATO claimed it was designed to avert: a humanitarian catastrophe. Having launched a war on behalf of the Kosovo Albanians, NATO had brought untold misery on them. Whoever heard of bombing serving a humanitarian end?

Confronted by a disaster of its own making, NATO had no option but to go on with more of the same: more bombing and more rhetorical overkill. The disaster caused by the bombing was now invoked to justify more bombing. NATO escalated its attacks as well as its propaganda campaign. It wasn't NATO bombs that had precipitated the flood of refugees; it was the actions of Yugoslavia's security forces. The fleeing Albanians were showing the world what kind of monsters NATO was up against; they were evidence of the need for more – and more intense – bombing.

Through tortuous logic, NATO explained the fiasco by arguing that its actions had had no effect on anything. Everything that took place after March 24 would have taken place in exactly the same way even if NATO had not bombed. Nothing could have stopped Milošević from implementing his plan to expel Kosovo's Albanian population. NATO made the same argument when the issue of Appendix B came up. Milošević would have rejected any agreement at Rambouillet – with or without Appendix B.

The Serbs, the NATO story had it, had been driving the Albanians out before the first bomb landed. NATO had launched its bombing in response to Milošević's aggression against the "Kosovars." It wasn't NATO's bombs people were fleeing but Yugoslavia's security forces. "In the two days before the NATO campaign, Serb forces had driven 20,000 Kosovars from their homes," wrote George Robertson, Britain's defense minister.<sup>22</sup> During the past two months, Milošević had "built up a security force presence in Kosovo of up to 40,000 troops and 300 tanks." These 20,000 couldn't possibly have been fleeing in anticipation of the impending NATO attack, which everyone in the world knew was only hours away; no, they were fleeing Yugoslavia's forces.

Milošević, according to NATO, had been carefully planning his campaign of terror months before the start of the bombing. Even as he was pretending

to negotiate at Rambouillet, Milošević was putting into effect his diabolical project to drive the Albanians out of Kosovo. On April 1, Solana announced at a news conference that Milošević had “been preparing for this ethnic cleansing for months now. Even before the talks in Paris ended, he had started his clean-and-sweep operations through Kosovo. He demonstrated that he was really only interested in a military solution, and totally on his terms. He left the Alliance no other option but to start military operations.” Wesley Clark, also present at the news conference, chimed in: “The current humanitarian tragedy is not a spontaneous reaction to NATO’s air operations. It is the final chapter of a carefully planned and methodically executed strategy which started well before NATO decided to act. There is only one person responsible for all of the refugees now flowing into the neighboring countries, and that is Milošević.”<sup>23</sup> On April 4, the North Atlantic Council declared, “What we have been witnessing over the last few weeks is the climax of a campaign of violence and destruction carried out by Yugoslav Army and Serb police forces.” In other words, NATO only entered the picture after Milošević had put his plan into operation.

As evidence that the Kosovo Albanians were not fleeing NATO bombs but Serbs with guns, NATO cited the testimony of refugees. Robin Cook said at a news conference in Washington on April 22, 1999, “Tens of thousands, hundreds of thousands of refugees have come out of Kosovo over the past month. Not one has said that they were fleeing from NATO’s bombs, all have said that they are fleeing from President Milošević’s special police and from his paramilitary thugs.” This was the line repeated ad nauseam by NATO, by the human rights crowd, and by the OSCE. Refugees all claimed that they were fleeing Yugoslav forces – NATO bombs they had no problems with. To the contrary, the refugees welcomed them. And refugee testimony was sacrosanct. The media took their cue from officialdom. Refugee tales of Serb barbarity and persecution made for good copy. To question the veracity of refugee testimony was akin to questioning the Holocaust.

Yet there was something very peculiar in the refugees’ unanimous claim that they weren’t fleeing NATO bombs. Kosovo is a very poor region. There are no air raid shelters in which people can hunker down; there are no giant underground bunkers that can accommodate a couple of million people. NATO bombed Kosovo very heavily. And “Not one has said that they were fleeing from NATO’s bombs”! That makes no sense. Is it possible that NATO and the various international agencies and NGOs that worked in tandem with it had carefully picked out the refugees whose testimony they would publicize?

Refugee testimony should always be treated very cautiously. Witness statements are often nothing more than allegations. They are allegations, moreover, made to human rights investigators who are neither professional criminal investigators nor disinterested observers. First and most obviously, one has to distinguish between what people claim actually happened to them as opposed to what they had heard from someone else about what may have happened to someone else. Second, there is the issue of selectivity. Refugee camps were under the control of the KLA as well as NATO surrogates. Consequently, the refugees interviewed were handpicked to tell stories that would confirm the storyline of the NATO-KLA narrative.

NATO's hunt for refugee testimony was hardly marked by probity. NATO had to be shown to be the savior of the Albanians. Only refugees testifying about Serb atrocities had worthwhile stories to tell. The State Department announced that it would "seek justice for the hundreds of thousands of Kosovo's ethnic Albanians who have suffered at the hands of Serbian forces." To that end, it would work closely with the ICTY and the OSCE "to address, document, and ultimately reverse the damage created by these crimes."<sup>24</sup> The State Department secured the agreement of the ICTY and the OSCE "to use a standard form for refugee accounts." This form would "allow for the coherent collection and packaging of refugee accounts ... By standardizing the refugee interview process, not only will we ensure that the ICTY has information in a usable form for future investigations and prosecutions, but the resulting data can be aggregated and used as the basis for future reports and updates on war crimes, crimes against humanity and human right violations in Kosovo." The OSCE provided refugees with a questionnaire. However, the questions were all directed at eliciting information about Serb atrocities. There was no box to check about NATO bombs or KLA threats or appeals from Kosovo Albanian leaders. Nowhere on this refugee questionnaire are there questions about NATO bombs or fear of the KLA or fear of getting caught in the cross-fire. There were questions such as: "Were there acts of violence against you or any members of the family?"; "Were you or any members of your family ever arrested?"; "Are there any family members missing/disappeared/abducted?"; "Were you the victim or witness to any incidents prior to your departure from Kosovo?"; and "Would you be willing to give a more detailed statement to the [ICTY]?"<sup>25</sup>

The cozy collaboration between the OSCE and the ICTY was reinforced by Louise Arbour, who wrote the foreword to the OSCE's report. *As Seen, As Told*, compiled by the OSCE's human rights division, was entirely based on interviews with refugees. However, only 2,764 people out of some 850,000

who, it was claimed, had fled Kosovo, were interviewed. That comes to only 0.325% of the total who fled. Yet, the OSCE report had no hesitation about making sweeping judgments based on this very small sample: "The accounts of refugees ... give compelling examples of the organized and systematic nature of what was being perpetrated by Yugoslav and Serbian forces, and their tolerance for and collusion in acts of extreme lawlessness by paramilitaries and armed civilians."

During the Milošević trial, Sandra Mitchell, the head of the OSCE's human rights division, disclosed that it was refugee camp leaders who decided which refugees her team would be permitted to interview. Milošević wondered what the 200 people that Mitchell had at her disposal were doing during the 78 days of bombing. Though they had supposedly worked day and night, they only managed to conduct 2,764 interviews. That would mean that every person who worked for her needed something like six days to take one statement. Was that not a sign of a certain selectiveness on the part of the OSCE, Milošević asked. "What method did you select your interlocutors? Was it a random sample or did you have some selective method that you used?" Mitchell replied:

The OSCE/KVM had a very special relationship with the Albanians. We drove around in these very bright orange cars. The Albanian community is a traditional community with the patriarch sort of taking the lead, so what would happen is if we went into a camp, generally the community leaders would approach us, and they may ask for assistance, tell us their needs, et cetera, et cetera, and through that network, we were then able to put out an interest that we were interested in hearing about people's experiences as they left from Kosovo. In particular, we were interested in the more serious crimes and violations that we were hearing about, so witnesses that had been either victims or direct – directly observed killings, destruction of property, rape, these types of – any of these what we refer to as critical events, we targeted on those particular individuals.<sup>26</sup>

The people the OSCE spoke to were therefore anything but a random sample. The OSCE investigators had made it clear that they were interested in interviewing only Albanians who had truly gruesome tales of Serb atrocities to tell. The Albanian "community leaders," who already had a "very special relationship" with the OSCE mission, would then helpfully bring forward "witnesses" who would recount stories that NATO, the OSCE, and these "community leaders" wanted recounted.

Moreover, *As Seen, As Told* had disclosed that “the UCK received orders to bury their weapons, get out of their uniforms and blend in with the crowd.” Therefore, KVM interviewers, eager to elicit tales of atrocities, were only too susceptible to being taken in by KLA members posing as simple villagers. During her testimony in the Kosovo trial, Sandra Mitchell admitted this.

What about the refugees who did not end up in the refugee camps in Macedonia and Albania? Milošević asked Mitchell if she had ever interviewed any of the 100,000 Serbs who had fled Kosovo during the bombing, and if so what reasons did they offer for leaving Kosovo abruptly. Mitchell replied that she had spoken to very few Serbs, as her mandate extended only to Kosovo and the “camp areas in Albania and in Macedonia.” But she did admit that the few fleeing Serbs she had talked to told her they were escaping NATO bombs. NATO bombs were uncanny: dangerous for Serbs but cotton candy to the far more numerous Albanians.

This is not to say that Serb forces didn’t commit atrocities. Milošević admitted as much during an interview with Arnaud de Borchgrave on April 30, 1999, “We are not angels. Nor are we the devils you have made us out to be.” Bad things undoubtedly happened, as they always do in war, something that could only have come as a discovery to the NATO leaders who had conceived the notion that a no-risk bombing campaign against Yugoslavia would lead to the emergence of a new, re-energized NATO undertaking new global tasks.

### NATO’S EXPLANATORY MODEL

NATO had constructed a fanciful narrative in order to avoid having to admit that bombing Yugoslavia in order to force Milošević to sign the Rambouillet accords and thus to bring him down was a half-baked plan, thought up by lazy, ignorant, incompetent people who hadn’t the first idea about military strategy or the history of the Balkans, and who, by and large, had never heard a shot fired in anger.

In considering the validity of NATO’s claim that Belgrade was putting into effect a long-standing ethnic cleansing plan, it’s important to remember that, in the run-up to the bombing, NATO had never gone beyond asserting that Yugoslavia was using excessive and disproportionate force, and thereby causing a displacement of population and a humanitarian crisis. NATO had never claimed that Milošević was seeking to expel the Albanians in order to effect a demographic change in Kosovo. That Milošević, guarantor of the Dayton Accords and negotiating partner of David Owen, had all along harbored a

secret scheme to get rid of Serbia's Albanian population was thus a startlingly new claim.

Where was the evidence for this? British General John Drewienkiewicz, William Walker's loyal No. 2 on the KVM, testified that, throughout the time he served on the mission, he was not aware of any plan to expel the Albanians from Kosovo: "I saw no plan. Nobody talked to me about a plan."<sup>27</sup> The OSCE verification mission had made no mention of "ethnic cleansing" operations in its February 1999 and March 1999 reports. Increased KLA activity was noted as well as "unprovoked attacks by the KLA against the police," but there were no indications of deliberate targeting of civilians by Yugoslav forces. "Indiscriminate urban terrorist attacks targeting civilians" was mentioned, but not attributed to anyone. While the OSCE report of March 20 did note that "The overall number of Yugoslav army units deployed outside their Kosovo barracks was greater" than allowed by the October 25 agreement, it also pointed out that the VJ had "strengthened their positions in border areas and upgraded their *defensive* capabilities both in terms of weapon types and number of troops and equipment deployed. Increased KLA activity was noted in certain areas of Kosovo."<sup>28</sup> (my italics) In fact, almost all of the violent incidents mentioned in the report as having taken place from mid-February to mid-March involved KLA attacks on police patrols. There were many kidnappings and abductions, which often culminated in the murder of kidnapping victims. The perpetrators were invariably armed KLA members. There were no accounts of security forces targeting civilians.

### NO CLAIM TOO ABSURD

NATO's wild and hysterical propaganda was bound to have an effect on the Albanians once it was relayed back to them. The Serbs were genocidal killers who were coming to rape, rob, torture, and burn them. News report after news report made unsubstantiated claims, often of a gruesome, almost pornographic, nature. Kosovo's Albanians understandably fled in panic. The bigger the flight from Kosovo, the more it vindicated NATO's bombing campaign. Indeed, Western propaganda was so extreme that it is hard to believe that it wasn't undertaken precisely for the purpose of spreading terror and encouraging a continuing exodus out of Kosovo.

NATO's irresponsible charges not only sowed fear and panic among the people NATO claimed to be helping, they also served to preclude any possible reconciliation between Serbs and Albanians. While Blair, Albright, and

Solana may have convinced themselves that once the Balkans were rid of Milošević, peace and prosperity would reign, that's not the way anyone in Kosovo saw things. Kosovo's Albanians were bound to take the West's loudly trumpeted allegations of Serb barbarity as justification for any atrocities they would inflict on Serbs.

Western statesmen doubtless saw this as nothing more than a familiar media ritual: at election-time, political candidates and their media acolytes fling all manner of ludicrous accusations at one another. Everyone knows that the charges and counter-charges are not meant to be taken seriously, but everyone pretends to do so in order to keep the political show on the road. Once the election is over, the accusations are quickly forgotten as the day-to-day political grind resumes. Western politicians probably assumed that the "Serbs are Nazis" hyperbole would go the same way. In the Balkans, however, such accusations are not easily forgotten. They provide propaganda fodder for states seeking Western support for their various nationalist or irredentist agendas.

The Kosovo media blitz was a re-run of Bosnia. News pages and airwaves were filled with unsubstantiated, often absurd, stories of rape camps, concentration camps, mass graves, and mass executions. "There are indicators that genocide is unfolding in Kosovo," said the State Department's Rubin.<sup>29</sup> "Information reaching us indicates that genocide has begun," said Rudolf Scharping, Germany's defense minister on March 28. The campaign to dehumanize NATO's adversaries was now unstoppable. Scharping spoke of "dreadful reports that children had been brought together in one place to watch their teachers being assassinated." Scharping then announced that he had received reports that "concentration camps" were being set up. A couple of days later, Scharping declared that, "It's a systematic extermination that recalls in a horrible way what was done in the name of Germany at the beginning of World War II, for example in Poland." Scharping added that he had it on good authority that Belgrade was "already resettling Serbs in areas of Kosovo from which the ethnic Albanian population had been cleared." That Serbs would be settling in Kosovo with NATO bombers and cruise missiles flying overhead sounded preposterous, though Albanians who heard this were doubtless filled with rage and a longing for revenge. On another occasion, Scharping referred to "Serbians playing football with the chopped-off heads of people they killed."

Governments and media claimed that Serbs had set up "Nazi-style concentration camps" in Kosovo. One-hundred thousand Albanians were supposedly being held in the main football stadium in Pristina. The Serbs had created a "Red Army" made up of captured Albanian men and were forcing them "to dig mass graves and clear up the evidence of atrocities." George

Robertson, Britain's defense minister, called Kosovo the "new killing fields" and reported that Milošević had already dispatched Arkan to Kosovo. Robertson made a specialty of outlandish hyperbole and infantile moralizing: "Events in Kosovo have brought to light some of the worst most depraved aspects of humanity, genocide, ethnic cleansing, rape and the virtual decapitation of Kosovar Albanian society," he declared one day. "We are now striking at the very heart of [Milošević's] bloodstained regime and we'll do so again and again and again." Robin Cook explained that "NATO was born out of the defeat of fascism. Fifty years later we cannot tolerate the rebirth of fascism in our continent." Milošević was "trying to recreate a new apartheid in Western Europe based on the cleansing, the forceful removal and execution of people of the wrong ethnic identity," Cook claimed.

Cook also regaled his listeners with tales of Serbs forcing women "to endure 'systematic rape' at an army camp at Djakovica." Clare Short, Britain's international development secretary, added that the rapes were "deliberately performed in front of children, fathers and brothers."<sup>30</sup> A few days later, Britain's Foreign Office claimed to have discovered three more rape camps. "Refugees reported orchestrated rapes at Globočica, Uroševac and an unidentified point on the Kosovo-Albania border."<sup>31</sup>

Such claims weren't off-the-cuff bluster. They were part of a carefully crafted NATO media campaign. Alastair Campbell, Prime Minister Blair's press secretary who played a key role in it, wrote in his diary on April 16: "We needed a strategic approach to communications, greater centralisation, so that all capitals felt involved in what we were saying and doing, and also felt obliged at least to know what the line here was, even if they then felt unable to toe it."<sup>32</sup> Yet the media happily disseminated the self-interested claims of politicians whose credibility they would not normally have accepted so unquestioningly. Subsequently, when it was too late to make any difference, it emerged that Cook and Short had no basis whatsoever to make their emotionally charged rape accusations.<sup>33</sup>

Before the first week of bombing was out, Blair was claiming that "Women and children are being driven from their homes. Men, we have to assume from what we know, are simply being rounded up and shot." Interviewed on CBS news show *Face the Nation*, Blair told the American people that "if we allow this policy of racial genocide to go unchecked literally on the doorstep of the European Union then the prospects of peace in Europe and the destabilization of the entire region are very, very dangerous indeed."<sup>34</sup> Blair seized on the "genocide" slogan and ran with it. Interviewed on *NewsHour with Jim Lehrer* on April 23, Blair said, "We either stand aside and let this man conduct

a policy effectively of racial genocide in a part of Europe or we say 'I'm afraid we're not going to allow that. We are going to act.' ... We either act or we don't and the person responsible for every single piece of misery and pain inflicted in this conflict is Milošević." NATO launched its war, Blair explained in another interview, "for a very simple reason, that we could not allow, in Europe, in Kosovo, right on the doorstep of the European Union, a policy, effectively, of racial genocide to be carried out and stand by. We couldn't do that."

Blair's favorite term was "racial genocide" and he repeated it at every possible opportunity. Collecting the Charlemagne Prize in Aachen, Germany, Blair said NATO was fighting "a just war, against the most evil form of racial genocide since my father's generation defeated the Nazis."<sup>35</sup> Blair also likened Milošević to Hitler. Speaking before the Romanian parliament, Blair urged the Serbs to topple Milošević's "corrupt dictatorship." Yugoslavia needed to emulate post-World War II Germany: "In 1945, Germany was still under Hitler. Within ten years it had re-established its democracy, rebuilt its cities, joined NATO and was in at the birth of what is now the E.U. Serbia can join the world community too. But that prospect will only be a reality when corrupt dictatorship is cast out and real democracy returns to the Former Republic of Yugoslavia."<sup>36</sup> This was the sterling example for Yugoslavia to follow. "I pledge to you now: Milošević and his hideous racial genocide will be defeated." The "origins of this conflict lie in a brutal dictatorship that has visited misery and death and cruelty on wholly innocent people," Blair said. What was remarkable about this laughably overheated verbiage was that nothing remotely like it had ever been deployed against Tito's dictatorship, a regime incomparably more brutal than that of Milošević. Milošević's Yugoslavia had a vibrant free press, most of which was highly critical of his government. It had numerous political parties. Political opponents cheerfully denounced Milošević in parliament, in the press, and on the streets without suffering any adverse consequences. Milošević himself had been elected and re-elected to power a number of times.<sup>37</sup>

The most indispensable ingredient of NATO propaganda was the numbers game – the absurdly exaggerated casualty estimates that had been such a marked feature of the war in Bosnia. David Scheffer, U.S. ambassador-at-large for war crimes issues, said that huge numbers of Albanian men had been separated from their wives and children and were now missing. "You're actually looking at the possibility of tens of thousands of Kosovans who not only are at risk, but who may actually have perished by this stage," he said. "We have upwards of about 100,000 men that we cannot account for. We have no idea where those men are now."<sup>38</sup>

The Americans, always keen to show off their technical prowess, were much given to claiming that they had satellite photos in their possession that allegedly showed freshly dug mass graves. The photos were published, and they indicated precisely nothing. Yet NATO officials touted them as evidence of whatever NATO wanted them to be evidence of. In April, for example, NATO announced that it had photographic evidence of 43 mass burial sites. What's more, NATO claimed, it had evidence that Albanians were being assembled into "grave-digging chain gangs." NATO spokesman Brigadier-General Giuseppe Marani said that these burial sites were not like the "mass, open-trench" graves that the Serbs had allegedly dug in Bosnia. "Instead, each corpse had been individually buried, with the graves aligned in the direction of Mecca in line with the Islamic tradition." And Marani went on, "In spite of being forced to do these gruesome tasks, the Albanians are clearly trying to bury the victims of Milošević with respect."<sup>39</sup> So the racist, nationalist, xenophobic, self-pitying, hate-filled, genocidal Serbs who, when not running rape camps, carrying out mass executions, evading NATO bombs, dividing NATO allies, ethnically cleansing their country, and destabilizing their neighbors, are taking the trouble to ensure that each dead Albanian gets his or her own individual grave that is "aligned in the direction of Mecca in line with the Islamic tradition."

Estimates of Kosovo Albanians killed were invariably in the tens of thousands, usually around 100,000, but at times they soared to 500,000. On April 5, the *Washington Post* reported that "U.S. officials in Washington were saying that at least 100,000 – perhaps as many as 500,000 – Kosovar Albanian men are unaccounted for, raising fears they have been killed by Yugoslav forces."<sup>40</sup> According to the State Department's Rubin, "Based on past practice, it is chilling to think where those 100,000 men are. We don't know, though we know that civilian casualties are the objective of President Slobodan Milošević." On May 16, Defense Secretary William Cohen claimed on CBS that "We've now seen about 100,000 military-aged men missing ... They may have been murdered." By mid-May, 100,000 became the accepted number of Kosovo Albanian men killed.

### NATO'S 50<sup>TH</sup> BIRTHDAY BASH

Prime Minister Tony Blair emerged as cheerleader-in-chief of NATO's humanitarian war, perhaps because the public found it hard to take NATO's de facto leader, the recently impeached Clinton, seriously as a selfless idealist. By the

time Blair delivered his speech before the Chicago Economic Club, in which he promulgated a new international doctrine to justify military intervention to stop “genocide,” Washington was ready to bestow on him accolades of the kind reserved only for Churchill and Thatcher.

NATO’s self-adulation reached its zenith at the Washington summit on April 23 and 24, held to celebrate NATO’s 50th birthday. “The crisis in Kosovo represents a fundamental challenge of the values of democracy, human rights and the rule of the law for which the Alliance has stood since its foundation. That is why the 19 democratic nations around this table could not remain indifferent. That is why we had to act,” Solana declared. “Right now in the heart of Europe, NATO is fighting for the cause of humanity,” Canadian Prime Minister Jean Chretien raved. The prize for being the first to bring up Auschwitz went to Iceland. “Indifference in the face of the atrocities would make us accessories to Milošević’s crimes of attempted genocide. Haven’t we yet learned the lessons of Auschwitz and Buchenwald?” said Iceland’s foreign minister, Halldor Asgrimsson. NATO’s goals were “humanitarian, not geopolitical or strategic,” said Slovenia’s prime minister, Janez Drnovšek.<sup>41</sup> “Mr. Milošević’s forces burn and loot homes and murder innocent people. Our forces deliver food and shelter and hope to the displaced,” Clinton oozed unctuously, omitting mention of other NATO gifts such as cluster bombs, Tomahawk missiles, and depleted uranium.

NATO’s birthday present to itself was a new strategic concept, one befitting a new alliance for a new era. Henceforth, NATO would “undertake new missions including contributing to effective conflict prevention and engaging actively in crisis management, including crisis response operations.” The Soviet threat was gone, but all manner of new threats were lurking around the corner: terrorism, organized crime, and the “uncontrolled movement of large numbers of people.” According to the new strategic concept:

The security of the Alliance remains subject to a wide variety of military and non-military risks which are multi-directional and often difficult to predict. These risks include uncertainty and instability in and around the Euro-Atlantic area and the possibility of regional crises at the periphery of the Alliance, which could evolve rapidly. Some countries in and around the Euro-Atlantic area face serious economic, social and political difficulties. Ethnic and religious rivalries, territorial disputes, inadequate or failed efforts at reform, the abuse of human rights, and the dissolution of states can lead to local and even regional instability. The resulting tensions could lead to crises affecting Euro-Atlantic stability, to human suffering, and to armed conflicts. Such conflicts

could affect the security of the Alliance by spilling over into neighbouring countries, including NATO countries, or in other ways, and could also affect the security of other states.<sup>42</sup>

The Yugoslavia intervention would serve as an exemplar of future NATO humanitarian missions: the bombing campaign was far from over but France's Chirac was already hailing it as "a great victory for human rights, a grand idea, that has developed step by step in this century with setbacks and tragedies along the way."<sup>43</sup> A great victory for human rights – even as NATO was claiming that 100,000 had been killed and hundreds of thousands rendered homeless since the start of its campaign! NATO was to be a defensive alliance no longer. It would now intervene anywhere in the world the moment "uncertainty" and "instability" raised their ugly heads. NATO was too pleased with itself to bother to explain how bombing could help alleviate "ethnic and religious rivalries" or resolve "territorial disputes." Happily, no one asked it to do so. The experience of Kosovo suggested that NATO now intended to embroil itself in countless conflicts around the world, backing some factions and bombing the living daylights out of others while threatening the leaders of the latter with international war crimes tribunals. The consequent, inevitable "instability" would then serve as justification for further NATO involvement.

NATO leaders' self-congratulations resonated with insincerity. If they really believed their own propaganda about what was going on in Kosovo, they would surely have avoided the backslapping, the high-fives, and the sumptuous feasts. Moreover, if they were so keen to promulgate a new right of intervention, the basis of which was a state's mistreatment of its own citizens, then why didn't they avail themselves of the opportunity to make their case? On April 29, 1999, Yugoslavia petitioned the International Court of Justice (ICJ) in The Hague, demanding a ruling on the legality of NATO's attack. Yugoslavia claimed that the NATO countries had violated international law: NATO had launched a war of aggression against Yugoslavia, it had armed and trained the KLA, and it had bombed civilians. NATO could have seized this moment to go to The Hague and spell out its brand-new humanitarian intervention doctrine.

How did NATO respond to Yugoslavia's suit? Did Albright rush, teary-eyed, to The Hague to enlighten the judges on the wickedness of Hitler and Stalin and to explain why such leaders had to be stopped in their tracks? Did Blair seize the historic moment to explain to the judges that in our globalized world internal conflicts were everybody's concern?

No, NATO chose the easy option of responding on the narrowest, most legalistic of grounds. The ICJ had no jurisdiction to hear the case, NATO insisted. Why? Because the ICJ's statute says that the court has no authority to resolve a dispute between states without the consent of those states. The Americans were particularly keen to demonstrate their passionate commitment to the alleviation of human suffering. Yugoslavia had argued that the basis of ICJ jurisdiction was Article IX of the Genocide Convention. The article says: "Disputes between the Contracting Parties relating to the interpretation, application or fulfillment of the present Convention, including those relating to the responsibility of a State for genocide ... shall be submitted to the International Court of Justice at the request of any of the parties to the dispute." However, U.S. government attorneys claimed, when the United States ratified the Genocide Convention in 1988 it had inserted a reservation stating that any lawsuit brought against the United States at the ICJ on the basis of Article IX would have to have explicit U.S. consent. The United States, needless to say, was most definitely not offering its consent to Yugoslavia's suit. And without such consent, the court had no jurisdiction.

Other NATO countries made equally technical arguments denying ICJ jurisdiction. They all claimed that, as Yugoslavia had ceased to be a member of the United Nations, it was no longer a party to the statute of the ICJ. The British government, in addition, asserted that when the U.K. accepted ICJ jurisdiction over any international dispute in which it might be involved, it had explicitly denied the court jurisdiction in any dispute in which the other party's acceptance of ICJ jurisdiction "was deposited or ratified less than 12 months prior to the filing of the application bringing the dispute before" the ICJ. As Yugoslavia had only deposited its acceptance of ICJ jurisdiction with the U.N. secretary-general on April 26, 1999 and had brought the dispute to the court on April 29, 1999, it had failed to meet the U.K.'s 12-month requirement. Case closed.

NATO disputed ICJ jurisdiction by claiming that Yugoslavia, in its declaration accepting ICJ jurisdiction, had indicated that this acceptance pertained only to "disputes arising or which may arise after the signature of the present Declaration, with regard to the situations or facts subsequent to this signature." However, NATO argued, the disputes between NATO and Yugoslavia had "clearly already arisen before the date of signature of the 1999 declaration of the Federal Republic of Yugoslavia (i.e., 25 April 1999)." Therefore, again the ICJ had no jurisdiction. Yugoslavia had brought its case to the ICJ too soon according to the UK and too late according to NATO.

NATO's crack lawyers had earned their paycheck. On June 2, 1999, the ICJ rejected Yugoslavia's request, accepting the NATO contention that it had no

jurisdiction in the case. But the court did not address the merits of the case and the judges did not get to hear Blair's eloquent arguments about the right of humanitarian intervention that Chicago's business community was so fortunate to be treated to.

The complacency and arrogance of NATO's leaders was extraordinary. To people who had been subjected to Western colonial rule – most of the non-Western world – NATO's self-satisfied assumption of a new global mission sounded an awful lot like the old "white man's burden." NATO was the old imperial club, back together again with a plan to ensure continuing rule over the world's backward people.

Indeed, throughout NATO's bombing campaign, the much-invoked "international community" remained distinctly underwhelmed by Western professions of humanitarian intent. On April 9, the Movement of Non-Aligned Countries issued a statement declaring that "the primary responsibility for the maintenance of international peace and security rests with the United Nations Security Council." Citing the "deteriorating humanitarian situation in Kosovo," the group called on the "Secretary-General to intensify the role of the United Nations in alleviating the suffering of the displaced persons and refugees who are fleeing Kosovo, and to investigate all abuses of human rights." The non-aligned nations called for "an immediate cessation of all hostilities" and "the urgent resumption of diplomatic efforts, under the auspices of the United Nations."<sup>44</sup> The non-aligned countries had pointedly refused to accept the NATO line that the refugee crisis was provoked by the Yugoslav forces, and they refused to accept that NATO's bombing and, even more tellingly, NATO's diplomacy had furthered the cause of peace.

### OPERATION HORSESHOE

NATO now had a public relations nightmare on its hands. Its bombing had caused the very humanitarian catastrophe that it was designed to avert. "We are on the brink of a disaster," SACEUR Wesley Clark complained to Blair press secretary Alastair Campbell. It was all the fault of the media. They were too susceptible to Milošević's propaganda. Milošević, an anguished Blair confided, "has total control of his media and our media is vulnerable to their output. So we can lose the public opinion battle and if we lose hands down in some of the NATO countries, we have a problem sustaining this."<sup>45</sup> The media should have been unequivocally blaming the Serbs for the flight of refugees. This was hard to do, since the statistics didn't bear out NATO's claims. The

flight clearly began after March 24. On March 19, the UNHCR reported that 240,000 people were displaced within Kosovo itself; 25,000 were in Montenegro; 30,000 were in other parts of Serbia; 9,800 were in Macedonia; 10,000 in Bosnia; 18,500 in Albania; and 100,000 in other European countries.<sup>46</sup> On March 26, two days after the start of the bombing, UNHCR reported that, "There has been a trickle of refugees crossing from Kosovo to [Macedonia] but no major exodus."<sup>47</sup> On March 30, UNHCR said that "Around 94,000 Kosovars have fled the province since March 24, and relief officials said many more were en route ... 65,000 people had crossed into Albania, 20,000 into Montenegro and at least 9,000 into Macedonia." However, the UNHCR spokesman added, "Yugoslav authorities also imposed countrywide legislation preventing any male between the ages of 16 and 60, of whatever ethnic background, from leaving the country. The border between Serbia and Albania was closed Tuesday morning by Yugoslav authorities."<sup>48</sup> Bans on males leaving and a closing of the borders aren't consistent with an ethnic cleansing project.

NATO seized on the disastrous outcome of its bombing campaign to claim that the flight of the Albanians proved what wicked people it was up against. Once again, however, NATO's argument backfired. If the Serbs were the evil monsters that NATO claimed they were, why had it chosen to attack them with planes flying 15,000 feet overhead – "at altitudes beyond which most Serbian anti-aircraft systems could effectively be employed," as U.S. generals were to boast subsequently – and to leave the Albanians defenseless? Wasn't it entirely foreseeable that the terrible Serbs, unable to shoot down NATO's aircraft, would vent their fury against the hapless Albanians who had invited NATO to bomb their country? The conclusion seemed inescapable: either NATO didn't care very much about what happened to its protégés and had only taken up their cause because of its political usefulness or NATO had never really believed its own propaganda about the Serbs.

NATO's rationale for the bombing was now in tatters. For months, it had been claiming that its bombs would deter Serb crimes. That was the justification for the air strikes. Back in October 1998, Defense Secretary William Cohen had said, "I think that we are in a position as a NATO organization to inflict substantial damage on his [Milošević's] capacity to harm innocent people in the future. That's what I'm confident of."<sup>49</sup> On March 23, Solana had proclaimed that NATO's action would

be directed towards disrupting the violent attacks being committed by the Serb Army and Special Police Forces and weakening their ability to cause fur-

ther humanitarian catastrophe ... Our objective is to prevent more human suffering and more repression and violence against the civilian population of Kosovo. We must also act to prevent instability spreading in the region ... We must halt the violence and bring an end to the humanitarian catastrophe now unfolding in Kosovo.

On March 24, Clinton said that NATO's objective was "To deter an even bloodier offensive against innocent civilians in Kosovo and, if necessary, to seriously damage the Serbian military's capacity to harm the people of Kosovo. In short, if President Milošević will not make peace, we will limit his ability to make war." Clinton repeated this the next day: "Our objective is to make it clear that Serbia must either choose peace or we will limit its ability to make war."

These were NATO's own words and they were soon rendered hollow. If the bombing was supposed to diminish the Serbs' capability to conduct crack-downs and make war, then it had proved to be a failure of staggering proportions. The humanitarian catastrophe in Kosovo and in neighboring states *followed* the bombing – it did not precede the bombing. To justify what it had done, NATO would need to show not only that the flight of the refugees preceded its bombs, hard though that might be to prove. After all, that could easily be explained as a rational response to an impending attack. NATO would need to show that Belgrade had always intended to expel Kosovo's Albanians and that it would have done so whether NATO bombed or not.

That Yugoslavia, with the world looking on, would carry out, in accordance with a long-standing plan, a centrally directed, carefully executed expulsion of Kosovo's Albanian population, seemed unlikely. Logic and common sense – always in short supply in wartime, as NATO well knew – would dictate against it. If you want to expel people by the hundreds of thousands, you don't do it when you are the focus of worldwide media attention. You do it when no one is watching. In the case of Kosovo, that would have been in the early 1990s, at a time when the world was preoccupied with the war in Bosnia. Expelling Kosovo's population during NATO's bombing would be a remarkably foolish and self-defeating policy. First, it would boost NATO's faltering propaganda campaign and serve to justify the war. Second, any removal of the population could only be temporary. Since Yugoslavia had not the slightest prospect of winning a war against NATO, the return of the Kosovo Albanians was bound to be one of NATO's conditions for ending the bombing.

NATO's assertion that Belgrade was executing a meticulously organized ethnic cleansing program meshed nicely with the assumptions that guide

Western – particularly U.S. – propagandists. Our side doesn't commit atrocities. If it does, then these are the random acts of individuals, certainly not part of any systematic policy. The perpetrators are a few bad apples, who are discarded swiftly and thus prevented from contaminating the barrel. More usually, atrocities are ascribed to mistakes, blunders, accidents, mechanical failures, poor coordination among different service branches, faulty intelligence, or lowly officials making decisions above their pay grade. They fall under the rubric of "collateral damage" – something that sadly happens in war, no matter how hard our side tries to minimize civilian casualties and strives for pinpoint accuracy in targeting. Our adversaries, on the other hand, commit atrocities as a matter of policy, out of sheer malevolence. Not only are their foot soldiers under orders to commit barbaric crimes, but these orders come from the very top. It is Milošević himself who insists on atrocities – the worse, the better. No one does anything without a top official signing off on it first.

When Great Powers seek a pretext for war, they will usually find one. And when Great Powers seek a justification for a war they had already started under false pretenses, they will usually find one. It was to be expected, therefore, that before long, the Western intelligence services would produce some sensational discovery, a key piece in the jigsaw puzzle, to prove what NATO desperately sought to prove, namely, that Milošević had plotted the expulsion of Kosovo's Albanian population months if not years before March 24. Since its bombs could have played no part in the flight of the "Kosovars," NATO would be off the hook.

In early April, NATO announced that it had found the smoking gun, the definitive proof that the ethnic cleansing of Kosovo had been in the works long before the first NATO bomb landed. On April 4, CNN reported that the CIA had warned Clinton that Milošević was planning to unleash a huge ethnic cleansing offensive and that "the Serb army had already given their secret operation a code name and it was called Operation Horseshoe." At Rambouillet, CNN alleged, KLA leaders had shown U.S. diplomats documents they had allegedly stolen from Serb forces. These documents outlined Operation Horseshoe. "There was a little jingle that NATO Secretary-General Javier Solana told Clinton before the air campaign started," the CNN reporter said: "Milošević was taking out a village a day to keep NATO away." Apparently, Milošević's infinitely cunning mind had conceived of a scheme according to which if he "could keep the levels of attacks beginning in Operation Horseshoe at a low enough threshold, NATO wouldn't launch its air strikes."

This little jingle, which Solana was allegedly given to uttering long before the NATO bombing, was now repeated in one media story after another. U.S.

officials continually repeated it to show their long-standing familiarity with it. Unfortunately, there is no record of anyone mentioning Solana's "jingle" before the April 4 story.

CNN's claim about this alleged CIA warning contradicted the public record. On February 2, the CIA director, George Tenet, told the Senate Armed Services Committee:

Both sides are now preparing for much heavier fighting in the spring. The KLA has used the cease-fire to improve its training and command and control, as well as to acquire more and better weapons. As a result the KLA is a more formidable force than the Serbs faced last summer. We estimate that there are several thousand KLA regulars augmented by thousands more irregulars, or home guards. Moreover, funds pouring into KLA coffers from the Albanian Diaspora have increased sharply following the massacre at Račak ... We assess that if fighting escalates in the spring – as we expect – it will be bloodier than last year's. Belgrade will seek to crush the KLA once and for all, while the insurgents will have the capability to inflict heavier casualties on Serb forces. Both sides likely will step up attacks on civilians.<sup>50</sup>

The CIA's analysis was the same as that of the U.N. secretary-general and of the OSCE verifiers in Kosovo: the withdrawal of Yugoslav forces, at NATO's behest, had given KLA the chance to rearm, re-take lost territory, replenish its coffers, and seize control of large parts of Kosovo. Belgrade was unlikely to take this lying down and would probably launch a new offensive in the spring. With the KLA stronger than it had been a year earlier, courtesy of NATO's helpful intervention, the fighting was likely to be heavier. Tenet had made no mention of ethnic cleansing; in his testimony he referred only to Belgrade's "counter-insurgency operation."

In no time, though, NATO and its media acolytes were up and running with the Operation Horseshoe story. The Germans were next out of the starting gate, claiming to have known about Operation Horseshoe even before the CIA did. On April 7, the Germans announced the discovery of a Serb plan that involved the encircling of the Albanian population in stages, which was to be followed by its expulsion. Armed with maps and drawings, Rudolf Scharping, Germany's defense minister, explained that "Operation Horseshoe provided clear evidence that President Milošević had long been preparing the expulsions from Kosovo and that he had simply used the time gained by the Rambouillet peace talks to organize army and police units for the campaign."<sup>51</sup> Joschka Fischer, Germany's foreign minister, chimed in to claim that

Milošević's operation began in November 1998, but that Operation Horseshoe "came into full swing on February 26" – four weeks before the start of NATO's campaign.<sup>52</sup>

Soon more details emerged about this Serb plan. The Horseshoe document had allegedly been leaked to Fischer "by the government of an unidentified country bordering Serbia." Dated February 26, and in Serbo-Croat, the document, according to *The Times* of London, "proves that the Serb actions were premeditated and not a reaction to the airstrikes, as claimed by Belgrade." Horseshoe, a relieved *Times* concluded, "appears to have dispelled any lingering pacifist doubts among Western leaders, many of whom seemed unable to believe, despite the precedent of Bosnia, that at the end of the 20th century a European leader would carry out such a plan."<sup>53</sup> The *New York Times* reported that "The operation – code-named 'horseshoe,' or 'potkova' in the Serbian language – was being planned even as Mr. Milošević was promising to withdraw the police and military forces that had already begun driving Albanians out of their homes." NATO intelligence, the *New York Times* reported, "had observed the military buildup north of Kosovo and inside the province, but had wrongly concluded that it was aimed only at the" KLA. On April 19, Scharping announced that he had handed over the Horseshoe documents to the ICTY's chief prosecutor, Louise Arbour, who would doubtless make good use of them in the inevitable forthcoming trial of Yugoslavia's leaders.

Operation Horseshoe killed two birds with one stone for NATO. It proved NATO hadn't caused the humanitarian catastrophe but had acted to avert it. And it proved that while decent, well-meaning NATO was negotiating in good faith at Rambouillet, the Serbs were engaging in duplicity, pretending to be seeking an agreement even as they were putting into effect their ethnic cleansing plan. Humanitarian intervention was back on track. By April 15, Defense Secretary Cohen was able to confide to the Senate Armed Services Committee that the administration had known all along about Milošević's plan to expel the Albanians and had resigned itself to it:

We knew that there was a risk that the bombing could accelerate what he was already planning to do, but he was going to do it in any event. And so, again, no misunderstanding on our part; that was a risk involved. But we knew that he was going to carry it out. And we could sit on the sidelines and let him carry it out village by village, with all the consequences, and then be accused of not responding to something like that.

Rejoicing in the supposed discovery of Serbia's secret plans, NATO made Operation Horseshoe a staple of every briefing. Yet if NATO's scoop seemed too good to be true, that's because it was. Operation Horseshoe was as much a fake as the infamous Niger yellowcake story of 2002. Heinz Loquai, a retired Bundeswehr brigadier general, made a study of the documents and concluded that the intelligence services had fabricated the plan out of run-of-the-mill Bulgarian intelligence reports. The German defense ministry had turned a vague report from Sofia into a "plan," and had coined the name Horseshoe for it. It was the Germans themselves who had drawn up the maps that featured so prominently in NATO's press briefings. Moreover, the Bulgarians had concluded only that Belgrade's goal was to crush the KLA. They did not say that the goal was "to expel the entire Albanian population," as the Germans suggested. There was another problem pointed out by Loquai: the Germans claimed the name of the operation was "potkova." But "potkova" is the Croatian word for horseshoe; the Serbian word for horseshoe is "potkovica."

The ICTY kept its distance from Scharping's Horseshoe documents. There was no mention of Horseshoe in the May 22, 1999 indictment of Milošević. Nor did Horseshoe feature once either in the Milošević trial or in the big Kosovo trial of Yugoslavia's leadership that ended in 2009. By the time the House of Commons got around to writing its Kosovo report in 2000, Horseshoe had become too discredited to be taken seriously. This didn't stop the authors of the report from insisting that the expulsion of Kosovo's Albanians followed a plan that had been hatched in Belgrade long before NATO dropped its first bomb. In the absence of documentary evidence, the report's authors inferred the existence of such a plan from the authorities' use of trains and buses to move the population out of the country. The evacuation of so many people so quickly had to have been meticulously organized beforehand. The authors must have watched too many Hollywood Holocaust movies. A well-organized evacuation isn't evidence of malevolent intent. In fact, it could be a humane act. People were fleeing. Would a panic-stricken, chaotic exodus have been evidence of humanitarian intent? Croatia did not permit an orderly exit of Serb refugees during Operation Storm. Was that to be taken as an exemplar of how evacuations are to be carried out? Besides, the UNHCR had demanded that the Belgrade authorities do nothing to impede the exit of the population.

NATO was making contradictory claims. On the one hand, its awe-inspiring military machine was supposedly raining devastating blows on Yugoslav forces.<sup>54</sup> However, these very same pulverized military forces, with soldiers scurrying to and fro desperately trying to stay alive, were also allegedly able

to conduct a campaign of terror and to drive out the Albanian population. NATO had to think fast. In early May, it offered an ingenious theory to explain away its contradictory claims.

On May 7, NATO stepped up its bombing. There was a good reason for that. The foreign ministers of the G-8 countries had just met and had issued a declaration of principles that Belgrade just might accept. An end to the conflict suddenly became a possibility. NATO responded by intensifying the bombing. This had the desired effect. Kosovo's panic-stricken populace rapidly made for the border. At a press conference ballyhooing the latest devastating air strikes, NATO spokesman Major-General Walter Jertz told reporters that the air war was "having a powerful impact on the ability of Serb forces to carry out their policy of ethnic cleansing. They are able only to scurry from cover to cover and are always in fear of being struck. They are increasingly exhausted from lack of sleep." Fine. But if Serb forces were exhausted and seeking only to survive, why were Albanians fleeing the province? Didn't he just say that the Serbs were unable to carry out their "ethnic cleansing"? Ah, Jertz explained, it was precisely because government forces had "gone into hiding" that "thousands of terrified civilians have seized the opportunity to make a dash for freedom."<sup>55</sup> So NATO's bombs were responsible for the flight of the Albanians after all – but in a good way. The bombs had helped the Albanians to escape to freedom! This was good "ethnic cleansing" – the only kind NATO practiced.

The U.S. State Department also claimed to have evidence of Milošević's long-planned expulsion campaign. Its widely publicized, lengthy report documenting alleged Serb abuses, *Erasing History: Ethnic Cleansing in Kosovo*, published in May 1999, pointed to Belgrade's "redeployment of its military forces in the weeks prior to its rejection of the Rambouillet settlement." That "many of the places targeted reportedly had not been the scene of any previous fighting or KLA activity" was taken by the State Department as proof "that these expulsions were part of a systematic effort to depopulate the region of Kosovar Albanians."<sup>56</sup>

This evidence was also laughably unconvincing. If Yugoslav forces were now active in areas where there had been no "previous fighting or KLA activity," that would only show that fighting had spread to new areas. The U.N. secretary-general's report of March 17, 1999 had explained why this may have happened: "Kosovo Albanian paramilitary units are consolidating their presence throughout Kosovo, including areas they did not control before. As a result, fighting now affects areas previously untouched by hostilities, leading to further deterioration of the situation and new displacements of civilian population."<sup>57</sup>

In the absence of documentary evidence of the Operation Horseshoe kind, NATO and particularly its legal arm, the ICTY, had to resort to touting the increase in Yugoslav forces in Kosovo in the weeks leading up to the bombing as proof that Belgrade's intent was to expel the Albanians. As there was no military rationale for the deployment of Yugoslav forces in Kosovo, they could only have been sent there in order to drive out the Albanians.

But there was a far more plausible explanation as to why Belgrade might have sought to increase its military presence in Kosovo. Going by the events of the past year, Belgrade had every reason to expect Kosovo to be a re-run of Operation Storm. Just as Croatia's forces mounted their offensive against the Republika Srpska Krajina with air support from NATO, so it was likely that the KLA would use the cover of NATO bombs to attempt to seize control of Kosovo.

Throughout February and March 1999, NATO intensified its bombing preparations. Everyone in the world knew about this. Yugoslavia responded by making preparations of its own to fight off NATO's designated foot soldiers – the KLA. This fact was acknowledged even by William Walker's KVM staff. In their report, *As Seen, As Told*, written at the end of NATO's campaign, they described in detail how Yugoslav forces secured their lines of communication in anticipation of the coming KLA offensive. Villages lying along strategic routes were shelled and cleared. "By March 1999," the OSCE report said,

the Yugoslav military/security forces were coping with two tasks: defeating the UCK and preparing for an attack by NATO. The effect was to require the border areas to be secured, as seen with the VJ building up positions south of Gnjilane/Gjilan and entering villages in what otherwise had been described as a "quiet district." However, more resources and attention went to the west of Kosovo and the border with Albania. Here existed not only a possible route for NATO to enter, but an area where the UCK was particularly active, with "safe havens" and supplies in Albania. Further, these supplies would be in a position to reach other UCK zones further into Kosovo if the military/security forces were not able to dominate the ground in the area.<sup>58</sup>

The possibility of a full-scale NATO invasion was very real. NATO would never allow itself to lose against Yugoslavia. Thus, if the bombing failed to coerce Yugoslavia to surrender, the next step would unquestionably have been a full-scale invasion of Kosovo. Once the bombing was over, NATO revealed that it had begun to draw up plans for a ground invasion as soon as it launched the first missiles. "From the start of the 78-day air war in the Balkans, President Clinton publicly ruled out a ground campaign. Nevertheless, secret prepara-

tions for an invasion of Kosovo were extensive, and progressed much further than has been previously disclosed. Relying in part on a clandestine relationship with the Kosovo Liberation Army, NATO's leadership was probing Yugoslav defenses. NATO engineers were reinforcing a vital roadway for use in an armored thrust," the *Washington Post* reported.

Shortly before NATO's 50th anniversary summit in Washington, Clinton decided that he would send in U.S. troops if the air campaign failed and an invasion was the only way to win the war. On the eve of the April 24 summit, Clinton urged British Prime Minister Tony Blair to stop talking publicly about an invasion because it was creating domestic problems for allies and making the Russians unwilling to help out diplomatically. Clinton told Blair that "it would be irresponsible not to do some planning, but in a way that doesn't split the alliance."<sup>59</sup> By mid-May, Clark "had come up with a preliminary plan for an attack from the south by 175,000 troops, mostly through a single road from Albania. At the White House, it was called 'the Wes plan.' NATO charts called it the 'B-Minus' option, reflecting its position on a hypothetical scale that began with an all-out invasion of Belgrade."<sup>60</sup>

If NATO credibility was on the line after Rambouillet, how much more would it have been under threat had its highly touted weaponry failed to secure victory! As the ICTY recounted:

Although President Clinton initially referred to the intervention of NATO in terms of responding to a humanitarian crisis, he also said that the issues that led to the bombing no longer mattered and that the main issues, which ensured the bombing would continue indefinitely, were that the credibility of the U.S. was at stake, the credibility of NATO was at stake, and his personal credibility as President of the United States was at stake.<sup>61</sup>

No sacrifice of other people's lives would be too great to preserve NATO's credibility.

Amusingly, even on this issue NATO couldn't get its story straight. Amidst their fist-pumping rejoicing at the end of the campaign, NATO officials were only too eager to boast of their iron-willed readiness to launch an invasion if all else failed. But such disclosures about ongoing invasion planning undercut the assertions NATO made to justify the bombing campaign: Yugoslav forces had poured en masse into Kosovo in order to drive out the Albanians. But given NATO's newly-disclosed detailed invasion plans, any Yugoslav leadership would have been remiss in not securing its borders and moving civilians out of likely war zones.

NATO was thus left with the absurd argument that whatever Belgrade did it would have done anyway, NATO or no NATO. NATO and the KLA had simply not factored into Milošević's calculations. Over the years, NATO officials and the ICTY have tried none too successfully to make this case. During the Milošević trial, the irrepressible Naumann got into all sorts of trouble as he tried to dodge Milošević's questions.

Milošević asked Naumann how he was able to conclude that Yugoslav army exercises in the winter of 1999 were "preparation for an action against the Kosovo Albanians" given that NATO had been threatening military action since the middle of 1998 and reinforcing its forces in Macedonia and Albania. Was it reasonable to expect Yugoslavia to "undertake nothing with respect to the deployment of its forces in order to protect its own country?" Naumann responded that Yugoslavia had no reason to fear NATO invasion as "NATO had publicly ruled out the use of ground forces." NATO's forces in Macedonia and Albania were very small and NATO would have needed "a couple of weeks to deploy ground forces in a sufficient number to launch a ground operation against Kosovo." NATO's public assertion that it had no intention of invading should have served to end speculation about the matter. Naumann was prepared to admit that, following the April 23-25 Washington summit, NATO did begin to plan very seriously for an invasion. But not before then, he insisted.

The Serbs, according to Naumann's logic, had no right to begin deploying their defensive forces on their own territory to secure their own borders until NATO had already deployed ground forces in sufficient numbers to launch an invasion. (Recall Walker's argument that Yugoslav state authorities had no right to use force in excess of the force the KLA used.) Of course, even that assumes that what Naumann was saying was true. Why should the Serbs believe anything NATO said "publicly"? As an incredulous Milošević asked Naumann: "Do you think that we should have trusted and had confidence in what you were stating, what you were saying as to what you were going to do, or not, in a situation where there was bombing 24 hours around the clock?"

It is unlikely that the United States or Germany or any other power bases its military planning exclusively on the public pronouncements of its adversaries. As Milošević taunted Naumann: Is it "customary that there are no war secrets and that everything is public?"

### SCALING GENOCIDE DOWN

When the bombing stopped and NATO marched into Kosovo, it became clear that what had taken place in the province bore little resemblance to the hysterical accounts to which the public had been subjected for months. The mass graves turned out either not to exist or to contain only one or two bodies. There were no rape camps, no mutilations. NATO's triumphant entry eerily anticipated the U.S. march into Baghdad in 2003 and the subsequent failure to find weapons of mass destruction or even plans to manufacture weapons of mass destruction. As the *Washington Post* reported:

Ethnic Albanians ... claimed that hundreds of bodies had been incinerated at the Trepca mine in northwestern Kosovo, but an investigation there turned up no evidence of such an event. And a number of alleged mass graves that were said to contain hundreds of bodies were found to contain either a handful of corpses or none, leading some European pathologists to dismiss the received history of the conflict as willful lies. Similarly, Western accusations that there were Serb-run rape camps in the cities of Djakovica and Pec, and poorly sourced allegations in some publications that the Serbs were engaging in the mutilation of the living and the dead – including castration and decapitation – all proved to be false.<sup>62</sup>

NATO responded by drastically revising down its numbers. The figure of 100,000 Albanian men executed was quickly jettisoned. The absence of corpses, it was now argued, vindicated NATO's bombing campaign. Having spent months claiming that the bombing had not made the slightest dent in Milošević's murderous plans, NATO now reversed itself and boasted that, to the contrary, its bombing had actually foiled Milošević. NATO had saved those 100,000 Albanian men from execution. Thanks to the bombing, 100,000 Albanians who would otherwise have been killed were not killed. As NATO spokesman Mark Laity explained, "The point is, did we successfully pre-empt or not. I think the evidence shows we did. We would rather be criticized for overestimating the numbers who died than for failing to pre-empt. Any objective analysis would say there was a clear crisis. There was indiscriminate killing. There were attempts to clear hundreds of thousands of people out of their homes."<sup>63</sup>

On June 17, a few days after NATO's victorious march into the province, a British Foreign Office Minister, Geoff Hoon, announced that, "According to the reports we have gathered, mostly from the refugees, it appears that

around 10,000 people have been killed in more than 100 massacres.” On August 2, Bernard Kouchner, the recently installed U.N. chief administrator in Kosovo, claimed that 11,000 ethnic Albanians had been killed. In December 1999, the State Department also settled on the 10,000 figure: “The number of victims whose bodies have been burned or destroyed may never be known,” it reported, “but enough evidence has emerged to conclude that probably around 10,000 Kosovar Albanians were killed by Serbian forces.”

How did the State Department arrive at this number? After all, as it noted, investigators had only “exhumed 2,108 bodies from 195 of the 529 known mass graves.” That would mean, according to the State Department extrapolators, that there had to be about “6,000 bodies in mass graves in Kosovo if the 334 mass graves not examined thus far contain the same average number of victims.” That’s 6,000. So how do we get to 10,000? The State Department said that “three important categories of victims” had to be taken into consideration: “(1) those buried in mass graves whose locations are unknown, (2) what the ICTY reports is a significant number of sites where the precise number of bodies cannot be counted, and (3) victims whose bodies were burned or destroyed by Serbian forces.”<sup>64</sup> The 10,000 figure was therefore based entirely on speculation. Graves and bodies about which the ICTY and the State Department knew nothing were taken to be evidence for the existence of real executed Albanians. Why bother with any forensic investigation when it’s so much easier simply to make imaginary statistical projections?

As it turned out, extensive digging in Kosovo never did produce anything like 6,000 bodies, let alone the NATO-sanctioned 10,000. In December 1999, Carla del Ponte had fueled expectations that many more bodies would be found. “We have now 400 more grave sites, we have many bodies that are buried, burnt,” she said in an interview. She asked Kofi Annan to provide her with another 27 people for the exhumation of 400 graves next summer. “I cannot let the bodies not be discovered, because it’s important to certify how many people were killed.”<sup>65</sup> However, the big dig of 2000 proved to be a disappointment. At the end of the summer, the ICTY brought Kosovo exhumations to an end. It had come up with a grand total of 2,788 bodies.<sup>66</sup>

The Foundation for Humanitarian Law, much beloved and much bankrolled by Western governments and non-governmental organizations, runs a project seeking to establish the number of dead and missing in Kosovo. According to an article in the Croatian magazine, *Globus*, “The project has documented 9,702 people dead or missing during the war in Kosovo from 1998 to 2000. Of this number, as things stand now, 4,903 killed and missing are Albanians and 2,322 are Serbs, with the rest either belonging to other

nationalities or their ethnic identity remaining uncertain.” One should also add that these numbers say nothing about how people were killed, whether in combat or otherwise, and by whom. And there’s no clarification as to how many were killed by NATO bombs. What these numbers do reveal is that it was the Serbs, not the Albanians, who suffered disproportionately in Kosovo. If the standard claims are true and Albanians constitute 95% of Kosovo’s population, while Serbs constitute less than 5%, that means that there are 19 times as many Albanians as there are Serbs in Kosovo. Yet, according to these numbers, the Albanians’ casualty numbers are only slightly more than twice the size of the Serb casualty numbers.

The media settled on the 10,000 dead figure for no other reason than that the number, consisting as it did of five digits rather than four, sounded just about large enough to justify NATO’s intervention. To be sure, it’s not always clear whether the 10,000 refers to Albanians killed by Serbs during the NATO bombing, Albanians killed by Serbs during the fighting between February 1998 to June 1999, or the total number killed (including Serbs, Albanians, Roma, etc.) during the fighting. Remarkably, no NATO official suffered any adverse consequences over the absence of evidence to substantiate the wild charges that had served to justify the bombing campaign. Victory over Yugoslavia sufficed to still the voices of critics. Nothing succeeds like success. And the measure of success is lack of NATO casualties. Small wonder, then, that in 2002 and 2003 U.S. and British officials and their media boosters disdainfully ignored the intelligence that raised serious doubts about Iraq’s WMDs. The Kosovo experience had taught them that failure to find evidence to support the claims used to launch an armed attack would be quickly forgotten amid scenes of public rejoicing and ecstatic military parades.

It is unlikely that NATO had ever seriously believed its own wartime propaganda about the 100,000 executions. On May 22, the ICTY indicted Milošević on war crimes charges. NATO’s overheated claims should surely have called for genocide charges. However, the ICTY pointedly avoided charging Milošević with genocide. It charged him with crimes against humanity but only listed 340 deaths in the indictment. The ICTY indictment nicely anticipated NATO’s new claim. There had been no genocide in Kosovo because NATO’s timely intervention had prevented it. NATO thus took credit for something that hadn’t happened. NATO’s triumph was a virtual triumph. Like estimating numbers of killed Albanians based entirely on fanciful projections, taking credit for something that had not happened certainly made life easy for NATO, made all the easier by a press corps that was very reluctant to scrutinize too closely the motives behind a war that it had enthusiastically supported.

## THE APPENDIX B DISCLOSURE

Sometime in April 1999, the story of Appendix B leaked out. NATO's propaganda machine swiftly went into action. The story put out was that Appendix B was a perfectly innocuous thing – standard operating procedure. Milošević had already agreed to something like it at Dayton and without any fuss. Ian Black, the *Guardian's* “diplomatic editor,” wrote dismissively that Appendix B was “a standard status of forces agreement, a technical-legal document of the sort accepted without demur by one S Milošević for the Federal Republic of Yugoslavia when he signed Bosnia's Dayton peace accords, as it then suited him to do, in 1995.” The “diplomatic editor” seemed unaware of a key issue in diplomacy: forcing a country at gunpoint to sign a status-of-forces agreement is generally known as invasion and armed occupation. There was no similarity between Dayton in 1995 and Kosovo in 1999. In 1995, the Western powers had treated Yugoslavia as one of the guarantors of peace in Bosnia. The 1995 transit agreement with NATO, which, incidentally, was nowhere near as egregious as Appendix B, was collaborative. After Rambouillet and a year of ceaseless bombing threats, NATO could hardly present itself to Belgrade as a neutral, impartial force whose good intentions it should take for granted. Moreover, the Western powers' failure to make any concessions to Yugoslavia after Dayton – the lifting of sanctions, the restoration of U.N. and OSCE membership – ensured that, three years on, Yugoslavia was hardly likely to look favorably on yet another NATO demand for unrestricted transit rights.

Fortunately for the humanitarian interventionists, no one bothered to check what was in the Dayton Accords. There was nothing whatsoever in the agreement about NATO having the unrestricted right to move around in Yugoslavia. Once that story collapsed, another one emerged, namely that Yugoslavia wouldn't have accepted the Rambouillet plan even if it didn't include Appendix B – yet another counterfactual speculation proffered to buttress NATO's justification for going to war. This new claim was remarkably fatuous since it could never be proved or disproved. Appendix B had been a non-negotiable demand. Moreover, the claim failed to address the key issue: why should Serb refusal to sign such an extremely unfavorable deal merit such horrific punishment? What was the rush?

It was time, therefore, to bring out the hardy perennial: when all else fails, ascribe outrageous U.S. or NATO behavior to a “blunder.” Vietnam was a “blunder,” as was the 2003 invasion of Iraq. Adversaries of the United States do terrible things out of wickedness, following careful planning; we, on the

other hand, do them out of benign incompetence. We meant well – the execution failed.

This was the line taken by the House of Commons report: “NATO was guilty of a serious blunder in allowing a Status of Forces Agreement into the package which would never have been acceptable to the Yugoslav side, since it was a significant infringement of its sovereignty.” Yet, perversely, the authors dismissed the “serious blunder” as insignificant. Milošević “was not susceptible to threats that his country would be bombed, because he did not care about his people, or at least, he cared about maintaining his own position more, and agreeing to Rambouillet would have been more dangerous to his position than NATO launching a bombing campaign.” (This was a reverse of the pre-bombing U.S. National Intelligence Estimate argument, according to which Milošević would cave in to NATO’s threats precisely because he cared only about holding on to power. And both contradicted NATO’s original rationale for launching its bombing campaign, namely, that it would bring his rule to an end.) The report quotes Tim Judah as arguing that Milošević believed that the bombing campaign would last only a few days, and that he could withstand this. “Milošević decided to gamble and he lost everything.” The destruction wrought by the bombing was thus Milošević’s fault because he foolishly thought it would last only a few days. Little did he realize how resolute NATO truly was!

On this reading, the problem was not the reasonableness or otherwise of the Rambouillet package. There was nothing unreasonable about threatening Milošević with bombs; what was unreasonable was to expect him to act reasonably and surrender. NATO had naively assumed that Milošević cared about his people and his country and would therefore spare them the bombing. He didn’t; all he cared about was power. The House of Commons happily concluded that “considerable efforts were made to find a peaceful means of averting the Kosovo crisis. Leaving aside the Military Annex, a matter not raised at the negotiation, the Rambouillet proposals were reasonable. Milošević was not reasonable, but despite this, it was worth making a determined effort to find a diplomatic solution.”<sup>67</sup> Milošević, hitherto invariably described in the Western media as shrewd, pragmatic, someone concerned only with his own survival, had now become the madman in the bunker, preferring *Götterdämmerung* to surrender. Of course, if the House of Commons authors were right and Milošević was a madman, then NATO had again miscalculated on a spectacular scale. NATO’s working assumption – one shared by most of the leading commentators on Balkan affairs – that Milošević only understood the language of force and that he would back down as soon as he

was threatened with bombs turned out to be nothing more than half-baked psychologizing.

Note the House of Commons logic: it is reasonable to threaten to bomb a state to force it to sign an agreement, something explicitly prohibited by the 1969 Vienna Convention on the Law of Treaties. ("A treaty is void if its conclusion has been procured by the threat or use of force in violation of the principles of international law embodied in the Charter of the United Nations.") It is reasonable to demand of Yugoslavia "a significant infringement of its sovereignty." What's unreasonable is to say no to these threats. That shows insanity. To be fair, the House of Commons authors sensed the problem. Hence, the outrageous falsehood that the military annex was "not raised at the negotiation." Milošević had allegedly rejected the Rambouillet proposal on other grounds. So NATO was off the hook.

The specious claim that the Yugoslavs had not brought up the military annex issue at Rambouillet was to come up time and again in the post-match analyses and self-justifications. A notable apologia along this line appeared in the august pages of the *New York Review of Books*. Its author, Timothy Garton Ash, grandly explained that "as a matter of historical record, all the senior Western negotiators I have spoken to, including Holbrooke, Hill, and Robin Cook, agree that the Serb side at Rambouillet ... did not even raise Appendix B as an obstacle to an otherwise achievable agreement. In short: Appendix B may have been arrogant and foolish, but it was not a cause of the war." "Arrogant and foolish" – obviously the brainchild of some lowly official, sleepless from too many graveyard shifts, not the work of the senior statesmen with whom the author regularly converses. Let us leave aside Garton Ash's complacent assumption that NATO leaders Holbrooke, Hill, and Cook were disinterested interlocutors whose word could be trusted. Let us focus instead on his lawyerly prose, in particular his sly use of the indefinite article: he appears to suggest that Appendix B couldn't have been "a cause of the war" because there may have been other aspects of the Rambouillet plan to which the Serbs had objected. The Serbs would have rejected the plan even if Appendix B had been no part of it. At least, that was what Holbrooke, Hill, and Cook had told him. So it was OK for NATO to bomb, terrorize, and kill because the Serbs would have rejected the Rambouillet plan even without Appendix B. (Of course, that brings up the question: if the Serbs would have rejected a perfectly reasonable agreement, wouldn't NATO have been better served by not insisting on Appendix B?) Not only is Garton Ash's argument morally repugnant, it is staggeringly obtuse. Whether the Serbs would or would not have accepted the Rambouillet plan without Appendix B is an

issue of no importance whatsoever. Appendix B was non-negotiable – NATO had made that crystal clear again and again. The Serbs *had* strenuously objected to it. So, at the very least it was “a” cause of the war. Moreover, simply dismissing Appendix B as “arrogant and foolish” – standard evasive choice of words to suggest a personal foible rather than an act of statecraft – won’t suffice. Rejection of this “arrogant and foolish” plan had dire consequences for the Serbs, though not for Anglo-American “foreign policy experts” given to lofty ruminations about world affairs.

The most ingenious attempt yet to square the circle came, not surprisingly, from NATO’s legal office, the ICTY. The Serbs, according to the ICTY, wanted NATO to bomb them because this would provide them with the cover they needed to carry out their long-standing plan to rid themselves of Kosovo’s Albanians. Contrary to the claim made in the House of Commons report that Milošević wasn’t rational, the ICTY’s account painted him as the embodiment of cold-blooded rationality. In its February 2009 Kosovo judgment, the ICTY trial court concluded that the Serbs had deliberately sought to sabotage the Rambouillet talks in the hope that failure there would lead to NATO bombing. The NATO campaign would offer the Serbs the opportunity they had long sought to alter the demographics of Kosovo. The Serbs would now have “plausible deniability:” They could blame the exodus of the Kosovo Albanians on NATO’s bombs. This was mainstream NATO propaganda from the glory days of 1999, of course. There was a significant difference, though. NATO leaders now appeared in the guise not of valiant, humanitarian crusaders but of well-meaning, blundering dunderheads who had been outmaneuvered by the crafty Serbs. NATO had walked into a trap that had been laid for it by the Serbs.

The ICTY’s reasoning made no sense and came unencumbered by the slightest supporting evidence. The sole basis for the ICTY’s claim was exactly the same as NATO’s in 1999: since Belgrade had moved its forces into Kosovo before the first NATO bomb landed, it couldn’t have been responding to NATO’s attacks. Therefore, Belgrade’s intention all along had been to attack the Kosovo Albanians in order to push them out of the province.

There are several problems with the ICTY’s convoluted reasoning. First, a much more understandable explanation for Belgrade’s move into Kosovo is ready to hand: from late February on, the failure of the Rambouillet talks and the prospect of NATO bombing were becoming increasingly inevitable. Belgrade had every reason to expect a renewed offensive by a much strengthened and rearmed KLA, and, down the road, a NATO ground invasion. It would have been the height of irresponsibility for the Serbs not to move their forces into Kosovo in anticipation of the coming war.

Second, there was no way in the world that Belgrade could have expected to enjoy plausible deniability. The already demonized Serbs were immediately blamed for the exodus out of Kosovo, as Serb leaders knew they would be. The ICTY's claim that the Serbs (universally blamed for the wars in Croatia, Bosnia, and even Slovenia) believed they would get a free pass from the world's media is laughable. For the ICTY's conspiracy theory to work, the Serbs would have to be at once extraordinarily cunning and extraordinarily stupid.

Third, Yugoslavia had no serious expectation of prevailing against NATO. Therefore, any ethnic cleansing undertaken by the Serbs was bound to be reversed at the conclusion of the NATO campaign. Even in the unlikely circumstances of Yugoslavia's holding NATO to a draw, there was no way that NATO would simply shrug its shoulders and accept 800,000 Albanians as having been permanently displaced from Kosovo.

David Owen was far more honest, at least in his initial appraisal. "Rambouillet was a diplomatic disaster ... a process where diplomacy was swamped by politics and rhetoric triumphed over reality," he wrote. However, the problem wasn't just Appendix B. There was also Albright's promise to KLA leaders about a referendum on Kosovo's independence, "something she must have known was complete anathema to the Serbs." Consequently, "there was no question that the Serbs would risk air attacks" rather than submit to Western demands.<sup>68</sup> So Milošević's rejection of the Rambouillet diktat was perfectly reasonable. Naturally, it was more comforting to explain this by reference to baser motives: Milošević was clinging to power, he expected NATO to cave in, Kosovo Serbs were his power base, etc. Equally naturally, base motives couldn't possibly be attributed to our side. NATO's ultimatums and bombing campaign couldn't possibly have had anything to do with Clinton seeking to shift attention from his sordid impeachment and trial or with NATO's desperate search for relevance after the end of the Cold War or with the United States' attempt to corral Central and Southeastern Europe into its orbit of influence.

Most of the mainstream media were too obsessed with the issue of when NATO would finally begin its ground invasion to wonder whether the bombing could have been avoided, whether NATO had deliberately made its demands on the Serbs at Rambouillet so onerous as to guarantee rejection. It was striking that, after March 24, whenever NATO government leaders publicly spelled out their peace terms, they made no mention of a NATO implementation force, let alone Appendix B. Instead, NATO insisted only on an international military force. Had NATO been willing to discuss this at Rambouillet, the post-March 24 disaster could have been avoided.

In fact, the only reason the bombing went on for 11 weeks was Washington's insistence on NATO occupation of Kosovo. NATO kept the public in the dark about this. For example, on April 23, at the Washington summit, the NATO government leaders issued a communiqué demanding, in addition to the return of Kosovo refugees and the withdrawal of Yugoslav and Serb security forces, "credible assurance" from Milošević "of his willingness to work for the establishment of a political framework agreement based on the Rambouillet accords." Belgrade also had to agree "to the stationing in Kosovo of an international military presence." There was no demand for NATO command and control. On May 6, the G-8 foreign ministers adopted seven principles for the "political solution of the Kosovo crisis." They included the return of refugees and the withdrawal of security forces, but also "deployment in Kosovo of effective international civil and security presences, endorsed and adopted by the United Nations." In addition, the foreign ministers called for a "political process towards the establishment of an interim political framework agreement providing for a substantial self-government for Kosovo, taking full account of the Rambouillet accords and the principles of sovereignty and territorial integrity of the [FRY] and the other countries of the region, and the demilitarization of the UCK." Again, the G-8 ministers played down the NATO issue.

Hitherto, the Western powers had unequivocally demanded an agreement based on the Rambouillet accords. Now the Rambouillet accords were merely to be taken account of along with the sovereignty and territorial integrity of the FRY. Kosovo would get an international security presence authorized by the U.N. There was no insistence that it be under NATO command or that NATO be its core. Misinterpreting, as usual, what had just happened, the media concluded that the G-8 statement indicated that the Russians had abandoned Yugoslavia, their "traditional ally." In reality, it indicated that diplomacy had been taken out of the hands of the Clinton administration.

Obviously, the Americans weren't going to take this lying down. The next day, on May 7, Albright told a TV interviewer that there could be no compromise on the issue of NATO forming the core of any international security force – "we insist on [this] not for theological reasons, but because there's no way that the refugees will go back if that is not the case." Ignoring what the G-8 had agreed on a day earlier, Albright insisted that there was no need for U.N. authorization of a Kosovo security force. The idea that refugees wouldn't return home unless they saw the reassuring presence of NATO was absurd. The refugees weren't the problem. The U.S.-KLA team had no intention of allowing control of Kosovo to slip out of its hands.

NATO, while publicly endorsing the G-8 terms, insisted on very different terms of its own. Milošević had to accept the full panoply of NATO demands. "NATO's conditions for halting the bombing and resolving the crisis are more stringent than those of the eight powers," the *Washington Post* reported, "requiring all Yugoslav troops and Serbian police forces to evacuate Kosovo – at least temporarily – to allow the return of the more than 800,000 refugees that security forces drove from the province. It also requires that the international peacekeeping contingent to be deployed there have NATO troops at its core."<sup>69</sup>

"NATO troops at its core" sounded anodyne enough – Yugoslavia, understandably, interpreted this as a euphemism for NATO command and control. Nonetheless, a face-saving formula could have been arrived at and the bombing brought to an end. NATO refused to entertain such an idea and intensified the bombing. "U.S. and NATO officials expressed skepticism about Milošević's intentions," the *Post* report continued. "They said the Yugoslav leader has indicated for the past two weeks that he is ready to accept the eight-power principles, but he has shown no willingness thus far to accept NATO's tougher demands." Follow the logic here. Milošević accepts the G-8 demands. NATO pretends to support the G-8 terms, but refuses to halt the bombing unless Milošević accedes to its own "more stringent," "tougher" terms. And Milošević is the one who is being deceitful!

The bombing was to continue for another five weeks, until Yugoslavia accepted "NATO's tougher demands." The final choice of words: an "international security presence with substantial North Atlantic Treaty Organization participation." For these words in Annex 2 of U.N. Security Council Resolution 1244, it was worth causing the following events, all of which took place after the May 6 G-8 meeting: the bombing of the Chinese embassy on May 8, the Niš marketplace killings on May 7, the killing of 87 displaced Albanians in Koriša on May 13, and the daytime attack on Varvarin bridge on May 30 (a Sunday) which led to the death of 11 people.<sup>70</sup>

### THE GO-BETWEENS

The G-8 principles were a dead letter. To make sure that Yugoslavia understood that, NATO dispatched an E.U. envoy, Finnish President Martti Ahtisaari, to Belgrade. Hitherto, negotiations – such as they were – between NATO and Yugoslavia were handled by Russia's Viktor Chernomyrdin, a former prime minister. However, the Russian had, naively, assumed that any cessation of the conflict would be based on the G-8 terms. According to press

accounts, Chernomyrdin had suggested to the Americans that a European accompany him in his negotiations with Yugoslavia. Albright recommended Ahtisaari, in part, apparently, to head off the Europeans' choice, Swedish Prime Minister Carl Bildt. (Bildt had displeased the Americans in 1995 by his forthright condemnation of Croatia's Operation Storm. "The Croat offensive against its Serb-populated area must be condemned in the sharpest possible terms," he had said back then.) "Albright knew Ahtisaari would not seek to water down NATO's conditions, as [the administration] feared Bildt would," *U.S. News & World Report* quoted a "senior administration official" as saying.<sup>71</sup> Ahtisaari's role would be "to make sure Milošević is fully aware of their conditions for ending the conflict. Senior NATO diplomats said they have doubts that Chernomyrdin, during his four previous visits to Belgrade, was properly conveying the allied position."<sup>72</sup>

Deputy U.S. Secretary of State Strobe Talbott, Ahtisaari, and Chernomyrdin met in Bonn. At the meeting, Talbott announced that NATO would not stop the bombing until Milošević accepted all of NATO's conditions, including the "international security presence with NATO troops at its core." In a mysterious about-face, Chernomyrdin revealed that he was ready to jettison the G-8 principles and to sign on to the NATO plan. "Chernomyrdin pledged not to argue when the document was presented," the *New York Times* reported. "Just as important, the Russian envoy promised to remain silent when the Finnish President told Mr. Milošević that if he did not accept the conditions, the demands would only get more stringent as the war wound on."<sup>73</sup>

Following the Bonn meeting, on June 2, Ahtisaari and Chernomyrdin flew to Belgrade. They arrived with a ten-point plan and a message: Milošević had to accede to NATO's terms and to forget about the G-8. As Ahtisaari subsequently described this meeting, "I started to read [the ten points]. He asked whether this could be improved. I said: 'Unfortunately not because I don't have any authority and neither does Chernomyrdin to negotiate this.' He asked: 'You couldn't pass any messages?' I said: 'No, I can't. I said that this is as good as it gets.'"<sup>74</sup> According to Yugoslavs who were at this meeting, Milošević asked the duo: "What will happen if I do not sign?" In response, Ahtisaari moved aside the flower centerpiece on the table. "Belgrade will be like this table. We will immediately begin carpet-bombing Belgrade," Ahtisaari said. "A moment of silence passed, and then he added, 'There will be half a million dead within a week.' Chernomyrdin's silence confirmed that the Russian government would do nothing to discourage carpet-bombing."<sup>75</sup>

Milošević agreed to the withdrawal of Serb and Yugoslav forces. However, he had won some concessions. There would have to be a U.N. resolution au-

thorizing the deployment of an implementation force. Though troops from NATO countries would participate in this force, the command and control of the force would not be NATO's. The G-8 began to draft a U.N. resolution even as NATO continued and indeed intensified its bombing. The Americans insisted that the resolution specify NATO command and control. Intensive haggling resulted in Annex 2's final wording: "The international security presence with substantial North Atlantic Treaty Organization participation must be deployed under unified command and control." However, Resolution 1244 referred to "deployment in Kosovo, under United Nations auspices, of international civil and security presences."

Even before the adoption of the U.N. resolution on June 10, Clinton administration officials were telling the world that, whatever the wording, any Kosovo implementation force would be a NATO operation from start to finish. "Everybody understands that this is a NATO-led peacekeeping force," announced Pentagon spokesman Kenneth Bacon, even though that is not what the resolution said. "Everybody," as usual, meant NATO. "Ultimately NATO has to be in charge," said Defense Secretary Cohen. Even the Russians, should they want to participate, would have to be under NATO command.<sup>76</sup> The State Department's Rubin said on June 4, "This will be a peacekeeping operation with NATO at its core, with a unified command and control structure through the North Atlantic Council procedures, and not controlled or determined in any way operationally by the United Nations secretariat or anybody else at the United Nations."

NATO quickly demonstrated that it had no intention of paying any attention to whatever resolution the Security Council adopted. At the so-called military-technical agreement talks in Kumanovo, Macedonia, NATO presented Yugoslav military leaders a "20-point document" which did "not mention the U.N. once." A reporter from the *Irish Times* – one of the few who bothered to take into account any view other than NATO's – described Yugoslavia's military as complaining that they were expecting "a genuine U.N. force – blue berets, blue flags, and Russians." Instead, NATO was "trying to create facts on the ground by exacting the maximum number of concessions before a U.N. Security Council resolution giving a mandate to the force is passed."<sup>77</sup> The rest of the media, predictably, had it the other way around: Milošević was balking in the hope of gaining advantages at the Security Council.

While these talks went on, NATO stepped up its bombing. NATO intensified the bombing even as the U.N. Security Council in New York was deliberating over the resolution. Why was NATO doing this? Cohen, as was his wont, took the prize for the most convoluted explanation. If the bombing

stopped before the Serbs began their pullout, he told reporters, debate in the U.N. Security Council on the resolution would drag on. "So we would have a situation where we would have a paper agreement but no compliance and the potential for having a long, extended debate in the Security Council, and that would work to the disadvantage of the U.S. and allied forces."<sup>78</sup> Since NATO was in the habit of ignoring anything the U.N. decided, the idea that it would be unable to resume bombing in the event of Serb non-compliance with a U.N. resolution was laughable.

There was a much more plausible explanation for NATO's intensified bombing. NATO was trying to help the KLA take over Kosovo. The KLA had had a mediocre war. Despite NATO's ceaseless pummeling, it had achieved very little. For all the heady talk of 1998 that the KLA controlled 40% of Kosovo, it was clear that, as of June 1999, the KLA controlled nothing. The KLA hadn't been a party to the Ahtisaari-Chernomyrdin plan, any more than it had been a party to the October 1998 agreements.

With Yugoslav forces retreating and with NATO still bombing, the KLA's moment had finally come. The KLA would enter Kosovo ahead of NATO and mete out its brand of justice. NATO was more than happy to oblige. Publicly, NATO insisted that it would continue to bomb until Yugoslav troops and police began a "visible and verifiable" withdrawal from Kosovo. Yugoslavia complained that if it withdrew its forces abruptly, the KLA would enter Kosovo and threaten the Kosovo Serbs. The KLA was fully armed because NATO had not insisted on KLA disarmament. To the contrary, NATO had made it clear that there would be no KLA disarmament even after NATO's entry into the province. NATO's preferred term was KLA "demilitarization." Reporters lazily assumed that disarmament and demilitarization were synonymous. They were not. As the Bosnian war had shown, demilitarization was anything but disarmament. According to U.N. resolutions, the Bosnian Muslim enclaves were to be demilitarized, yet Muslim armed forces happily continued to use them as bases from which to launch armed attacks.

Pentagon spokesman Kenneth Bacon explained this at a June 5 news briefing: "The goal will be demilitarization rather than disarmament. Demilitarization is different from disarmament. It means that they stand down as a military force. They don't exercise. They don't walk around in uniforms. They will be allowed to keep hunting rifles and things like that which is different from complete disarmament." State Department spokesman Rubin explained that all that would be required of KLA members is that they declare their weapons: "We don't envisage the peacekeeping force going out and disarming [KLA] units because the [KLA] leaders have indicated that they will follow

through on the basic plan envisaged, which involves them declaring weapons and changing their *modus operandi*.” There was no need to disarm the KLA since it was an ally of NATO.

Moreover, even this so-called demilitarization would not take place until “all the Serbs are out,” as the Pentagon’s Bacon put it on June 14. “Right now NATO is concentrating on getting the Serbs out. We understand it’s not reasonable to assume that there can be any demilitarization until all the Serbs are out.” Bacon consistently and deliberately refused to distinguish between “Serbs” and “Serb forces.” The KLA understandably interpreted such remarks as a green light to rid the province of all Serbs. The KLA went on a rampage of looting, terror, murder, kidnapping, and arson against Serbs, the Roma, and other minorities in the province. Tens of thousands of non-Albanians fled. NATO did very little to halt this, its leaders contenting themselves with warmed-over pieties about creating a multicultural democracy. As usual, the Serbs, lacking as they did the official seal of approval as victims deserving of sympathy, received none. The media either ignored their plight or reported it with grim satisfaction as if it were a fate richly deserved.

Meanwhile, the NATO bombing went on. As Representative Dennis Kucinich, D-Ohio, who ran for the presidency in 2004 and 2008, said at the time, “NATO is risking re-igniting a wider war by simultaneously insisting on troop withdrawals and continuing bombing attacks on the troops. Either NATO has a peace plan in its hand, or it doesn’t. If it does, then it should stop the bombing instead of this approach of putting one foot on the accelerator of war and the other on the brake of peace.”<sup>79</sup>

The KLA also stepped up its attacks on Serb forces. NATO was delighted. It could intensify the bombing because it now had, to use its parlance, a target-rich environment to aim at. As Pentagon spokesman Bacon explained on June 7:

In the Junik area, the KLA continues to hold territory as it has for a number of days, despite a fairly aggressive Serb counteroffensive. And in the Mount Pastrik area, the KLA also continues to hold some territory, although they have not been able to advance as much as they might have liked to have, because the Serbs have brought in more reinforcements. It’s precisely these reinforcements that increase the number of targets available to NATO as it tries to continue its effort to degrade and diminish the Serb military and special police ... To the extent that the KLA activities flush out Serb troops and force them out of hiding and into active positions, it obviously gives more targets to the A-10s and the other allied planes that are working to diminish and degrade the Serb military forces.<sup>80</sup>

This was too much for one or two members of the generally quiescent Pentagon press corps. The G-8 was at that very moment drafting a U.N. Security Council resolution. A peace plan was in the works. The Serbs were supposed to be leaving Kosovo. How could intensified KLA and NATO attacks on Serb forces be of any help? One reporter even queried: "Are we using any kind of persuasion or pressure on the KLA to promise not to attack retreating columns?" Bacon gave a standard Washington non-answer: "Basically it is in the interest of the KLA to let the Serbs get out as quickly as possible. It's not in their interest to slow down their exit. And I anticipate that once the Serbs begin to deliver on their agreement to leave, that they will leave as quickly as possible and that the KLA will be doing everything it can to help them get out, not to impede their exit." He expected the KLA to stop attacking the Serbs, but he really had no idea whether they would do so and cared even less. If the Serbs responded to KLA attacks by going after the KLA, then that would be grounds for intensifying NATO bombing. "We don't coordinate with the KLA," Bacon reassured reporters. But the KLA was fighting the Serbs, and NATO was bombing the Serbs, and the KLA's fight was helping NATO's fight and vice versa. Since the KLA was under no obligation to stop attacking Serbs, NATO could happily justify its continued bombing by claiming that the Serbs still hadn't left the province as promised.

On June 7, the Pentagon boasted that on that day NATO had flown 576 sorties. The spokesman explained that these strikes "were around the Mount Pastrik area, where there has been fighting between the UCK and the VJ forces. That fighting's been going on for about a week or so." But of course there had been no coordination between NATO and the KLA. On June 8, NATO flew 523 sorties. On June 9, NATO flew 800 sorties. For June 10, NATO had scheduled 810 sorties. The G-8 ministers had at that stage already drafted a Security Council resolution authorizing a security force for Kosovo.

The Russians and the Yugoslavs complained that it was unheard of for bombing to continue while the Security Council was debating a resolution that would authorize a peacekeeping force. NATO refused to stop bombing until there was "visible and verifiable" and "significant" withdrawal of Yugoslav forces. Such withdrawal would obviously hand Kosovo's Serbs over to the mercy of the KLA, as NATO well knew. "I don't think that Kosovo is going to be a very happy place for Serbs when NATO comes in and ... I don't think Serbs will want to stay there," a gleeful Pentagon spokesman Kenneth Bacon said on June 5. "I think they will want to return to Serbia." Bacon's comment, with its fatuous suggestion that the Serb residents of Kosovo were colonists from Serbia, was a useful indicator of how seriously NATO took its boilerplate

about multiculturalism. NATO, as Bacon made it clear, would not take it amiss if the Kosovo Albanians, and particularly the KLA, decided to drive the Serbs out of Kosovo.

Doubtless, NATO would rationalize a mass Serb exodus in terms similar to those used by Peter Galbraith, the U.S. ambassador to Croatia, after Operation Storm. Back then, Galbraith denied that the expulsion of the Serbs could be labeled “ethnic cleansing.” “Ethnic cleansing,” he explained, “is a practice sponsored by the leadership in Belgrade carried out by the Bosnian Serbs and also by the Croatian Serbs of forcibly expelling the local population, whether it was Muslim or Croat, using terror tactics.”<sup>81</sup> In other words, “ethnic cleansing” is something Serbs do; when anyone else practices it on them, it gets called something else. So when the KLA launched its expected terror campaign against the Serbs, the media dutifully had other, more agreeable words to describe it – “revenge attacks” or “reverse ethnic cleansing.”<sup>82</sup>

The Yugoslavs, understandably, tried to do whatever they could to prevent the KLA from seizing control of Kosovo. By doing so, they sustained heavy casualties at the hands of NATO. “On the slopes of Mount Pastrik, near the Albanian border, between 800 and 1,200 troops gathered [on June 7], ready for KLA soldiers trying to force their way back into Kosovo,” the *Sunday Times* reported.<sup>83</sup> “When reconnaissance spotted two battalions of Serbian troops massing in a field, an American B-52 bomber, flying from Britain, was diverted from its target. The planes can carry large payloads of cluster weapons as well as 500lb Mark-82 gravity bombs. The devastation was terrible.” NATO had inflicted the “devastation” for no reason other than to clear a path for the KLA.

Belgrade had asked NATO to ensure that its forces entered Kosovo simultaneously with the departure of Yugoslav forces. Its request fell on deaf ears. NATO, suddenly sticklers for legalities, claimed it couldn’t go in before the U.N. Security Council passed a resolution authorizing it to do so. However, NATO wouldn’t stop the bombing until Yugoslav forces were out of Kosovo. Milošević asked that Yugoslav forces be allowed to remain until the international forces arrive. NATO refused and intensified the bombing, putting out the entirely specious story that Milošević was going back on his commitments to Chernomyrdin and Ahtisaari. Robin Cook, the British foreign secretary, told reporters that Yugoslav generals wanted to “withdraw their troops only down to what they describe as peacetime levels. That could mean them keeping 10,000 to 15,000 troops in Kosovo. Well, that’s a nonstarter.” This was untrue. The Yugoslav generals wanted NATO cooperation on protection of Kosovo’s Serb population.

On June 9, NATO and Yugoslavia signed the military-technical agreement arranging the terms of the withdrawal of Yugoslav forces. Yugoslav forces began to withdraw. On June 10, the U.N. Security Council passed Resolution 1244. On the same day, Solana announced the suspension of the bombing. NATO forces were expected to enter Kosovo that day. However, they held back and waited for the KLA. NATO offered no explanation for the delay. "There should be no rush to put peacekeeping troops in danger, the Pentagon said," the media reported with some surprise, "as the schedule for NATO entry into Kosovo turned murky ... American, British and other troops assigned to secure the province as Serb troops depart milled around the Kosovo border ... ready to move when they get the word."<sup>84</sup> As NATO continued to dawdle, the Russians took matters into their own hands. It was precisely because of NATO's reluctance to enter Kosovo and put a brake on the KLA terror that the Russians made their dramatic dash down to Pristina. The Russians' takeover of Pristina airport finally shocked NATO into sending its forces into the province.

KFOR's reluctance to restrain the KLA led to appalling crimes. In his widely publicized 2010 report, Dick Marty, the rapporteur entrusted by the European Parliament to investigate allegations of KLA criminality, described KFOR as

making a rather slow start in establishing themselves ... It was chaos: there was no functioning administration on the part of the Kosovars, and KFOR took quite some time to gain control of the situation, evidently not possessing the know-how needed to cope with such extreme situations ... It was in the course of this critical period that numerous crimes were committed both against Serbs who had stayed in the region and against Kosovar Albanians suspected of having been "traitors" or "collaborators", or who fell victim to internal rivalries within the KLA. These crimes have largely gone unpunished and it is only years later that a rather diffident start has been made in dealing with them.<sup>85</sup>

As was the case in the aftermath of Operation Storm, crimes committed against Serbs were written off as something that, while not justifiable, were perfectly understandable and even deserved.

The swift KLA takeover of Kosovo was, of course, expected and welcomed. NATO made sure to dismantle all official government structures in Kosovo. Into this vacuum stepped the only organized armed force on the ground. Thanks to NATO, the KLA, according to Marty, had

effectively unfettered control of an expanded territorial area in which to carry out various forms of smuggling and trafficking ... KLA factions and splinter groups that had control of distinct areas of Kosovo (villages, stretches of road, sometimes even individual buildings) were able to run organised criminal enterprises almost at will, including in disposing of the trophies of their perceived victory over the Serbs.

Thaçi, who appointed himself prime minister of Kosovo's provisional government, moved to consolidate his power through assassination, abduction, and torture. Taçi's targets were not only Serbs. They

included anybody suspected ... of having "collaborated with" or served Serb officialdom. In a door-to-door campaign of intimidation, KLA foot soldiers were ordered to collect names of persons who had worked for the ousted FRY authorities (in however trivial an administrative function), or whose relatives or associates had done so. Into this category of putative "collaborators" fell large numbers of ethnic Albanians, as well as Roma and other minorities.<sup>86</sup>

### PLAUDITS AND RECRIMINATIONS

The end of the bombing and NATO's march into Kosovo were greeted much as the signing of the Dayton Accords had been – as another triumph for muscular U.S. diplomacy, a vindication of NATO's selfless concern for human rights and unwavering willingness to stand up to dictators and to uphold Western values. Once again, the democracies had won and the totalitarians had lost. Boasting of having saved the Kosovo Albanians from the marauding Serb hordes, NATO leaders alternated their exultant, lyrical odes to themselves with occasional weighty, Brzezinski-style meditations on the end of the totalitarian era.

Blair rhapsodized:

We were faced with a moral choice: to let this barbarism happen or to stop it. We chose the right course. In doing so, we knew we could not prevent death and destruction for many. But Milošević now knows, and the world now knows that we will not let racial genocide go on without challenge. We will not see the values of civilisation sacrificed without raising the hand of justice in their defence ... But war can be necessary to uphold civilisation. This one was. This war was not fought for Albanians against Serbs. It was not fought

for territory. Still less for the aggrandizement of NATO. It was fought for a fundamental principle necessary for humanity's progress: that every human being regardless of race, religion or birth, has the inalienable right to live free from persecution.

Albright was even more garrulous:

When we were fighting Hitler, it wasn't just Hitler, it was fighting against fascism. When we were fighting against Stalin, it wasn't just the cruelty of a totalitarian dictator like Stalin, it was against communism that extinguished people's ability to be free. And when we're dealing with a now-indicted war criminal such as Milošević, it isn't just him, it is struggling against a concept which is that it is not appropriate, possible, or permissible for one man to uncork ethnic nationalism as a weapon and poison the atmosphere by exiling people from a place they live only because of who they are. And I think that by what we have done now and by the victory that has been achieved by the NATO alliance, we have shown that we will not live in a world where this kind of crimes against humanity can be committed with impunity.

However, there was less to NATO's victory than met the eye. NATO had had to jettison the Rambouillet accords, the referendum on independence, Appendix B, and the demand for unrestricted movement throughout Yugoslavia. In addition, the NATO viceroy of Kosovo would be answerable to the U.N. and the military presence would have to be authorized by the U.N. Security Council. When one takes into account the terrible carnage wrought by the NATO bombing, the misery it brought to its ostensible beneficiaries, the subsequent horrors that it inflicted on the unfortunate people who have to live in Kosovo under the NATO-KLA regime, NATO's achievement in its first-ever war was rather meager.

The media, of course, hailed the bombing campaign as a triumph. But what exactly had NATO won? The return of the Kosovo Albanians to their homes could hardly be celebrated as a great victory since they had fled their homes in the first place only after NATO's bombs began to fall. Some news media desperately tried to claim that Milošević had been forced to accept terms more onerous than what was offered to him at Rambouillet. That was surely proof that NATO had achieved something? The *Los Angeles Times* wrote that Milošević got "very little that was not in the proposal that he turned down following marathon talks at the Rambouillet chateau in France. And in several ways, Milošević came away with less." But when it came to listing

the ways in which Milošević had come away with less, the paper could only think of one: “The Rambouillet plan would have allowed Yugoslavia to keep 5,000 troops in Kosovo and on its border for the first year, going down to a permanent garrison of 2,500 after that. Now, all Yugoslav army, police and paramilitary troops must be withdrawn. A few hundred will be allowed to return, primarily to guard Serbian monuments.” *U.S. News & World Report* also made much of this apparently huge setback for Milošević: the final agreement, it said, “imposes somewhat tougher terms on Milošević than the draft accord that Yugoslavia rejected in March in France. Then, diplomats talked of allowing 5,000 to 11,000 Serbian troops and police to remain in Kosovo. Now, the number is to be ‘in the hundreds.’”<sup>87</sup>

These accounts overlooked the obvious point that it was NATO that had started the war. Therefore, the onus was on NATO, not on Milošević, to show that the war had been worth it. The Serbs lost. But a small power that resists the bullying encroachments of a big power will usually lose. It fights not to gain any concrete advantages but to preserve the spirit of the nation, to inspire future generations. Ratko Marković, who headed the Yugoslav delegation at Rambouillet, testified as a defense witness in the Milošević trial. Milošević asked him if he had come to believe that not signing at Rambouillet was a mistake. “No, I don’t believe that that was an error. First of all, the country was not occupied. Unfortunately, a lot of people have lost their lives, but we have kept our honor. Our country maintained its dignity, and the Serbs have history. They have, because they always cared about their honor and saving their face more than anything else.”<sup>88</sup>

The Serbs kept their honor. That counts for far more than some minor reductions in force numbers, which in any case would mean nothing in a NATO-KLA ruled Kosovo. Even so, the claim that under Rambouillet the Serbs would have been permitted to maintain substantial forces in Kosovo was totally untrue. The Rambouillet plan did not envisage the presence of any “Serbian troops and police” whatsoever in Kosovo. It did envisage some Yugoslav border guards to man the international frontiers. But these would be far fewer in number: 1,500 VJ Border Guard forces would be permitted to be stationed at “Border Guard Battalion facilities located in Djakovica, Prizren, and Uroševac and subordinate facilities within the 5-kilometer Border Zone.” An additional number of VJ personnel, totaling no more than 1,000, would be permitted to “fulfill brigade-level functions related only to border security.” These guards, however, would not be permitted to leave the Border Zone. Any travel in Kosovo outside of the Border Zone would require the permission of the international security force (NATO) commander.

Moreover, this commander “may at any time review the deployments of VJ personnel and may require further adjustments to force levels, with the objective of reaching the minimum force structure required for legitimate border security.” Given NATO’s friendly, collegial feelings toward the Serbs, these “adjustments” would not be slow in coming.

Resolution 1244 also envisaged the stationing of a few Yugoslavs or Serbs in Kosovo. “After withdrawal, an agreed number of Yugoslav and Serbian personnel will be permitted to return.” Their functions would include “maintaining a presence at key border crossings” as well as “maintaining a presence at Serb patrimonial sites.” A presence at key border crossings was precisely what was promised at Rambouillet. A presence at Serb patrimonial sites, on the other hand, had not been promised at Rambouillet. David Owen had it right when he wrote, “Those who believe that this settlement is worse for Milošević than that which was offered at Rambouillet are deluding themselves.” Of course, none of this mattered very much, since NATO had no intention of fulfilling any requirements of Resolution 1244 that it didn’t like.

As was its wont, NATO enforced those provisions of Resolution 1244 that it liked and ignored the ones it didn’t. The resolution reaffirmed “the commitment of all Member States to the sovereignty and territorial integrity of the Federal Republic of Yugoslavia.” That was in the wastepaper basket in no time at all, as the NATO powers conspired with the Kosovo Albanians to detach the province from Serbia. The resolution provided for the return of “Yugoslav and Serbian personnel” to maintain a “presence at key border crossings” and a “presence at Serb patrimonial sites.” NATO flatly refused to abide by this provision. The KLA was supposed to be disarmed. Instead, the KLA handed in a few ancient weapons and renamed itself the Kosovo Protection Corps.

There was also the promise of “a political process designed to determine Kosovo’s future status, taking into account the Rambouillet accords.” NATO treated this provision with total disdain and embarked on creating an independent state in Kosovo, a process culminating in Kosovo’s unilateral secession in February 2008, followed by swift recognition by most – but by no means all – NATO and E.U. states. The Rambouillet accords had envisaged only the convening of an international meeting, three years after the accords went into effect, “to determine a mechanism for a final settlement for Kosovo, on the basis of the will of the people, opinions of relevant authorities, each Party’s efforts regarding the implementation of this Agreement, and the Helsinki Final Act.” No international meeting was held, the Helsinki Final Act was jettisoned, and the only party – other than NATO – whose views were taken into account was the Kosovo Albanians.

Ingenious NATO minds tried to argue that, as Yugoslavia had ceased to exist in 2003 when it was renamed Serbia and Montenegro, and as even that entity disappeared following the secession of Montenegro, the commitment to the sovereignty and territorial integrity of Yugoslavia had become devoid of meaning. This wasn't true. Serbia was a legal successor to the FRY, something acknowledged by the International Court of Justice in 2007 when it rejected Bosnia's genocide lawsuit against Serbia.

Following the end of the bombing, there were recriminations directed at NATO over its supposed reluctance to mount a ground invasion of Kosovo. If only NATO had planned to undertake this from the start, Milošević would have climbed down much sooner. This was highly unlikely. A full-scale invasion of Yugoslavia would have been a massive military operation, requiring months of preparation. Guerrilla warfare and fighting behind enemy lines are the kinds of combat Yugoslavia's armed forces had trained for during the Cold War and afterward. NATO's military prowess, on the other hand, is highly questionable (and has remained so following the inconclusive Afghanistan and Iraq invasions). Moreover, it is very unlikely that there would have been any public support for a ground invasion, particularly after three or four months of relentless bombing and mounting civilian casualties. NATO's problem would have been the same: there was too much evidence publicly available that NATO had wanted this war very badly as a present to itself on its 50th birthday.

NATO leaders had signally failed to persuade their publics that they had secured a famous victory in Kosovo. Despite an unprecedented propaganda blitz likening Serbs to Nazis, despite the wild stories of Serbs roasting babies on spits, and despite NATO's zero-casualty campaign, opinion polls consistently showed a distinct lack of enthusiasm for the great moral crusade that Clinton, Blair, Albright, and Solana had enjoined the Western public to embrace. Their high-flown rhetoric couldn't alter the fact that people fled Kosovo en masse after the start of the NATO bombing campaign and after the NATO-ordered withdrawal of the OSCE verification mission. Whether Kosovo's residents were fleeing Serbs or NATO's bombs was beside the point. NATO couldn't justify its humanitarian intervention by claiming that it was seeking to halt something that started only after this intervention.

Success, albeit a very modest one, stilled the voices of the doubters – for the time being at least. Sooner or later, NATO's reckless and frivolous campaign was bound to come under harsh scrutiny. NATO needed to ensure that its narrative of cause and effect would become the accepted history of the war. The Serbs had to be shown to be the aggressors and NATO the defenders

of the innocent. NATO had created a venue precisely for the purpose of institutionalizing its version of history. It was at the ICTY that NATO, during the following decade, would continue its self-justifications.

## CONCLUSIONS

### *Ensuring Success by Lowering Standards*

“NATO’s success in Kosovo will be the biggest deterrent to tyrants the world over and the biggest rallying call for democracy,” Blair said in a speech at Sofia University on May 17, 1999. “That is why, whatever it takes, we must succeed and the policy of brutal savagery that is ethnic cleansing must fail and be seen to fail.”

Tyrants the world over didn’t get Blair’s memo. A little more than two years later, the United States was attacked by radical Islamists. A month after that, the United States and its allies, in revenge, invaded Afghanistan. Less than 18 months later, the United States and its allies invaded Iraq. Apparently, the far-from-deterred Saddam Hussein had spent the previous decade developing weapons of mass destruction – this, despite 12 years of sanctions and non-stop bombing by the United States and its allies. Then, in March 2011, the United States and NATO launched a “humanitarian” war against Libya, a state hitherto touted as a partner in the war on terror and as a shining exemplar of a state that had belatedly joined the ranks of the righteous out of fear of Western attack. Colonel Qaddafi, having befriended the West and given up his nuclear program, had apparently returned to the ranks of the tyrants.

Thirteen years after the Kosovo campaign, the United States and its junior NATO partners are embroiled in several wars, which have cost thousands of American, British, and other allied lives, not to mention tens of thousands of non-Western lives. Then there are the U.S./NATO military campaigns that don’t quite rise to the level of actual wars, including the daily bombings of countries such as Pakistan, Yemen, and Somalia. Deaths of Iraqis and Afghans range in the hundreds of thousands. None of these wars have achieved anything that could remotely justify losses of such a magnitude.

In 2008, Samantha Power worried that “Americans will ‘overlearn’ the lessons of Iraq,” just as a generation earlier, neo-conservatives had anguished that the Vietnam syndrome might inhibit the United States from using force in the future. Power’s concerns were as misplaced as those of the neo-conservatives. It was the lessons of Bosnia and Kosovo, not those of Iraq, which

were “overlearned.” Because the Serbs were so easy to beat, it was assumed that every small nation would be. NATO, and particularly the United States, proclaimed that, thanks to a vigorous bombing campaign, the wars in the Balkans had been brought to an end. As usual, the media were more than happy to go along with this story. Yet the only wars the NATO powers had brought to an end were those they had themselves provoked and subsequently prolonged.

The Serbs were a particularly tempting target for NATO. In the 1990s, much as in the 1940s, the Serbs were bitterly divided. The Partisan-Chetnik division had continued almost as if nothing had happened during the intervening years. Moreover, the Serbs, having been allied with the West in two world wars, had foolishly assumed that this would count as goodwill in the bank. They didn’t realize until it was too late that, with the Cold War at an end, the United States had other fish to fry – transforming NATO into a global intervention force, scooping up the Warsaw Pact and the non-Russian parts of the former USSR into the Western military bloc, supporting Israel, creating a phalanx of pro-Western Muslim states in the Middle East and Central Asia, and eliminating Russian influence from the Balkans. World War II sentimentality would cut very little ice in Washington. Moreover, even up to the late 1990s, the Serbs continued to hold the West in extraordinarily high esteem on account of its generous, albeit self-interested, support of Yugoslavia during the Cold War. None of these conditions applied in Iraq, Iran, Afghanistan, and elsewhere. These countries looked upon the Western powers as conquerors, not as saviors. Serbia was a pushover. Iraq, Afghanistan, and Libya would not submit so easily.

The 9/11 attacks caught the United States by surprise. Blowback usually does. For that is what the terrorist attacks were: the unintended consequence of cynical two-decade-long U.S. foreign policy. In Afghanistan and in Bosnia, the United States had found it opportune to make use of the most violent and fanatical of Muslim fighters against first the Soviet Union and then Serbia. U.S. policymakers justified their actions much as Richard Holbrooke did,

[W]e often thought of historical analogies. The one that came to mind here was Winston Churchill’s famous comments about why Britain made common cause with Stalin against Hitler. I don’t want to put this up into that same level of history. But it was a legitimate decision for Churchill and he knew full well the consequences. Here at a much smaller scale, this was done ... and as soon as the cease fire was in place, as soon as we got to Dayton, we dealt with it. And it has been dealt with.<sup>1</sup>

The cynical calculation seemed to be that Muslims are good guys as long as they fight Communists and Slavs, but bad guys as soon as they fight Israelis and their Washington enablers. This neat compartmentalization was always likely to break apart.

Contrary to the expectation of Holbrooke-style humanitarian interventionists, Muslims the world over did not feel beholden to the United States over the bombing of Yugoslavia and Bosnia. Instead, the wild, hysterical exaggerations that Western foreign policy elites gave credence to in order to generate support for intervention in the Balkans contributed to the Muslim sense of victimhood, which in turn fueled the rage that expressed itself in the 9/11 terrorist attacks. It wasn't difficult to see where this careful cultivation of Muslim grievance over Bosnia would lead. During negotiations over the so-called Owen-Stoltenberg plan in the summer of 1993, Ejup Ganić, Bosnia's vice president, declared that the plan amounted to "legitimizing genocide and ethnic cleansing." If the international community abandoned Bosnia and sanctioned "partition," he warned, "terrorism will start all over Europe."<sup>2</sup> Others took up this cry. In January 1994, the *New York Times*' John F. Burns justified Muslim rage on the ground that Muslims had been subjected to unimaginable horrors in Bosnia:

We should ask ourselves having left these people defenseless, having denied them the right under United Nations Security Council Resolutions to arm themselves, can we be surprised when extremism and radicalism begins to take hold amongst the people who, being numbered at about 2 million at the start of this war, have lost perhaps a quarter of a million or three hundred thousand killed, perhaps two or three times that many wounded, and more than half of their total number driven from their homes, never one suspects to return, because their homes were subsequently destroyed; can we be surprised when radicalism and extremism begins to take root amongst these people? I would say no.

If a mainstream, establishment newspaper offers this kind of sympathetic understanding for Muslim "radicalism and extremism" directed at third parties, then one can scarcely be surprised if Osama bin Laden-types resort to insane, violent destruction.

In the aftermath of the 9/11 terrorist attacks, taboos were lifted and some in the media began to report facts that had been well known for years but seldom discussed. During the 1990s, the Bosnia that deserved the unflinching moral commitment of the West had become a haven for violent Islamists.

Also, contrary to the soothing assurances of U.S. officials, these radicals had never left Bosnia. According to the *Los Angeles Times*:<sup>3</sup>

Hundreds of foreign Islamic extremists who became Bosnian citizens after battling Serbian and Croatian forces present a potential terrorist threat to Europe and the United States, according to a classified U.S. State Department report and interviews with international military and intelligence sources. The extremists include hard-core terrorists, some with ties to Osama bin Laden, protected by militant elements of the former Sarajevo government.

Furthermore, it was revealed that U.S. officials “believe that some hard-line members of Izetbegović’s political party gave direct support, through their control of the Foreign Ministry and local passport operations, to foreign Islamic extremists with ties to Bin Laden ... [S]cores of Bin Laden associates may be trying to flee Afghanistan ahead of anticipated U.S. military reprisals for the Sept. 11 attacks, seeking refuge among militant sympathizers in Bosnia.” Islamic extremists received Bosnian passports the moment they landed on Bosnian soil. It was reward for services rendered.

The media presented this discovery as yet another one of those unfortunate, unintended consequences of a policy that was fundamentally sound and well intentioned. The Bosnian Muslims needed to be supported; the mujahedin were the only ones ready to do it. They were ruthless, brutal, and fighting the Serbs. If they committed horrific atrocities along the way, then that was no more than what the Serbs deserved. The same refrain was to be heard in 2011 and 2012 when the United States aligned itself with Islamists in Libya and Syria. Once again, foreign policy analysts rushed to tout the alleged military prowess of al Qaeda:

The Syrian rebels would be immeasurably weaker today without al-Qaeda in their ranks. By and large, Free Syrian Army (FSA) battalions are tired, divided, chaotic, and ineffective. Feeling abandoned by the West, rebel forces are increasingly demoralized as they square off with the Assad regime’s superior weaponry and professional army. Al-Qaeda fighters, however, may help improve morale. The influx of jihadis brings discipline, religious fervor, battle experience from Iraq, funding from Sunni sympathizers in the Gulf, and most importantly, deadly results. In short, the FSA needs al-Qaeda now.<sup>4</sup>

Another relished the upcoming fight against latest U.S. adversary Iran:

Islamists – many of them hardened by years of fighting U.S. forces in Iraq – are simply more effective fighters than their secular counterparts. Assad has had extraordinary difficulty countering tactics perfected by his former jihadist allies, particularly suicide bombings and roadside bombs. The Islamists' ability to shatter the calm even in high-security neighborhoods of Damascus and Aleppo is slowly stripping away the regime's outer layers of non-Alawite support ... For the foreseeable future, however, Iran constitutes a far greater and more immediate threat to U.S. national interests. Whatever misfortunes Sunni Islamists may visit upon the Syrian people, *any* government they form will be strategically preferable to the Assad regime ... So long as Syrian jihadis are committed to fighting Iran and its Arab proxies, we should quietly root for them – while keeping our distance from a conflict that is going to get very ugly before the smoke clears. There will be plenty of time to tame the beast after Iran's regional hegemonic ambitions have gone down in flames.<sup>5</sup>

Concerns about the political future of countries in which Islamists had acquired substantial influence are dismissed. There is nothing to worry about. There will be time enough for pro-Western democrats to prevail. Past experience has hardly been auspicious. In 2001, the United States invaded Afghanistan to rectify the mujahedin-supporting policies of the 1980s. In the fall of 2012, the United States appeared to be preparing to intervene in Libya to rectify the policies of 2011. Following the murder of U.S. Ambassador J. Christopher Stevens in Benghazi, it was disclosed that the town was teeming with CIA operatives, whose task had been “conducting surveillance and collecting information on an array of armed militant groups in and around the city.”<sup>6</sup> They were also “tracking shoulder-fired missiles taken from the former arsenals of Colonel Qaddafi's forces; [and aiding] in efforts to secure Libya's chemical weapons stockpiles.” Thus the familiar sequence: First the humanitarian intervention; then the weapons-of-mass-destruction intervention.

In Bosnia, U.S. officials had supposedly sent the Islamic extremists packing. Madeleine Albright had “personally appealed to Izetbegović to oust suspected terrorists or rescind their Bosnian passports.” As it turned out, her entreaties had not been loud enough or had fallen on deaf ears. The “suspected terrorists” stayed on. Given the enormous leverage the United States had with the Sarajevo government – according to the Dayton agreement, the United States would assume responsibility for equipping and training the Bosnian Muslim army – it is safe to assume that if the “suspected terrorists” didn't go home, then that was because U.S. officials didn't want them to go home.

Had the Americans really wanted to apply pressure, they could have simply held up financial assistance for the Izetbegović government. Instead, President Clinton certified to Congress as long ago as June 1996 that the Islamic extremists had left Bosnia and that U.S. financial assistance could now safely be proffered to Sarajevo:

Since the signing of the Dayton Accords, the Bosnian government has made major progress in meeting our demands on foreign forces and in ending its military and intelligence relationship with Iran. Although some individuals have assimilated into Bosnian society and assumed civilian roles, there is no evidence of any remaining organized Mujahedin units. With respect to the Iranians, the Bosnian government has assured that all [Iranian] personnel we identified to them have left Bosnia. We have no evidence that those [Iranians] remain.<sup>7</sup>

Congress happily accepted Clinton's assurances and released money for Izetbegović, even though it was obvious that the statement, like any issued by Clinton, had so many caveats and loopholes as to be virtually meaningless. There were no "organized Mujahedin units" in Bosnia. However, he didn't deny that individual mujahedin fighters may have remained. The Iranians that "we identified" had left but he didn't say anything about Iranians "we" didn't identify. He didn't say anything about non-Iranians because, well, that issue hadn't come up. Days after Clinton made his certification, the *Washington Post* reported that Islamic fighters were still in Bosnia and making no secret of their continuing presence:

Backed by members of a political party headed by Bosnian President Alija Izetbegović, the Islamic fighters here, who call themselves mujaheddin, or holy warriors, are establishing themselves in a broad swath of central Bosnia, particularly in villages around the cities of Travnik, Zenica, Zavidovici and Kakanj, Bosnian officials said. The officials said most of the remaining fighters who came here during the war are Iranian, but some are Pakistanis, Lebanese and other Arabs. No efforts have been made to remove them, they said.<sup>8</sup>

U.S. officials' sole concern was that the terrorists might turn their weapons against U.S. targets. According to the *Washington Post* story,

Bosnian officials said they think several hundred Islamic fighters are still here, and U.S. officials believe they still pose a threat to U.S. forces. CIA Director John

M. Deutch made an unannounced visit to Bosnia on Friday, and a Bosnian government source said a main topic of Deutch's discussion with government officials in Sarajevo was protection of U.S. troops. The source said Deutch's visit appeared to stem partly from fears of a possible attack on Americans in Bosnia following the truck bombing that killed 19 U.S. airmen in Saudi Arabia.

From 1995 to 2001, "Islamic extremists with and without Bosnian passports" came in and out of Bosnia; the country "remains a center for Al Qaeda recruiting and logistics support." So the *Los Angeles Times* reported. None of this was news to anyone living in the Balkans. It became newsworthy in the United States only when Islamic fighters had turned their attention from beheading Serbs to attacking the Twin Towers. Subsequently, it was disclosed that a number of the terrorists involved in the 9/11 attacks had served their apprenticeships in Bosnia. This was acknowledged even by the official 9/11 Commission report:

Bin Ladin's impressive array of offices covertly provided financial and other support for terrorist activities. The network included a major business enterprise in Cyprus; a "services" branch in Zagreb; an office of the Benevolence International Foundation in Sarajevo, which supported the Bosnian Muslims in their conflict with Serbia and Croatia ... He also made use of the already-established Third World Relief Agency (TWRA) headquartered in Vienna, whose branch office locations included Zagreb and Budapest.<sup>9</sup>

In 1992, the commission reported, "9/11 mastermind" Khalid Sheikh Mohammed, "spent some time fighting alongside the mujahideen in Bosnia and supporting that effort with financial donations."<sup>10</sup> Even more revealingly, two of the hijackers of Flight 77 from Dulles Airport which crashed into the Pentagon, Nawaf al Hazmi and Khalid al Mihdhar, "had traveled together to fight in Bosnia in a group that journeyed to the Balkans in 1995."<sup>11</sup>

The end of NATO's 1999 bombing campaign brought forth a welter of self-congratulation in Western capitals. Milošević's electoral defeat the following year and the armed putsch against him, though both heavily underwritten by the West, seemed like a return to the glorious days of 1989. On June 28, 2001, Milošević was seized and bundled off to The Hague. There seemed to be nothing that Western resolve and the fearless use of force could not accomplish.

It was not surprising, therefore, that U.S. and British plans to invade Afghanistan and Iraq in the aftermath of the 9/11 attacks elicited barely a murmur of criticism. Victory seemed assured and the justness of the U.S.-British

cause was not in doubt. Though neither the Iraq nor the Afghanistan invasions could strictly speaking be characterized as examples of humanitarian intervention, there is no doubt the bombing of Yugoslavia paved the way for them. Though these days, soi-disant liberal foreign policy enthusiasts choose to distinguish the selfless Clinton-Obama humanitarian wars from the selfish weapons-of-mass-destruction war of George W. Bush, the differences between the two are more apparent than real. In the United States, the Democratic Party establishment was overwhelmingly in favor of the Afghanistan and Iraq invasions. As presidential candidate, Obama berated the Bush administration for not having done enough to prosecute the Afghanistan war; as president, Obama escalated the war there. In Great Britain, Tony Blair represented the continuity between Yugoslavia, Afghanistan, and Iraq.

Moreover, concern over the alleged human rights abuses of Saddam Hussein had played a not insignificant part in the propaganda campaign that accompanied preparations for the 2003 invasion. The U.S.-led coalition, it was claimed, was liberating the Iraqi people and striking a blow for international justice. In March 2002, Human Rights Watch Executive Director Kenneth Roth called for the indictment of Saddam Hussein. Such an action, Roth claimed, would demonstrate to the world that Saddam was

beyond the pale – not simply because of the threat he poses to others, but also because he has flouted the most basic norms on the treatment of his own people. That delegitimization would not guarantee his ouster, but it would certainly help build consensus that he is unfit to govern, and thus that something must be done to end his rule.<sup>12</sup>

As the U.S. built up its forces for the upcoming invasion, the Bush administration, the *Washington Post* reported, was “building cases against Iraqi President Saddam Hussein and more than a dozen members of his inner circle who could be charged with crimes against humanity if the Iraqi government is toppled.” U.S. officials spoke of a “core group of about a dozen Iraqis” whose activities “merit charges of genocide or crimes against humanity.” Pentagon lawyers were said to be “assembling evidence in a form that could be useful to prosecutors” and the State Department was working with Iraqi exiles and Iraqi-Americans to develop plans for transitional justice, “including criminal prosecution of a larger array of Iraqis.”<sup>13</sup>

These activities, needless to say, were met with the resounding approval of the human rights brigade. Human Rights Watch called for the establishment of an International Criminal Tribunal for Iraq to try Saddam, even

as it announced that it did “not support or oppose the threatened war with Iraq” and that it had no opinion “on whether the dangers to civilians in Iraq and neighboring countries of launching a war are greater or lesser than the dangers to U.S. or allied civilians – or, ultimately, the Iraqi people – of not launching one.”<sup>14</sup> All that mattered was that there should be post-war trials of the Iraqi leaders. “Once the war is over,” the invading forces must “bring to justice those responsible for genocide, war crimes or crimes against humanity and to exclude them from government posts.”<sup>15</sup>

The human rights theme was also very much in evidence in the Blair government’s campaign to mobilize public support in favor of invasion. On December 12, 2002, the Foreign Office published a report, “Saddam Hussein: Crimes and Human Rights Abuses.” It opened:

Iraq is a terrifying place to live. People are in constant fear of being denounced as opponents of the regime. They are encouraged to report on the activities of family and neighbours. The security services can strike at any time. Arbitrary arrests and killings are commonplace. Between three and four million Iraqis, about 15% of the population, have fled their homeland rather than live under Saddam Hussein’s regime. These grave violations of human rights are not the work of a number of overzealous individuals but the deliberate policy of the regime. Fear is Saddam’s chosen method for staying in power.

Invading British troops were ordered to deliver by hand a personal message from Blair to the Iraqi people. Blair told them:

As we made clear from the start, this is not a war of conquest. This is a campaign that will end dictatorship, remove the weapons of mass destruction and liberate the Iraqi people so you can determine your own future – a better future. This is not a war on Iraq. This is a campaign against Saddam Hussein’s regime ... For too long the world ignored the plight of the Iraqi people. That was wrong. We know and understand that many of you live in fear of Saddam.<sup>16</sup>

Following the invasion, in a reprise of the Kosovo and Bosnia campaigns, neither London nor Washington could stop talking about mass graves. As late as December 2003, Tony Blair was claiming that “400,000 bodies have been found in Iraqi mass graves.” They have yet to be found. In January 2004, U.S. Agency for International Development came out with a report, “Iraq’s Legacy of Terror: Mass Graves,” in which it was stated that Saddam Hussein’s

crimes “represent a crime against humanity surpassed only by the Rwandan genocide of 1994, Pol Pot’s Cambodian killing fields in the 1970s, and the Nazi Holocaust of World War II.” These claims, much like the claims of 100,000 Kosovo executions, were eventually abandoned for want of evidence, but not before they had served their purpose of generating support for an armed attack by the Western powers.

The chaos and destruction that followed the Iraq invasion, much like the ones that followed the 1999 Yugoslavia bombing campaign and were to follow the 2011 Libya bombing campaign, have done nothing to shake the complacent assumption that use of armed force by the West can bring about humane outcomes in benighted states. It helps that the standard set by the interventionists to deem an intervention a success is conveniently low. The bombing of Yugoslavia, for example, is considered a success – a “triumph of liberal interventionism” to quote the *Independent on Sunday* from 2008. Yet everyone knows that the humanitarian emergency that supposedly moved NATO to act began only after the bombs started to fall. Even the ICTY confirms this. Other than the alleged massacre at Račak in January 1999, the crimes charged against Milošević in the May 22, 1999 Kosovo indictment all took place after NATO began to bomb. The 2009 Kosovo judgment against Serb leaders didn’t even list Račak as one of their crimes. (As we have seen, this didn’t stop the ICTY from drawing the bizarre conclusion that the crimes the Serbs had supposedly perpetrated *after* NATO began to bomb proved the existence of a long-standing Serb plan to expel Kosovo’s Albanian population.)

Even the Iraq invasion is frequently touted as a success. In March 2010, *New York Times* columnist Thomas Friedman wrote:

Former President George W. Bush’s gut instinct that this region craved and needed democracy was always right. It should have and could have been pursued with much better planning and execution. This war has been extraordinarily painful and costly. But democracy was never going to have a virgin birth in a place like Iraq, which has never known any such thing. Some argue that nothing that happens in Iraq will ever justify the costs. Historians will sort that out. Personally, at this stage, I only care about one thing: that the outcome in Iraq be positive enough and forward-looking enough that those who have actually paid the price ... see Iraq evolve into something that will enable them to say that whatever the cost, it has given freedom and decent government to people who had none.<sup>17</sup>

Foreign policy pundit Fareed Zakaria, who was for the Iraq invasion before he was against it, has argued that, though at present the results don't justify the costs of the invasion, he is ready to change his mind at the appropriate moment. "In the long run, if Iraq does stabilize and becomes a workable, even a flawed democracy, then I do think that perhaps that judgment will change in the long view of history. But right now, if one were being honest, one would have to say it wasn't worth it," he said in August 2010.<sup>18</sup> Doubtless, at some point in time, some kind of stability will return to Iraq. At which point, the Bush-Cheney war would be chalked up as yet another famous victory for the West.

Military victory over Milošević or over Saddam or over Qaddafi – as if such an outcome were ever in any serious doubt – is taken to be vindication of Western intervention. Given the overwhelming power that the United States and NATO are able to wield against their feeble adversaries, meeting this threshold imposes no great burden on the humanitarians. Public interest in the politics of the targeted states can be expected to wane quickly once the military campaign is over. As long as there is a government in place that controls some territory, as long as it can be described as "pro-Western," and as long as U.S. casualties have been kept down to a manageable number (at least for public relations purposes), then no matter how corrupt, venal, murderous, and incompetent such a government may be, the intervention will be deemed a success. The standard imposed on others is, of course, much stricter. Adversaries such as Milošević go on trial to prove their innocence. Since the villains du jour are assumed to be inherently evil men who control everything down to the minutest detail, the burden that ICC or ad hoc tribunal prosecutors have to meet is slight.

Back in 2001, the International Commission on Intervention and State Sovereignty (ICISS), the vocal proponent of the "responsibility to protect" (R2P), had argued that military intervention could not be justified if it worsened conditions for its purported beneficiaries:

Military action can only be justified if it stands a reasonable chance of success, that is, halting or averting the atrocities or suffering that triggered the intervention in the first place. Military intervention is not justified if actual protection cannot be achieved, or if the consequences of embarking upon the intervention are likely to be worse than if there is no action at all. In particular, a military action for limited human protection purposes cannot be justified if in the process it triggers a larger conflict. It will be the case that some human beings simply cannot be rescued except at unacceptable cost – perhaps of a

larger regional conflagration, involving major military powers. In such cases, however painful the reality, coercive military action is no longer justified.<sup>19</sup>

By that measure, the U.S./NATO interventions are clearly unjustifiable.

The arrival of the Obama administration signified a return to power for the veterans of the Clintonite humanitarian interventions of the 1990s: Joe Biden, Hillary Clinton, Susan Rice, Ivo Daalder. It was only a matter of time, therefore, before a suitable candidate for humanitarian bombing would be found. The intellectual groundwork was already in place. One source was the Mass Atrocity Response Operations (MARO) Project, an institutional partnership between the Harvard Kennedy School's Carr Center for Human Rights Policy and the Peacekeeping and Stability Operations Institute at the U.S. Army War College. Created in 2007, the project had as its goal the development of "a generic military concept of operations for mass atrocity intervention for the U.S. and foreign governments and military actors." Naturally, it is taken as axiomatic that if "U.S. and foreign governments" claim that their military intervention was triggered by mass atrocities, they are telling the truth. In 2010, the MARO Project published *A Military Planning Handbook*. In their foreword, the authors pointed with delight to the growing partnership between human rights groups and the military. In a mass-atrocity intervention, "unlike in many other types of military operations, there is the opportunity to harness true unity of purpose between the humanitarian community and military actors. Many humanitarian organizations, which normally would refrain from being connected in any way with the military, have in the past called for military intervention in the face of mass atrocity and killing of civilians."

For the humanitarians ensconced at the Carr Center for Human Rights Policy and at the U.S. Army War College, interventions are straightforward affairs. A benign, selfless U.S.-led coalition confronts a malevolent foe who for some inexplicable reason is bent on harming civilians. The moral lines couldn't be more clearly drawn: "In a MARO scenario," the authors explain, "an armed party – the perpetrator – is focused first and foremost on killing, wounding, or otherwise harming civilian actors, while the intervener's goal is to halt or prevent those actions." The attack on civilians appears to be without motive or at least any motive more complicated than that of seizing and holding on to power. "Perpetrators will use violence against civilians as a means to an end – killing or attacking civilians as a means of gaining political power, access to resources, or other objectives." This makes justifying a humanitarian intervention extraordinarily easy. A few newspaper stories of question-

able accuracy and dubious provenance will suffice to have the humanitarians baying for bombs. The media can be relied on to play their part, demonizing some while sanctifying others, relaying rumor as fact, and presenting self-interested allegations of atrocities as evidence of “genocide.” Every battle is a re-run of Stalingrad; every siege is the siege of Leningrad.<sup>20</sup> Western media coverage of Libya, the International Crisis Group wrote,

has from the outset presented a very one-sided view of the logic of events, portraying the protest movement as entirely peaceful and repeatedly suggesting that the regime’s security forces were unaccountably massacring unarmed demonstrators who presented no real security challenge. This version would appear to ignore evidence that the protest movement exhibited a violent aspect from very early on. While there is no doubt that many and quite probably a large majority of the people mobilised in the early demonstrations were indeed intent on demonstrating peacefully, there is also evidence that, as the regime claimed, the demonstrations were infiltrated by violent elements. Likewise, there are grounds for questioning the more sensational reports that the regime was using its air force to slaughter demonstrators, let alone engaging in anything remotely warranting use of the term “genocide.”<sup>21</sup>

Such measured reports as that of the International Crisis Group inevitably come too late to influence events. Once an intervention is up and running, U.S. or NATO credibility is on the line and there can be no let-up until victory is assured.

The only downside for the humanitarians is the nagging anxiety that an intervention may prove costly in lives – or worse – provoke the intervention of powers that can’t easily be pushed around. The trick, therefore, is to make sure that the targeted states are appropriately weak. The humanitarian interventionists justify their selectivity by knocking down a straw-man argument of their creation. They take the opponents of intervention to be arguing: if you intervene in country A, why don’t you intervene in country B? To which argument the humanitarians triumphantly respond by declaring that just because you can’t intervene everywhere that doesn’t mean you can’t intervene anywhere. “It’s true that America cannot use our military wherever repression occurs,” President Obama told the American people at the start of the Libyan campaign. “But that cannot be an argument for never acting on behalf of what’s right. In this particular country – Libya – at this particular moment, we were faced with the prospect of violence on a horrific scale. We had a unique ability to stop that violence.”<sup>22</sup>

This debater's point took up most of the space of an article in *The Times* of London, written by Lord Ashdown, a former High Representative of the international community in Bosnia and an ardent advocate of intervention. Dismissing the quibbling of the policy's detractors, he declared:

We did it in Iraq and Afghanistan because we could, but not in Chechnya or Zimbabwe, because we couldn't. In the untidy age ahead, one of our mantras is likely to be: "Just because you can't do everything does not mean you shouldn't do anything." In this way, international law is no different from most other bodies of jurisprudence. International law does not spring from a single pen or a single piece of paper; it evolves over time confusingly, inelegantly and often in contradictory fashion.<sup>23</sup>

The message of the humanitarian interventionists is: every intervention is sui generis yet also universal, for it sends a message to tyrants everywhere. Another, less flattering word to describe Clinton/Obama/Cameron/Sarkozy/Hollande/Blair-style humanitarianism is opportunism. A massacre carried out by a U.S. ally such as Saudi Arabia or by an ally of Saudi Arabia such as Bahrain would not be opposed; it might even be facilitated. On the other hand, a massacre carried out by an adversary of the United States will be met by swift retribution, unless, of course the said adversary knows how to fight back. If a leader's foreign policy isn't to the liking of Washington and if his country is rich in mineral resources or if his country is weak, not backed by powerful friends, and not armed with nuclear weapons, then the country could qualify as a mass atrocity miscreant and thus a candidate for a NATO humanitarian attack. Overnight, the human rights situation in said country will become an affront to the "international community." Though the alleged atrocities may not be the worst, though the atrocities may have come in response to Western-instigated armed insurrection, who cares? Nothing succeeds like success. As Ashdown smugly pointed out, "Will this be comfortable to watch? No. But it's probably as good as we'll get. Better get used to it."

We also need to get used to the idea that NATO and the United States can't, by definition, commit war crimes. They can't commit crimes because their intent is to strike only military targets. In Yugoslavia, NATO claimed that it had prosecuted "the most precise and lowest collateral-damage air operation ever conducted – with no U.S. or allied combat fatalities in 78 days of around-the-clock operations and over 38,000 combat sorties against very active Yugoslav integrated air defenses."<sup>24</sup> To be sure, there were "isolated instances of target

misidentification with incidental injury or collateral damage,” but civilian casualties are always the fault of the bombed state for locating civilians close to military targets. It’s just an unfortunate fact of life that almost anything can be deemed a legitimate military target: roads, railways, factories, bridges, TV stations, even hospitals. NATO has even decreed that political leaders and their families are legitimate military targets. This means that the homes of leaders and the homes of their families and friends and the homes of leaders’ associates and the homes of the leaders’ associates’ families and friends are also legitimate military targets.

NATO repeatedly sought to assassinate Milošević during the 1999 campaign. The United States sought to assassinate both Saddam and Qaddafi during the campaigns against their states. In April 2011, NATO killed the youngest son of Qaddafi along with three of his grandchildren when it struck Saif al-Arab Qaddafi’s home. The young man had been “hosting a gathering of family and friends when three missiles struck his house.” Qaddafi and his wife had been at the gathering but managed to escape unharmed. NATO breezily dismissed suggestions that it had been targeting a foreign leader for assassination, something clearly prohibited under U.S. law. “We targeted a military command and control building with a precision strike,” a NATO spokesman announced. “It was not targeted against any individual. It was a military target, clearly linked to the Gaddafi’s regime’s systematic attacks on the civilian population.”<sup>25</sup> However, since Qaddafi was personally taken to be “military command and control,” then presumably his grandchildren were legitimate military targets if he happened to be playing catch with them. Using NATO’s logic, adversaries should in future consider the White House a legitimate military target. If Obama is having dinner with his family, then the dinner table is a legitimate military target.

Predictably enough, NATO absolved itself of any war crimes in Libya. It was the standard formula: since NATO didn’t intentionally target civilians, it couldn’t have committed any war crimes. With typical unctuousness, NATO explained in May 2012 that it had

conducted the campaign for Libya with unprecedented care and precision and to a standard exceeding that required by international humanitarian law. The mission was fully consistent with the United Nations mandate and saved countless lives. NATO did everything possible to minimise risks to civilians, but in a complex military campaign, that risk can never be zero. We deeply regret any instance of civilian casualties for which NATO may have been responsible.<sup>26</sup>

According to Anders Fogh Rasmussen, secretary general of NATO, “We have carried out this operation very carefully, without confirmed civilian casualties.”<sup>27</sup> However, as the *New York Times* disclosed, NATO “had created its own definition for ‘confirmed’: only a death that NATO itself investigated and corroborated could be called confirmed. But because the alliance declined to investigate allegations, its casualty tally by definition could not budge – from zero.”<sup>28</sup> NATO had come up with its very own circular argument to ensure that it could never be accused of war crimes.

Such disingenuous self-justification pervades U.S. official thinking. President Obama’s signature policy innovation has been the targeted assassination via drone strike of “terrorism suspects.” The *New York Times* reported that Obama headed a “top secret ‘nominations’ process to designate terrorists for kill or capture, of which the capture part has become largely theoretical.” Every week or so, more than 100 members of the government’s national security apparatus gather, via video teleconference, “to pore over terrorist suspects’ biographies and recommend to the president who should be the next to die.”<sup>29</sup> This is the new humanitarian style of war: suspects, including U.S. citizens, are killed without trial. For legal justification, Obama has relied solely on the opinion of the Justice Department’s Office of Legal Counsel, according to which, “while the Fifth Amendment’s guarantee of due process applied, it could be satisfied by internal deliberations in the executive branch.” The executive power could act as prosecutor, defender, judge, jury, and executioner – and still be in compliance with the U.S. Constitution!

Remarkably, the U.S. government insists that no civilians or innocent bystanders are killed during these targeted assassinations. The claim is based on a self-serving classification method that counts “all military-age males in a strike zone as combatants ... unless there is explicit intelligence posthumously proving them innocent.” As the *New York Times* noted, “This counting method may partly explain the official claims of extraordinarily low collateral deaths.” If all deaths are assumed to be deaths of combatants, then the number of non-combatant deaths must by definition be zero.

It was no surprise, therefore, that in March 2012, the U.N. Human Rights Council-appointed International Commission of Inquiry on Libya reported that NATO had “conducted a highly precise campaign with a demonstrable determination to avoid civilian casualties.”<sup>30</sup> Yet this cheerful conclusion was belied by the commission’s own description of just a few NATO bombing incidents:

Amongst the 20 NATO airstrikes investigated, the Commission documented five airstrikes where a total of 60 civilians were killed and 55 injured ... The single largest case of civilian casualties from a NATO airstrike in Libya took place in the town of Majer on 8 August 2011 where the Commission found NATO bombs killed 34 civilians and injured 38. After the initial airstrike killed 16, a group of rescuers arrived and were hit by a subsequent attack, killing 18.<sup>31</sup>

It turned out that the commission couldn't determine whether NATO was telling the truth, for NATO had refused to cooperate in an investigation of these and other incidents. NATO's response to the commission's questions

has not allowed it to draw conclusions on the rationale for, or the circumstances of the attacks. The Commission is unable to conclude, barring additional explanation, whether these strikes are consistent with NATO's objective to avoid civilian casualties entirely, or whether NATO took all necessary precautions to that effect. NATO's characterization of four of five targets where the Commission found civilian casualties as "command and control nodes" or "troop staging areas" is not reflected in evidence at the scene and witness testimony. The Commission is unable to determine...whether they were consistent with NATO's objective to take all necessary precautions to avoid civilian casualties entirely.<sup>32</sup>

Indeed, NATO obfuscation has become standard. "NATO's response to allegations of mistaken attacks," the *New York Times* reported, "had long been carefully worded denials and insistence that its operations were devised and supervised with exceptional care. Faced with credible allegations that it killed civilians, the alliance said it had neither the capacity for nor intention of investigating and often repeated that disputed strikes were sound."<sup>33</sup>

Such verbal gyrations do not relieve NATO of responsibility for the murder of the captured Qaddafi, an act that was without question a war crime. The killing of a prisoner of war is a violation of the Geneva Conventions, and NATO's fingerprints were all over this crime. It was a NATO attack that wounded Qaddafi, and it was NATO that informed the rebels of the whereabouts of the injured Qaddafi. Two days earlier, Secretary of State Hillary Clinton had visited Tripoli and announced that she would like to see Qaddafi dead: "The most important thing to do right now is to make sure that Gaddafi and his regime are finally prevented from disrupting the new Libya. But we hope he can be captured or killed soon, so you don't have to fear him any longer. Then you have to move forward," she declared.<sup>34</sup> Her subsequent exultant response

to news of his death – “We came, we saw, he died” – would surely suffice as evidence of responsibility for his murder. One can imagine how delighted ICTY prosecutors would have been had they come across an interview in which Milošević, say, had called for the murder of a foreign adversary who, two days later, met with a violent death.

Yet, when Hillary Clinton made her “captured or killed” comment, International Criminal Court (ICC) prosecutor Luis Moreno-Ocampo issued no statement insisting that Qaddafi be captured alive and brought to trial. Following the killing of Qaddafi, the ICC, the upholder of international law and enforcer of accountability, continued to say nothing. Finally, it announced that it would seek “some form of DNA evidence taken from Gaddafi’s body” in order “to close the case, and it was up to the new authorities in Tripoli to provide that evidence to the court.”<sup>35</sup> And that would be that. An investigation into the murder in captivity of Qaddafi would, of course, have to address the salient issue of NATO’s involvement. The ICC would need to do some fancy footwork to get NATO off the hook.

NATO has little reason to fear the arrival of ICC investigators. The ICC is increasingly reprising the role of the ICTY in facilitating U.S.-led aggression. Like the ICTY, the ICC demonizes targets of impending attack and thereby makes humanitarian military action against them politically acceptable. Though the ICTY is an ad hoc tribunal that is supposed to go out of business on the day that everyone who had been accused of war crimes in Yugoslavia has been tried and convicted, its rulings and bizarre jurisprudence will undoubtedly be taken as precedent by the International Criminal Court. ICTY innovations such as the “joint criminal enterprise” now belong to the body of international humanitarian law. Its stretching of the meaning of the term “genocide” beyond any reasonable understanding of the term is now an internationally recognized legal finding. In 2007, even the International Court of Justice accepted, without demur, the ICTY’s assertion that genocide took place in one town, Srebrenica, but nowhere else.<sup>36</sup> The ICC will doubtless have as few difficulties bringing in genocide and crimes-against-humanity verdicts as the ICTY and the ICTR have had.

ICTY practices foreshadowed the arbitrary justice that became such a distinctive characteristic of the war on terror. Men are captured and rendered to CIA prisons around the world or held indefinitely without trial at Guantanamo Bay. Most people are indifferent to their fate. They are only getting what they deserve. This is how the ICTY operates. Men are kidnapped, taken to The Hague, detained there for years, then, following often outrageously unfair trials and inevitable rejection of their appeals, are sent to rot in prison

somewhere, thousands of miles from friends, family, or indeed anyone who even speaks their language. No one cares much about them either. They, too, are only getting what they deserve.

Given its practice of selective prosecution, dubious jurisprudence, rank double standards, and cavalier notions of judicial fairness, the ICTY has fueled ethnic tensions and exacerbated hatreds and resentments. Rather than foster the reconciliation that it claims to be its goal, the ICTY has laid the foundations for further rounds of fighting. The peoples of the Balkans have been poorly served by the ICTY. The NATO powers, on the other hand – the states that created, financed, and staffed the ICTY and that did so much to destroy Yugoslavia and set its constituent peoples against one another – have done very well out of it. The ICTY has served as a mechanism to provide a post-facto justification for their actions.

At the ICC, just as at the ICTY, the NATO powers get a free pass. International law, as we learned from Luis Moreno-Ocampo, did not permit an investigation into possible war crimes in Iraq. For one thing, Moreno-Ocampo explained, neither Iraq nor the United States was a signatory of the Rome Statute (neither was Libya, of course, but, unlike the United States, it didn't have the power to exempt itself from investigation). Second, the possible crimes in Iraq did not meet the threshold of gravity required for the opening of an investigation. As the prosecutor explained:

For war crimes, a specific gravity threshold is set down in Article 8(1), which states that “the Court shall have jurisdiction in respect of war crimes in particular when committed as part of a plan or policy or as part of a large-scale commission of such crimes”. This threshold is not an element of the crime, and the words “in particular” suggest that this is not a strict requirement. It does, however, provide Statute guidance that the Court is intended to focus on situations meeting these requirements. According to the available information, it did not appear that any of the criteria of Article 8(1) were satisfied ... The number of potential victims of crimes within the jurisdiction of the Court in this situation – 4 to 12 victims of willful killing and a limited number of victims of inhuman treatment – was of a different order than the number of victims found in other situations under investigation or analysis by the Office. It is worth bearing in mind that the OTP is currently investigating three situations involving long-running conflicts in Northern Uganda, the Democratic Republic of Congo and Darfur. Each of the three situations under investigation involves thousands of willful killings as well as intentional and large-scale sexual violence and abductions. Collectively, they have resulted in the

displacement of more than 5 million people. Other situations under analysis also feature hundreds or thousands of such crimes ... Taking into account all the considerations, the situation did not appear to meet the required threshold of the Statute.<sup>37</sup>

Willful killing – neither the United States nor NATO could possibly be guilty of that since, by definition, neither willfully kills anyone. Thus, the victims of U.S./NATO crimes will never number more than Moreno-Ocampo’s “4 to 12.” Culpability for such crimes will never reach beyond a few low-level soldiers – bad apples that can be tossed into the brig. Interestingly, the United States doesn’t have any problems accepting that some 100,000 Iraqis died as a result of the 2003 U.S.-led invasion.<sup>38</sup>

So what constitutes a successful humanitarian intervention? Consider the case of Kosovo, that “triumph of liberal interventionism,” to quote again the *Independent on Sunday*. Since 1999, official reports detailing the corruption and rampant criminality that prevail in NATO-ruled Kosovo have appeared with dreary regularity. One notorious story to emerge from Kosovo concerned a KLA-run organ-trafficking trade. Such allegations had appeared in the past but little credence had been given to them until the appearance in 2008 of Carla Del Ponte’s memoirs.<sup>39</sup> The former ICTY chief prosecutor claimed that during her time at the tribunal she had learned of the existence of a KLA-run racket in which people in Kosovo were abducted, taken across the border to Albania, stripped of their organs and then murdered. She said she was unable to investigate these allegations because the NATO powers that controlled Kosovo refused to assist her.

Responding to del Ponte’s allegations, the European Parliament’s Committee on Legal Affairs and Human Rights appointed Dick Marty to look into these allegations. Marty had a solid reputation for integrity, having investigated CIA secret prisons in Europe on behalf of the Council of Europe.

In December 2010, Marty published a report describing Kosovo as a hotbed of criminality in which heads of criminal gangs serve as political leaders. More alarmingly, these criminals had enjoyed virtual impunity thanks to the sympathetic attitude of the international authorities that had supplanted the hated Serbs as rulers of Kosovo. From 1999 on, Marty wrote:

The international organisations in place in Kosovo favoured a pragmatic political approach, taking the view that they needed to promote short-term stability at any price, thereby sacrificing some important principles of justice. For a long time little was done to follow-up evidence implicating KLA members in

crimes against the Serbian population and against certain Albanian Kosovars. Immediately after the conflict ended, in effect, when the KLA had virtually exclusive control on the ground, many scores were settled between different factions and against those considered, without any kind of trial, to be traitors because they were suspected of having collaborated with the Serbian authorities previously in place.<sup>40</sup>

But there was more to this than simple pragmatism. There was ongoing, active collusion with criminals. “International forces co-operated with the KLA as the local authority in military operations and the restoration of order. It was as a result of this situation that certain crimes committed by members of the KLA, including some top KLA leaders, were effectively concealed and have remained unpunished.” What triumphed in Kosovo was “a form of justice that can only be defined as selective, with impunity attaching to many of the crimes that appear ... to have been directly or indirectly the work of top KLA leaders.”

The NATO powers, according to Marty, knew all about KLA criminality but had no interest in bringing anyone to justice. “What is particularly confounding is that all of the international community in Kosovo – from the Governments of the United States and other allied Western powers, to the E.U.-backed justice authorities – undoubtedly possess the same, overwhelming documentation of the full extent of the [KLA] crimes, but none seems prepared to react in the face of such a situation and to hold the perpetrators to account.”<sup>41</sup>

Marty described a desultory ICTY-UNMIK visit, undertaken in February 2004, to a house in Albania in which organs had allegedly been removed from prisoners. The visit was marked by “a certain lack of professionalism, particularly regarding the taking of samples and the recording of scientific observations.” There was no follow-up. Extraordinarily, the “physical samples collected at the scene were subsequently destroyed by the ICTY.”

As for Kosovo Prime Minister Hashim Thaçi, Marty wrote that “agencies dedicated to combating drug smuggling in at least five countries have named [him] and other members of his ‘Drenica Group’ as having exerted violent control over the trade in heroin and other narcotics.” KLA leaders

appear to have succeeded in eliminating, or intimidating into silence, the majority of the potential and actual witnesses against them (both enemies and erstwhile allies), using violence, threats, blackmail, and protection rackets; and second, faltering political will on the part of the international community

to effectively prosecute the former leaders of the KLA. This also seems to have allowed Thaqi – and by extension the other members of the “Drenica Group” to exploit their position in order to accrue personal wealth totally out of proportion with their declared activities.<sup>42</sup>

None of this should have come as a surprise. The Western humanitarian intervention in Kosovo had served to dismantle the proper governmental structures and to oust the law enforcement authorities. Chaos and violence ensued, and criminal gangs took over the running of the province. While the humanitarians were congratulating themselves on having “defeated” the Serbs, the purported beneficiaries of this selfless military intervention were abandoned to the tender mercies of men notorious throughout the world for being among the most ruthless drug traffickers and murderers. Such Serb and Albanian victims of NATO activity were doubtless yet more collateral damage, unintended consequences of a well-intentioned exercise. Not comfortable to watch, certainly; something we – or rather they – will have to get used to.

Humanitarian concern for Kosovo evaporated following the defeat of Milošević, but it did revive briefly as the war in Iraq grew increasingly desperate in 2005 and 2006. The Western powers decided to replay some golden oldies – the great days of the humanitarian wars of the 1990s – to remind Muslims around the world of happier days when Americans and Islamic fundamentalists fought side by side. Turning their attention back to the Balkans, the Western powers decided to create a brand new state – a model of democracy and multiculturalism – a stirring example of what U.S. and NATO power could achieve, and on behalf of Muslims, not against them. The Americans, with the Europeans in tow, moved to bestow statehood on a piece of European real estate that they had seized from Yugoslavia in 1999.

The new state would, of course, not be independent in any real sense; it would be a ward of NATO and the European Union run, as Bosnia is, by an international viceroy. So proud were the Americans of their extraordinary generosity that even before Kosovo’s declaration of independence, U.S. politicians were demanding a show of gratitude from the Muslim world. One of the leading humanitarian interventionists on Capitol Hill, the late Representative Tom Lantos, D-Calif., boasted in April 2007 that the United States “leads the way for the creation of a predominantly Muslim country in the very heart of Europe.” This selfless act, he exulted, “should be noted by both responsible leaders of Islamic governments, such as Indonesia, and also for jihadists of all color and hue.” In seeking the approval of jihadists, of Osama

bin Laden, and of those who rejoiced in the 9/11 terrorist attacks, Lantos, a longtime, zealous advocate on behalf of Israel, nicely illustrated the regnant Washington attitude toward terrorism. As long as its victims are those out of favor in Washington, the terrorists are deserving of our support.

Thus encouraged, Kosovo declared itself independent in February 2008. The move was clearly in violation of U.N. Security Council Resolution 1244, which had recognized Kosovo as a part of Yugoslavia. The same NATO and E.U. powers that call for endless, largely pointless negotiations between Israelis and Palestinians and intone vapidly on the need for a two-state solution, though they have no idea how this is supposed to come about, now rushed to recognize Kosovo as an independent state.

The secession of Kosovo from Serbia, much like the secession of Croatia and Bosnia from Yugoslavia, was in violation of all of the solemnly proclaimed Badinter principles. The Kosovo separation was particularly egregious since the Badinter commission's most notable demand had been that there could be no changes to the internal boundaries of Yugoslavia. Yugoslavia's republics were to be independent states with international frontiers that coincided with the administrative boundaries they had within Yugoslavia. The boundaries of Bosnia, Croatia, Macedonia, Montenegro, and Slovenia could not be changed; the boundaries of Serbia on the other hand could be. In addition, Kosovo was absolved of having to satisfy the international human rights standards that the E.C. had so lovingly enunciated in 1991. With a straight face, the Western powers certified that the province had met Europe's onerous human rights test.

The West justified its support for the unilateral secession of Kosovo by citing the alleged horrors that the unfortunate "Kosovars" had had to endure under the brutal rule of the Serbs. The Kosovo case, yet again, was *sui generis*. Secessionists and irredentists everywhere were told that they were not to take Kosovo's secession and its immediate recognition by the self-styled "international community" as a precedent. The "Kosovars" deserved their independence; others didn't. The claim was laughable. Every ethnic or national group insists that its suffering is unique, unsurpassed by anyone else's.

Western policymakers cheerfully admitted that there was no consistency to their policy, save antipathy toward the Serbs. Kosovo Albanians could exit Serbia, but Bosnian Serbs could not exit Bosnia. The internal, republican boundaries within Yugoslavia could not be altered – except, of course, if they happened to be those of Serbia. The boundaries of Kosovo, a mere province, were sacrosanct, but not those of Serbia, a republic. Thus, redrawing the boundaries of Kosovo in order to permit Serbs living in the north of the

province to continue to live in Serbia was flatly rejected. Kosovo's Albanians were entitled to their own state, but not the Serbs of Bosnia and Croatia. Not to worry though: Kosovo was unique. Something else we would have to get used to.

This claim for the uniqueness of Kosovo sat oddly with the interventionists' insistence that it was important to bomb Yugoslavia in order to demonstrate that those who would treat their own people inhumanely can expect swift retribution from the "international community." If the loss of Kosovo was the Serbs' duly-merited punishment, then wouldn't NATO want it to be a lesson for future miscreants that they, too, will be made to give up territory?

The case of Kosovo was clearly not *sui generis*. Since there are very few countries in the world that are not host to disgruntled minorities seeking independence or to join neighboring states, the Kosovo scenario could play out anywhere. A minority takes up arms, the government responds with force, the minority cries "abuse of human rights," the West goes into its favorite self-righteous mode and steps up the human rights rhetoric, imposes sanctions, pushes for Security Council resolutions, threatens and ultimately resorts to force.

The Russians had repeatedly warned the West that if it recognized Kosovo's independence, they would behave in a like fashion toward Abkhazia and South Ossetia, the two breakaway provinces of neighboring Georgia. In August 2008, following an attempt by Georgia to seize South Ossetia and a subsequent Russian military intervention to return the situation to status quo ante, Moscow made good on its promise and recognized Abkhazia and South Ossetia as independent states. The West, demonstrating once again the cynical opportunism that characterizes its myriad interventions, sided with Georgia and loudly insisted on the territorial integrity and sovereignty of the former Soviet republic. The West's sudden fealty to the U.N. Charter – five years after the U.S. invasion of Iraq and seven years after the invasion of Afghanistan, neither of which had been authorized by the United Nations – didn't play terribly well in the rest of the world. Western governments and commentators decided that they were on safer ground leveling the false accusation that Russia had launched an unprovoked attack on Georgia.

Humanitarian intervention is always intervention by the strong in the internal affairs of the weak. The notion that anyone will intervene to put an end to U.S. use of excessive force against criminal suspects is too ludicrous to mention. No less ludicrous are the claims put forward by the human rights lobby to justify its support for the International Criminal Court and the various ad hoc tribunals. These courts must be supported, lobby spokesmen in-

sist, because they are a first step toward international justice. One day the United States will accept the jurisdiction of the ICC and will gladly surrender its nationals for trial. Though for the time being we have to live with impunity for the United States and NATO, half justice is better than no justice. Thus, Human Rights Watch types can cheer on arrest warrants for Qaddafi and trials for Milošević and pretend that these are milestones on the long road to universal justice. “The International Criminal Court (ICC), by issuing an arrest warrant for Muammar Gaddafi, signaled that the law can reach even those long thought to be immune to accountability,” Human Rights Watch exulted. “Issuing the warrants was an important step to providing the victims of serious crimes in Libya the chance for redress.”

However, there is not the slightest prospect of NATO allowing its nationals to be tried at the ICC. There is not the slightest prospect that any NATO official will ever be held accountable for any war crimes. Not one Bush administration official has been held accountable for having launched a war on a bogus pretext, for having caused untold misery for millions, and for having authorized and condoned torture. Indeed, the Obama administration made it clear from the start that its predecessors would face no U.S., let alone international, justice. Even before his inauguration, Obama declared that he had no intention of pursuing any serious inquiry into possible war crimes, such as torture. He “[W]e need to look forward as opposed to looking backwards,” he famously explained. He didn’t want CIA operatives to “feel like they’ve got spend all their time looking over their shoulders.” Soon afterward, Obama’s attorney general, Eric H. Holder Jr., announced that CIA interrogators who had practiced torture would not be charged as long as they could show that they had acted in accordance with the legal advice they had received. If you could show that you had tortured in compliance with the legal interrogation guidelines issued by the Department of Justice’s Office of Legal Counsel, you would be OK.

The Department of Justice (DOJ) then reviewed the 101 cases in which it appeared that interrogators had exceeded these legal guidelines. In June 2011, Holder announced that of all the cases he had reviewed, only two required further investigation. One was that of Gul Rahman, who died in 2002 after being shackled to a concrete wall in near-freezing temperatures at a secret C.I.A. prison in Afghanistan. The other was that of Manadel al-Jamadi, who died in C.I.A. custody in 2003 at Abu Ghraib prison in Iraq. His corpse had been photographed packed in ice and wrapped in plastic.

Finally, on August 30, 2012, Holder announced that no one would be prosecuted even in these two cases. According to the *New York Times*,

Mr. Holder had already ruled out any charges related to the use of waterboarding and other methods that most human rights experts consider to be torture. His announcement closes a contentious three-year investigation by the Justice Department and brings to an end years of dispute over whether line intelligence or military personnel or their superiors would be held accountable for the abuse of prisoners in the aftermath of the terrorist attacks of Sept. 11, 2001.<sup>45</sup>

There would be no prosecutions, Holder explained, “because the admissible evidence would not be sufficient to obtain and sustain a conviction beyond a reasonable doubt.” When it comes to Americans, evidence of war crimes invariably fails to meet the “beyond a reasonable doubt” standard. This has always been and always will be so.

By cheering on these international courts, by demanding arrest warrants and the execution (by, inevitably, NATO) of these arrest warrants, human rights groups lend credence to kangaroo courts and manipulated judicial processes. Half justice is worse than no justice, for it makes a mockery of justice.

The human rights lobby adopted the same stance toward the bombing of Libya that it had toward the bombing of Yugoslavia. While refusing to concern itself with the legality or otherwise of the bombing, it did nonetheless cheer on the U.S.-led attack: it was sending a message to dictators or averting a humanitarian catastrophe. Happily, this time the U.S.-led coalition had the authority of the Security Council to fall back on. Yet Human Rights Watch paid little attention to other legal niceties such as ensuring that all peaceful attempts at resolving the conflict had been exhausted. After all, the African Union had proposed mediation, as had Venezuela. There had been reports that Qaddafi had offered to stand down and leave the country. HRW paid little attention to the coalition going well beyond the Security Council resolution’s no-fly-zone requirement.

Most interesting of all was the human rights lobby’s defense of the bombing of Libya as having averted a massacre. Leaving aside the absence of evidence that Qaddafi’s forces had perpetrated massacres during the civil war, what is remarkable about the averted-massacre justification is its divergence from civil liberties practices that we take for granted in domestic jurisdictions. We don’t give the police carte blanche to break down doors, shoot suspects, or blow up houses in the name of averting a possible crime. The police are required to go through a cumbersome legal procedure before they can use lethal force – an especially important consideration when a crime hasn’t

yet been committed. Yet, as in Yugoslavia, the Western powers made no attempt to ascertain whether a crime had been committed or was about to be committed. In Libya, as in Yugoslavia, there had been no independent U.N. finding that human rights abuses were serious enough to warrant foreign intervention. In the case of Libya, there had been no finding that Qaddafi wasn't complying with U.N. resolutions. There had been no fact-finding missions from the U.N. Security Council or the U.N. Human Rights Council. The NATO powers were determined to start bombing as soon as the Security Council passed its resolution. Any delay might have led to a peaceful resolution of the crisis, an outcome the powers were as anxious to avoid in 2011 as they were in 1999.

Humanitarian intervention has to be based on gross, even reckless, exaggeration. It is not enough to claim atrocities; atrocities have to be designated as genocide. It is not enough to allege rapes; they have to be taking place in rape camps. There is no other way to generate public support for military campaigns against states that threaten no one. While the consumers of these lurid horror stories in the West soon move on to other villains and victims, the people who actually live in or near the targeted states are not so fortunate. They have to go on living with neighbors who, it had been claimed, were responsible for the most horrific crimes imaginable. And those neighbors in turn have to live with unjust accusations permanently hanging over them.

Humanitarian interventionists claim that they will always pick and choose very carefully when, where, and against whom they will intervene. Since this makes them sound like tough-minded realists, it is understandable that they take such delight in knocking down their favorite straw-man argument: if here, why not there? Critics aren't suggesting that the trouble with interventions is that there are too few of them. What critics are saying is that the rhetoric of humanitarian emergency serves as a pretext to justify an attack by the strong against the weak, that the real goal of humanitarian intervention is to bring insubordinate but weak states to heel, that the humanitarian crises that follow intervention are far worse than those that preceded it. Contrary to the assertions of the humanitarians, national sovereignty is not a shield behind which leaders can commit crimes against their own people. National sovereignty is a shield that protects the weak against the depredations of the strong. Humanitarian intervention is a rigged game, the least likely outcome of which is humanitarian.



# NOTES

## INTRODUCTION

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On June 8, Milošević and Momir Bulatović, the president of Montenegro, wrote to Badinter informing him that these issues were outside his remit because any outstanding matters between the FRY and the Yugoslav republics must be resolved through an overall agreement between them. Any matter not susceptible to resolution would need to be referred to the International Court of Justice. Badinter dismissed these objections. The arbitration commission, he averred, was established by the peace conference. "Replying to the questions put by the Chairman of the Conference constitutes Commission participation in the work of the Conference, of which it is a body, and it would require conclusive reasons to bring it to refuse such a request. In the present case, the Commission sees no reason to refuse to perform its functions." Badinter avoided the salient legal issue of how arbitration can be imposed on parties that had never agreed to arbitration in the first place.
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- 85 Balkan Battlegrounds, Vol. II, Annex 22, CIA, ICTY Legal Library.
- 86 Adding insult to injury, U.N. Security Council Resolution 757 declared that the "claim by the Federal Republic of Yugoslavia (Serbia and Montenegro) to continue automatically the membership" of the SFRY in the U.N. "has not been generally accepted." On September 19, 1992, the Security Council made it official by passing

- Resolution 777, which declared that because the FRY was not entitled to continued membership of the U.N. it should be forced to reapply for membership. In the meantime, the FRY could not be permitted to take part in the work of the General Assembly. The General Assembly barred the FRY from taking part in its work but did not demand that it reapply for entry.
- 87 Report of the Secretary-General Pursuant to Paragraph 4 of Security Council Resolution 752 (1992), May 30, 1992.
  - 88 MacKenzie, p. 293.
  - 89 "Muslims 'Slaughter Their Own People,'" *The Independent*, August 22, 1992.
  - 90 Rose, p. 291.
  - 91 Owen, p. 106.
  - 92 "Milošević Viewed as U.N.'s Target," *Washington Post*, May 31, 1992.
  - 93 Report of the Secretary-General Pursuant to Security Council Resolution 749, S/23836, April 24, 1992, Annex II.
  - 94 "Izetbegović Refuses to Participate in a Forum for Serb Cantonization Plans," BBC Summary of World Broadcasts, July 17, 1992.
  - 95 "Yugoslav Peace Talks to Break for Two Weeks," United Press International, July 29, 1992.
  - 96 Izetbegović, according to news reports, had not even given Silajdžić "clearance to negotiate, only to report on the state of the conflict," which rendered the talks particularly pointless. "Dubrovnik Peace Talks to Resume on British Warship," *The Times*, July 28, 1992.
  - 97 State Department Regular Briefing, Federal News Service, August 19, 1992.
  - 98 "Bosnia Factions Agree Ceasefire," *The Guardian*, July 18, 1992.
  - 99 MacKenzie, pp. 387-388.
  - 100 Balkan Odyssey Digital Archive, <http://sca.lib.liv.ac.uk/collections/owen/boda/addragl.pdf>.
  - 101 Balkan Odyssey Digital Archive, <http://sca.lib.liv.ac.uk/collections/owen/boda/addrkink.pdf>.
  - 102 Balkan Odyssey Digital Archive, <http://sca.lib.liv.ac.uk/collections/owen/boda/addrizet.pdf>.
  - 103 For much of his career, Eagleburger had cultivated the public persona of a gruff, non-nonsense, Kissingerian realist. During 1992, however, this supposed tough-mindedness was strikingly absent as he labored to escalate hysteria over Bosnia. Absurdly, he likened a nasty, little war with atrocities on all sides to, of all things, the Holocaust. In his December 16, 1992 speech in Geneva, Eagleburger announced that "we have ... a moral and historical obligation not to stand back a second time in this century while a people faces obliteration." Recall that the worst that Eagleburger and others had accused the Serbs of was seeking to carve out an ethnically pure Serb state in Bosnia, one that they would supposedly eventually attach to Serbia. Even if this claim were true, why would such a project lead to the "obliteration" of "a people"? The choice seemed to be: a Muslim-dominated Bosnia or "obliteration." Not only was Eagleburger engaging in irresponsible hyperbole, which served only to fuel hatred and incite terror among the people of Bosnia, he was also obscuring what the United States was really up to by throwing its weight behind Izetbegović. <http://sca.lib.liv.ac.uk/collections/owen/boda/fmin4.pdf>.

- 104 Eagleburger subsequently put out the story that his remarks were impromptu and triggered by a conversation he had had with Elie Wiesel. However, as Michael Scharf, the then attorney adviser for U.N. affairs in the U.S. State Department, has disclosed, "The 'naming names' speech was in fact 'cleared' throughout the government in advance, and I, myself, made certain revisions to ensure that the statement contained the requisite legal caveats and qualifiers."
- 105 Michael P. Scharf, *Balkan Justice: The Story Behind the First International War Crimes Trial Since Nuremberg* (Durham: Carolina Academic Press, 1997), p. 44.
- 106 Balkan Odyssey Digital Archive, <http://sca.lib.liv.ac.uk/collections/owen/boda/lcserb.pdf>.
- 107 Woodward, *Balkan Tragedy: Chaos and Dissolution After the Cold War*, p. 303. Fatuous posturing by Western leaders was much in vogue in those days. General MacKenzie recounted how President Mitterrand, during his famous June 1992 visit to Sarajevo, had initially refused to meet Karadžić. "I was shocked. I'd never considered that the President of France would visit Sarajevo and talk with only one side in the conflict," MacKenzie wrote. When MacKenzie politely suggested that a meeting might be a good idea, Mitterrand agreed. However, he told the general: "Tell Karadžić that I will see him for only five minutes before I depart. I won't meet with him. I'll just say hello." (MacKenzie, pp. 384-385) The meeting did finally take place at Sarajevo airport and lasted longer than five minutes. Heavy fighting in the vicinity prevented Mitterrand's early departure.
- 108 MacKenzie, p. 387.
- 109 Transcript, U.S. Department of State Dispatch, September 1, 1992.
- 110 Balkan Odyssey Digital Archive, <http://sca.lib.liv.ac.uk/collections/owen/boda/lcspeci.pdf>.
- 111 Transcript, U.S. Department of State Dispatch, September 1, 1992.
- 112 "Bush Threatens 'Military Force' If Serbs Attack Ethnic Albanians," *Washington Post*, December 29, 1992.
- 113 "When Will They Call It Peace?" *The Economist*, August 1, 1992.
- 114 "How Would the Serb 'National Heroes' Face up to a Real Enemy?" *Daily Mail*, April 19, 1993.
- 115 Report of the Secretary-General Pursuant to Security Council Resolution 815 (1993), S/25777, May 15, 1993, paragraph 7.
- 116 Report of the Secretary-General Pursuant to Resolution 871, S/1994/300, March 16, 1994, paragraph 14.
- 117 Rose, p. 299.
- 118 Ibid., p. 76.
- 119 Report of the Secretary-General Pursuant to Resolutions 982 (1995) and 987 (1995), S/1995/444, May 30, 1995, paragraph 58.
- 120 Report of the Secretary-General Pursuant to Resolution 871 (1993), S/1994/300, March 16, 1994, paragraph 34.
- 121 Paper on direct governmental involvement in the search for a negotiated settlement to the conflict in Bosnia and Herzegovina with special reference to the work of the Contact Group, September 1992 to July 1994, Balkan Odyssey Digital Archive, <http://sca.lib.liv.ac.uk/collections/owen/boda/sp2a.pdf>.

- 122 Report of the Secretary General on the International Conference on the Former Yugoslavia, S/24795, Nov. 11, 1992, paragraph 36.
- 123 Owen, p. 62.
- 124 Owen, p. 67.
- 125 Silber and Little, p. 307.
- 126 Balkan Odyssey Digital Archive, <http://sca.lib.liv.ac.uk/collections/owen/boda/cd-93a29.pdf>.
- 127 Paper on direct governmental involvement, <http://sca.lib.liv.ac.uk/collections/owen/boda/sp2a.pdf>.
- 128 Balkan Odyssey Digital Archive, <http://sca.lib.liv.ac.uk/collections/owen/boda/cd-93c11a.pdf>.
- 129 Owen, pp. 126-129.
- 130 Balkan Odyssey Digital Archive, <http://sca.lib.liv.ac.uk/collections/owen/boda/cd-93a29.pdf>.
- 131 Balkan Odyssey Digital Archive, <http://sca.lib.liv.ac.uk/collections/owen/boda/cd-93bo5.pdf>.
- 132 "Owen Backs Air Strikes," *The Guardian*, April 17, 1993.
- 133 Balkan Odyssey Digital Archive, <http://sca.lib.liv.ac.uk/collections/owen/boda/anapri.pdf>.
- 134 Owen, p. 198.
- 135 Misha Glenny, *The Fall of Yugoslavia: The Third Balkan War* (New York: Penguin, 1993), p. 228.
- 136 "U.N. Security Council, Provisional Verbatim Record of the 3208th Meeting, S/PV. 3208, May 6, 1993.
- 137 "U.S. Decides to Use Force on Serbs in Bosnian War," *Washington Post*, May 2, 1993.
- 138 "Top Bosnian Serb, Facing U.S. Action, Signs a Peace Plan," *New York Times*, May 3, 1993.
- 139 "Allies Resist U.S. Plan on Bosnia," *Los Angeles Times*, May 5, 1993.
- 140 Owen, p. 173.
- 141 *Ibid.*, p. 192.
- 142 Milošević Trial Transcript, September 26, 2002, p. 10187.
- 143 Prosecutor v. Brđjanin, IT-99-36-T, ICTY, Expert Report by Defense Witness Paul S. Shoup, January 23, 2004, p. 24.
- 144 Silber and Little, p. 143.
- 145 Prosecutor v. Blaškić, IT-95-14, March 18, 1998, p. 7357.
- 146 Prosecutor v. Prlić, IT-04-74, April 3, 2007, p. 16827.
- 147 Milošević Trial Transcript, October 23, 2003, p. 28026.
- 148 Milošević Trial Transcript, October 1, 2002, p. 10560.
- 149 Mesić makes a habit of inferring conspiracies from facts "on the ground." Since that's what the ICTY does on a daily basis, it's understandable why he should be such a frequent testifier at The Hague. During his testimony at the Milošević trial, Judge May asked him: "Perhaps you can help us. Since the plan for the Greater Serbia was mentioned, Mr. Mesić, did you hear the accused or anybody in the leadership of the JNA or the Republic of Serbia talking about such a plan?" Mesić disclosed that everything he had been saying about Greater Serbia was a matter of conjecture: it

is correct that there was no discussion of the creation of a Greater Serbia. As far as I know, there is no such conclusion, formal conclusion, but the job of creating a Greater Serbia was being done in Serbia and in Bosnia and Herzegovina. So work on it was being conducted. And I draw this conclusion on the basis of the actions of the JNA, the Territorial Defence, and the illegal, or rather, legal in Serbia, paramilitary organisations which were mobilised in centres in Serbia, which were trained in centres in Serbia, and after the fall of Vukovar, men, women, and children, all those who were not killed in Ovčara, were taken to camps in Serbia, which stretched all the way to Nis. (Milošević Trial Transcript, October 3, 2002, pp. 10741-10742.) Naturally, the ICTY judges didn't bother to challenge this fact-free, emotional tirade.

150 Milošević Trial Transcript, January 21, 2004, p. 31268.

151 Report of the Secretary-General Pursuant to Resolutions 982 (1995) and 987 (1995), S/1995/444, May 30, 1995, paragraph 62.

152 Report of the Secretary-General Pursuant to Resolutions 982 (1995) and 987 (1995), S/1995/444, May 30, 1995, paragraph 68.

### 3 PEACEMAKING V. HUMANITARIANISM

1 Owen, p. 192.

2 The European Community (E.C.) was renamed the European Union (E.U.) on November 1, 1993, when the Treaty on European Union, the so-called Maastricht Treaty, came into force.

3 Lenard J. Cohen, *Broken Bonds: Yugoslavia's Disintegration and Balkan Politics in Transition* (Boulder: Westview Press, 1995), p. 286.

4 "Tanjug: Fikret Abdić Accuses Izetbegović of Warmongering and Political Terrorism," BBC Summary of World Broadcasts, September 6, 1993.

5 Report of the Co-Chairmen of the Steering Committee on the Activities of the International Conference on the Former Yugoslavia, S/26260, August 6, 1993, paragraph 31.

6 "Plot Grows to Oust Bosnia Leader," *The Independent*, June 23, 1993.

7 Report of the Co-Chairmen of the Steering Committee on the Activities of the International Conference on the Former Yugoslavia, S/26395, September 1, 1993.

8 U.S. Department of State Dispatch, Vol. 4, No. 27, July 5, 1993.

9 State Department Regular Briefing, August 9, 1993.

10 Boutros Boutros-Ghali, *Unvanquished: A U.S.-U.N. Saga* (New York: Random House, 1999), pp. 89-90.

11 Boutros-Ghali's deficiency was his lack of understanding that the United States had no interest in ending the conflict in Bosnia except under conditions imposed entirely by Washington. The Clinton administration hadn't the slightest interest in seeing the United Nations operations in Bosnia succeeding. The administration's "lift and strike" policy had very little prospect of turning around the fortunes of the Bosnian Muslims. And there was no way that countries that had committed its personnel to peacekeeping in Bosnia would agree to supporting the U.S. policy unless they pulled their people out first. That would, of course, lead to the gradual dissolution of

- the UNPROFOR mission. U.S. advocacy for lift and strike had no purpose other than to undermine the United Nations. Once UNPROFOR could be seen to have failed, then the Americans could step in with their own program.
- 12 Boutros-Ghali, *Unvanquished*, p. 333.
  - 13 "U.S. Turns Bosnia Threat into a Near Ultimatum," *New York Times*, August 4, 1993.
  - 14 Owen, p. 205.
  - 15 "Christopher Pressures Serbs, Croats," *Chicago Tribune*, September 2, 1993.
  - 16 Owen, pp. 215-216.
  - 17 *Ibid.*, p. 216.
  - 18 Report of the Co-Chairmen of the Steering Committee on the Activities of the International Conference on the Former Yugoslavia, S/26922, December 29, 1993, paragraph 2.
  - 19 Owen, p. 221.
  - 20 <http://sca.lib.liv.ac.uk/collections/owen/boda/co93ko1.pdf>.
  - 21 "Joint Action on the Former Yugoslavia," COREU telegram from Lord Owen to E.U. foreign ministers, November 5, 1993, Balkan Odyssey Digital Archive, <http://sca.lib.liv.ac.uk/collections/owen/boda/co93ko5b.pdf>.
  - 22 Owen, p. 207.
  - 23 U.N. General Assembly, 48th Session, 20th Plenary Meeting, October 7, 1993. A/48/PV.20.
  - 24 Balkan Odyssey Digital Archive, <http://sca.lib.liv.ac.uk/collections/owen/boda/euac1.pdf>.
  - 25 Action Plan of the European Union for the Former Yugoslavia, November 1993-February 1994, <http://sca.lib.liv.ac.uk/collections/owen/boda/euac3.pdf>.
  - 26 "E.C. Puts New Peace Bid to Warring Factions," The Associated Press, November 29, 1993.
  - 27 Owen, p. 232.
  - 28 Balkan Odyssey Digital Archive, <http://sca.lib.liv.ac.uk/collections/owen/boda/euac6.pdf>.
  - 29 Balkan Odyssey Digital Archive, <http://sca.lib.liv.ac.uk/collections/owen/boda/ccdo17.pdf>.
  - 30 Report of the Co-Chairmen of the Steering Committee on the Activities of the International Conference on the Former Yugoslavia, S/1994/64, January 21, 1994, paragraphs 8 and 9.
  - 31 Balkan Odyssey Digital Archive, <http://sca.lib.liv.ac.uk/collections/owen/boda/wgbh13.pdf>.
  - 32 NATO press release, January 11, 1994, <http://www.nato.int/docu/pr/1994/p94-003.htm>.
  - 33 Rose, p. 63.
  - 34 NIOD, Appendix II, "Intelligence and the War in Bosnia 1992-1995: The Role of the Intelligence and Security Services," Chapter 2.
  - 35 U.N. Doc. S/1994/182.
  - 36 Owen, pp. 260-261.
  - 37 "The MacNeil/Lehrer Newshour," February 7, 1994.
  - 38 "From Indecision to Ultimatum," *New York Times*, February 14, 1994.
  - 39 Owen, pp. 258-9.

- 40 "Shelling Wounds Five U.N. Peacekeepers in Northern Bosnia," The Associated Press, February 22, 1994.
- 41 Owen, p. 262.
- 42 "Possible Air Action to Enforce Sarajevo Exclusion Zone in the Aftermath of the Market Place Massacre," COREU from Lord Owen for foreign ministers, February 14, 1994, Balkan Odyssey Digital Archive, <http://sca.lib.liv.ac.uk/collections/owen/boda/co94b14.pdf>.
- 43 Owen, p. 254.
- 44 Balkan Odyssey Digital Archive, <http://sca.lib.liv.ac.uk/collections/owen/boda/sp2b.pdf>.
- 45 COREU from Lord Owen, March 2, 1994, Balkan Odyssey Digital Archive, <http://sca.lib.liv.ac.uk/collections/owen/boda/co94co2.pdf>.
- 46 Balkan Odyssey Digital Archive, <http://sca.lib.liv.ac.uk/collections/owen/boda/sp2c.pdf>.
- 47 "Albright, Shalikashvili Signal U.S. Ties to Bosnia," *Washington Post*, March 31, 1994.
- 48 "Making Peace with the Guilty," *Foreign Affairs*, Vol. 74, No. 50, September/October 1995, pp. 22-38.
- 49 Rose, p. 121.
- 50 *Ibid.*, p. 145.
- 51 John E. Sray, "U.S. Policy and the Bosnian Civil War: A Time for Reevaluation," Foreign Military Studies Office Publications, 1995.
- 52 "Making Peace with the Guilty," *Foreign Affairs*, Vol. 74, No. 50, September/October 1995, pp. 22-38.
- 53 Owen, p. 284.
- 54 Balkan Odyssey Digital Archive, <http://sca.lib.liv.ac.uk/collections/owen/boda/sp2d.pdf>.
- 55 Balkan Odyssey Digital Archive, <http://sca.lib.liv.ac.uk/collections/owen/boda/cgrp4.pdf>.
- 56 "Bosnia Serbs Hint Conditionally They'll Accept Latest Peace Plan," *New York Times*, July 20, 1994.
- 57 COREU (official telegrams between E.C./E.U. capitals) from Lord Owen, "Bosnia: Challenge to CFSP," July 22, 1994, ICTY Legal Library.
- 58 Balkan Odyssey Digital Archive, <http://sca.lib.liv.ac.uk/collections/owen/boda/co94g31.pdf>.
- 59 Owen's innumerable changes of position on the issue of bombing were hard to keep up with. He was for the bombing before he was against it before he was for it and against it and for it again. Such self-indulgence comes easily when one knows that it will be others, and not oneself, who will be bombed. Owen's sudden burst of belligerence in the summer of 1994 was no doubt tied to his becoming an increasingly irrelevant figure on the Bosnian scene. Having been – unfairly – condemned by the Bosnia lobby in Europe and the United States for being too pro-Serb (the European Parliament even voted for his dismissal), Owen evidently decided that he needed to burnish his humanitarian credentials before he left the Bosnian scene altogether.
- 60 Report of the Co-Chairmen of the Steering Committee on the Activities of the International Conference on the Former Yugoslavia, S/1994/811, July 8, 1994, paragraph 37.

- 61 Report of the Secretary-General Pursuant to Resolution 908 (1994), S/1994/1067, September 17, 1994, paragraph 3.
- 62 Report of the Co-Chairmen of the Steering Committee of the International Conference on the Former Yugoslavia on the Conclusion of an Economic Agreement Between the Croatian Government and the Serb Local Authorities, S/1994/1375, December 2, 1994, paragraph 2.
- 63 Report of the Co-Chairmen of the Steering Committee of the International Conference on the Former Yugoslavia on the Establishment and Commencement of Operations of an International Conference on the Former Yugoslavia Mission to the Federal Republic of Yugoslavia (Serbia and Montenegro), S/1994/1074, September 19, 1994, paragraph 5.
- 64 Balkan Odyssey Digital Archive, <http://sca.lib.liv.ac.uk/collections/owen/boda/sp2d.pdf>.
- 65 Report of the Co-Chairmen of the Steering Committee of the International Conference on the Former Yugoslavia on the Establishment and Commencement of Operations of an International Conference on the Former Yugoslavia Mission to the Federal Republic of Yugoslavia (Serbia and Montenegro), S/1994/1074, September 19, 1994, paragraph 28.
- 66 Operations of the International Conference on the Former Yugoslavia Mission to the Federal Republic of Yugoslavia (Serbia and Montenegro), S/1994/1124, October 3, 1994.
- 67 U.N. Doc. A/49/473 S/1994/1129, October 5, 1994.
- 68 Operations of the International Conference on the Former Yugoslavia Mission to the Federal Republic of Yugoslavia (Serbia and Montenegro), S/1995/6, January 5, 1995, paragraphs 6 and 7.
- 69 Balkan Odyssey Digital Archive, <http://sca.lib.liv.ac.uk/collections/owen/boda/ru95-a05.pdf>.
- 70 U.N. Security Council, 3487th Meeting, S/PV. 3487, January 12, 1995.
- 71 Balkan Odyssey Digital Archive, <http://sca.lib.liv.ac.uk/collections/owen/boda/an-miss.pdf>.
- 72 Owen, p. 311.
- 73 "Bosnian Serb Is Expressing New Interest in Old Plan," *New York Times*, May 24, 1995.
- 74 "Fighting in Bosnia Draws U.N. Warning," *New York Times*, March 28, 1995.
- 75 "Making Peace with the Guilty," *Foreign Affairs*, Vol. 74, No. 50, September/October 1995, pp. 22-38.
- 76 Report of the Secretary-General Pursuant to Resolutions 982 (1995) and 987 (1995), S/1995/444, May 30, 1995, paragraph 67.
- 77 Balkan Odyssey Digital Archive, <http://sca.lib.liv.ac.uk/collections/owen/boda/an-nati.pdf>.
- 78 "Another Shelling of Sarajevo Underlines Political Stalemate," *New York Times*, April 13, 1995.
- 79 Hearing Before the Commission on Security and Cooperation in Europe, 104th Congress, April 6, 1995.

- 80 Biannual Report of the Co-Chairmen of the Steering Committee on the Activities of the International Conference on the Former Yugoslavia, S/1995/626, July 26, 1995, paragraph 4.
- 81 Report of the Secretary-General Pursuant to Resolutions 982 (1995) and 987 (1995), May 30, 1995, S/1995/444, paragraph 38.
- 82 Report of the Secretary-General Pursuant to Resolutions 982 (1995) and 987 (1995), May 30, 1995, S/1995/444, paragraph 58.
- 83 NIOD, Part I, Chapter 11, Section 10.
- 84 U.N. Document S/1995/470.
- 85 Report of the Secretary-General Pursuant to General Assembly Resolution 53/35: The fall of Srebrenica, A/54/549, November 15, 1999, paragraph 217.
- 86 Report of the Secretary-General Pursuant to General Assembly Resolution 53/35: The fall of Srebrenica, A/54/549, November 15, 1999, paragraph 216.
- 87 U.N. Security Council, 3543<sup>rd</sup> Meeting, June 16, 1995, S/PV.3543.
- 88 "The Road to Dayton: U.S. Diplomacy and the Bosnia Peace Process, May-December 1995," U.S. Department of State, 1997, p. 12.
- 89 "Russia Holds Key to Action by Allies," *The Guardian*, July 21, 1995.
- 90 "Text of Foreign Secretary Malcolm Rifkind's Statement," The Associated Press, July 21, 1995.
- 91 "Allies Warn Bosnian Serbs of 'Substantial' Air Strikes If U.N. Enclave Is Attacked," *New York Times*, July 22, 1995.
- 92 "U.S., NATO Set to Act in Bosnia Without U.N.'s Approval," *All Things Considered*, National Public Radio, July 24, 1995.
- 93 This, of course, was a highly tendentious, albeit widely accepted, reading of the Srebrenica debacle. Unlike the United States, the United Nations had urged the Bosnian combatants to renew the four-month cessation of hostilities agreement. The Clinton administration, on the other hand, clapped its hands with glee when the Muslims decided to end the ceasefire at the end of April. It therefore bore at least as much, if not more, responsibility for the disastrous outcome in Srebrenica in July as the United Nations.
- 94 State Department News Briefing, July 24, 1995.
- 95 "The Road to Dayton: U.S. Diplomacy and the Bosnia Peace Process, May-December 1995," U.S. Department of State, 1997, p. 31.
- 96 State Department, Regular Daily News Briefing, July 26, 1995.
- 97 [http://www.nato.int/cps/en/natolive/opinions\\_24778.htm?selectedLocale=en](http://www.nato.int/cps/en/natolive/opinions_24778.htm?selectedLocale=en).
- 98 "Ambiguous Ultimatum: Allies Show Differences," *New York Times*, July 24, 1995.
- 99 [http://www.nato.int/cps/en/natolive/opinions\\_24775.htm](http://www.nato.int/cps/en/natolive/opinions_24775.htm).
- 100 "NATO Rings Safe Areas With 'Zones of Action,'" *The Times* of London, August 3, 1995.
- 101 "The Road to Dayton: U.S. Diplomacy and the Bosnia Peace Process, May-December 1995," U.S. Department of State, 1997, p. 72.
- 102 "U.N. Blunt Blaming Bosnian Serbs for Markale Shelling," ITAR-TASS, August 29, 1995.
- 103 NIOD, Appendix II, Chapter 2, Section 4.
- 104 "Bosnia's Bombers," *The Nation*, October 2, 1995.
- 105 "Air Assault Set Stage for Broader Role," *Washington Post*, November 15, 1995.

106 Prosecutor v. Dragomir Milošević, IT-98-29/1-T, July 5, 2007, p. 7695.

107 Prosecutor v. Dragomir Milošević, p. 7718.

108 Prosecutor v. Dragomir Milošević, Judgment, December 12, 2007, paragraphs 722 and 723.

109 Amusingly, and entirely typically, the ICTY's airy dismissal of Demurenko's assessment of the marketplace shelling didn't stop it from unctuously quoting him likening the siege of Sarajevo to that of Leningrad. Demurenko, according to the court, testified that "if one looks at the human suffering, then it was a case of a full siege, just like in Leningrad during Second World War." A Russian comparing the siege of Sarajevo to the siege of Leningrad! This was too good to pass up. Demurenko's observation even made its way into the press release accompanying the guilty verdict and the 33-year prison term. However, as usual, the ICTY had taken what Demurenko said out of context and had thereby seriously misrepresented what he actually claimed. What he actually said was:

"On the one hand, one can claim that they were encircled, that they were under siege, because all the roads were blocked and there was very little space for maneuver. On the other hand, there was a tunnel under Mount Igman, under the airport, which permitted the people to supply humanitarian aid as well as weapons and allowed them to move troops, allowed the Bosnian Muslims to move troops. So if one looks at the human suffering, then it was a case of a full siege, just like in Leningrad during Second World War. And if one looks at the possibility to have military movements, then one can say that yes, it was possible and one could move 500 to 600 troops overnight through the tunnel. So yes, it was a case of siege but with certain qualification" (Prosecutor v. Dragomir Milošević, August 21, 2007, p. 9007).

110 "In Sweeping Strikes, U.S., Allies Mete Out Punishment to Serbs," *Los Angeles Times*, August 30, 1995.

111 Richard Holbrooke, *To End a War* (New York: Random House, 1998), pp. 99-103. NATO's freeing itself from any control by the United Nations was to have fateful consequences in 1998 and 1999 as the United States ratcheted up the pressure on Yugoslavia by threatening bombing attacks. Now that NATO no longer needed the sanction of a U.N. Security Council resolution to undertake its "humanitarian bombing" campaign, the coast was clear for the launch of the March 24, 1999 bombing of Yugoslavia. Armed with this happy precedent, the Bush administration, four years later, also felt comfortable about attacking Iraq without having to go through the tedium of getting a U.N.-authorizing resolution.

112 *Ibid.*, p. 99.

113 [http://www.globalsecurity.org/military/ops/deliberate\\_force.htm](http://www.globalsecurity.org/military/ops/deliberate_force.htm).

114 Report of the Secretary-General Pursuant to General Assembly Resolution 53/35: The fall of Srebrenica, A/54/549, November 15, 1999, paragraphs 442 and 444.

115 "In Sweeping Strikes, U.S., Allies Mete Out Punishment to Serbs," *Los Angeles Times*, August 30, 1995.

116 [http://www.nato.int/cps/en/natolive/opinions\\_24774.htm](http://www.nato.int/cps/en/natolive/opinions_24774.htm).

117 Report of the Secretary-General Pursuant to Security Council Resolutions 981 (1995), 982 (1995) and 983 (1995), S/1995/987, November 23, 1995, paragraph 15.

118 "Bosnia, Croatia Agree to Halt Offensive," *Washington Post*, September 20, 1995.

119 <http://www.nato.int/docu/pr/1994/p94-015.htm>.

- 120 Holbrooke, *To End a War*, p. 145.
- 121 "The Road to Dayton: U.S. Diplomacy and the Bosnia Peace Process, May-December 1995," U.S. Department of State, 1997, p. 86.
- 122 Ibid., p. 110.
- 123 "NATO Commanders Face Grim Choices," *New York Times*, September 14, 1995.
- 124 "The Road to Dayton," p. 135.
- 125 Ibid., p. 139.
- 126 Ibid., pp. 84-85.
- 127 Ibid., p. 97.
- 128 U.N. Doc. A/50/419 S/1995/780.
- 129 Holbrooke, *To End a War*, p. 293.
- 130 "The Road to Dayton," pp. 233-234.
- 131 Even Holbrooke admits that the Muslim-Croat offensive was running out of steam on account of military incompetence and mutual antagonisms. Once NATO bombing ended, the Serbs began to recover militarily.
- 132 Owen, p. 18.
- 133 Holbrooke, *To End a War*, p. 86.
- 134 Witness Statement, ICTY, May 13, 1999.
- 135 Further Report of the Secretary-General Pursuant to Security Council Resolution 749 (1992), S/23900, May 12, 1992, paragraph 21.
- 136 Further Report of the Secretary-General Pursuant to Security Council Resolution 752 (1992), S/24188, June 26, 1992, paragraph 7.
- 137 Ibid., paragraph 12.
- 138 Report of the Secretary-General Pursuant to Security Council Resolution 815 (1993), S/25777, May 15, 1993, paragraph 20 (b).
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- 140 Report of the Secretary-General Pursuant to Resolution 871 (1993), S/1994/300, March 16, 1994, paragraph 9.
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## CONCLUSIONS

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# INDEX

- Abdić, Fikret, 129, 147-8, 192, 255-6, 301, 303
- ABiH. *See* Armija Republike Bosne i Hercegovine
- Abkhazia, 528
- Abu Ghraib, 529
- Adriatic oil pipeline, 262
- Adžić, Blagoje, 149-50, 152
- Afghanistan
  - U.N./NATO cooperation in, 38
  - U.S. invasion of, 27, 34, 38, 40, 403, 505, 506, 509, 511-12, 528
- African Union, 530
- Agreed Basic Principles (Geneva), 237
- Agrokomerc, 129
- Ahmeti, Ali, 561n11
- Ahtisaari, Martti, 175, 491-2, 497
- Ahtisaari-Chernomyrdin plan, 494
- Akashi, Yasushi, 225, 226, 229-30, 251, 256, 262, 264, 305-306, 319, 320
- Al Qaeda. *See* al-Qaeda
- Albania
  - criminal activity in, 524
  - monitors in, 168
  - NATO forces in, 481
  - refugees relocating to, 455-6, 472
  - request for NATO border guards from, 338, 346, 357, 420
  - and Serbia, 344-7
  - threat from Serbs against, 448
  - relations with Yugoslavia, 344-5
- Albanians. *See also* Kosovo Albanians
  - claims to Kosovo by, 340
  - ethnic, 51
  - independence demanded by, 422, 428, 431-3
  - in Macedonia, 80, 98, 112, 114, 339
  - repression of, 64
- Albright, Madeleine
  - on Bihać, 304
  - on Bosnia, 215, 225, 554n167
  - on Boutros-Ghali, 194
  - on Contact Group/KLA connection, 565n31
  - on Croatia, 253, 269-70, 326
  - on Kosovo, 338, 348-9, 382, 395, 406-7, 408, 448, 451, 463-4, 489, 492, 500, 503
  - on Kosovo Albanians, 569n107
  - Milošević criticized by, 449
  - Owen criticized by, 216-17
  - at Rambouillet, 424, 428, 431-4, 438-41, 446, 490
  - on sacrifice of life, 572n70
  - Sarajevo visit by, 207-8, 297
  - anti-Serb rhetoric of, 132, 180, 193, 323-5
  - on terrorists, 509
  - on U.S.'s moral imperative, 330, 337
  - on bombing Yugoslavia, 367, 374, 422, 457
- Alibegović, Ibrahim, 150
- Alic, Fikret, 137
- All My Battles* (Bobetko), 249
- Almond, Mark, 127, 170
- Almstrom, John, 256
- al-Qaeda, 21, 508-9, 511, 576n45
- Amnesty International, 19
- Andrić, Ivo, 147

- Annan, Kofi
- and Bihać, 304
  - bombings authorized by, 34, 233
  - and the Bosnian conflict, 36, 155
  - Boutros-Ghali replaced by, 330
  - on disarmament, 286
  - on humanitarian intervention, 22, 23, 334-5
  - Iraq invasion by criticized by, 37
  - reports on Kosovo, 349, 358-9, 369-72, 389-90, 400, 411, 415, 447-8, 453
  - Millennium Report of (2000), 37
  - statement on Račak, 417-18
  - on sovereignty, 23
  - on Srebrenica, 285
- Appendix B. *See* Rambouillet Accords, Appendix B
- Arab League, 533n16
- Arbitration Commission of the International Conference on the Former Yugoslavia, 99-101
- Arbour, Louise, 20, 391, 407-8, 443, 460, 464, 476, 555n180
- Arkan. *See* Raznjatović, Zeljko “Arkan”
- Armija Republike Bosne i Hercegovine (ABiH, Army of the Republic of Bosnia and Herzegovina)
- improvements to, 308-9
  - and Sarajevo bombings, 203, 231-2
  - in Srebrenica, 282, 286-9, 310
- arms embargo
- Croatia’s violation of, 243
  - lifting of, 211-12
  - on Muslims, 209
  - on Yugoslavia, 76, 169, 356
- Arnett, Peter, 138
- As Seen/As Told* (OSCE/KVM report), 399-400, 406, 460, 462
- Ascherson, Neal, 135
- Asgrimsson, Halldor, 468
- Ash, Timothy Garton, 487
- Ashdown, Paddy, 184, 518
- Assad, Bashar al-, 20, 509, 534n16
- Assembly of the Serb Nation in Bosnia-Herzegovina, 85-6. *See also* Bosnia; Bosnia-Herzegovina; Serbs
- Athens agreement, 179, 181
- Atlatl Battalion, 383
- Atrocities Prevention Board, 22
- Autonomous Province of Kosovo and Metohija. *See* Kosovo; Metohija
- Autonomous Province of Vojvodina. *See* Vojvodina
- Autonomous Province of Western Bosnia. *See* Bosnia; Western Bosnia
- Avramović, Života, 150
- Babić, Milan
- meeting with Galbraith, 261-2, 265-6
  - protesting the Vance plan, 122
  - and the Z-4 plan, 262-5
- Bacon, Kenneth, 494-6
- Badinter, Robert
- on Bosnia, 110-12
  - as chairman of peace conference, 93, 538n107
  - political machinations by, 102-9
- Badinter commission
- arbitrary decisions by, 100-101
  - and Kosovo secession, 527
  - maneuvers of, 102-9
  - members of, 93
- Bahrain
- force used by government in, 14
  - U.N. action in, 23
- Baker, James
- on Bosnia, 117
  - on Rambouillet, 487
  - on Yugoslavia, 65, 70, 71, 80-81, 120
- Ban Ki-Moon, 22, 32, 34, 37-8
- Bangladesh, 109
- Banja Luka, 176, 235-6, 255, 257-8, 318
- Baratta, Mira, 51
- Bartholomew, Reginald, 173
- Belgrade Initiative, 83
- Bell, Martin, 392
- Beloff, Nora, 56-7
- Benavides, Guillermo, 564n10

- Benghazi
- embassy murders at, 509
  - rebels in, 13-16
- Berger, Samuel R., 378
- Berisha, Sali, 344, 346, 364
- Berlin Wall, fall of, 52
- Biden, Joe, 516
- Bihać
- battle for, 255-8, 260-61
  - emergency U.N. debate on, 304
  - imminent danger to, 228-9
  - as safe area, 188, 192, 275, 277, 289
  - Serb attack on, 264, 268
- Bijak, Jacob, 140
- Bildt, Carl, 238, 264, 266, 492
- bin Laden, Osama, 143, 507-8, 511, 526-7
- Binder, David, 231-2
- Bjondić, Tomislav, 150
- Black, Ian, 485
- Blair, Tony
- speech to Chicago Economic Club, 335, 454, 468, 471
  - election of, 335
  - in favor of intervention, 22, 40
  - and Kosovo, 367, 429, 431, 433, 448, 454, 463-4, 465, 480, 499-500, 503, 505
  - opportunism of, 518
  - phone call from Clinton, 420
  - as proponent of NATO's war, 467-8
  - supporting U.S. wars, 513
- Boban, Mate, 110, 116, 120, 147, 175
- Bobetko, Janko, 249
- Bogićević, Bogić, 76, 87
- bombing. *See* NATO bombing campaigns
- Bonino, Emma, 317
- Boras, Franjo, 119
- Border Zone (Kosovo), 501
- Borger, Julian, 26
- Bosnia. *See also* Bosnia-Herzegovina (Bosnia-Hercegovina)
- alternative solutions for, 174-5
  - American intervention in, 25, 26
  - arms supply to, 141-2, 193, 308-10
  - Badinter's assessment of, 110-12
  - beginning of war in, 98, 125, 130
  - and the Brioni agreement, 76-7
  - cantonization of, 162-3, 167, 168, 174-5, 539n130
  - confederation of, 174
  - constitution of, 84, 111, 117
  - demilitarization agreement in, 284-289
  - division of territory in, 208
  - elections in, 50, 147
  - independence demanded by, 43, 110-11, 113, 116-17, 119, 126, 156
  - independence recognized, 100, 113, 117, 119, 125, 148, 167
  - instability of, 196-7
  - Islamic extremists in, 507-11
  - and Mesić, 90
  - military units in, 209, 247, 292
  - as moral crusade, 127
  - Muslim enclaves in, 191, 201, 207-10, 218, 220, 224, 227, 239, 276-7, 280, 293, 306-11, 362, 404
  - as national state, 82
  - nationalism in, 51
  - NATO involvement in, 127-8, 241
  - no-fly zone over, 142, 170-71, 188, 206, 253, 288, 291, 530
  - paramilitary units in, 148-9, 151
  - partitioning of, 116-18, 238-9
  - at peace conference, 95
  - plan for union of three republics, 191
  - population demographics of, 82, 113
  - relocations to, 456
  - Serb invasion of, 28
  - Serbs in, 126
  - and the SFRY federal budget, 49
  - Slavic conflict in, 347
  - temporary ceasefire in, 218-22, 305
  - territory exchange in, 308
  - U.N. sanctions against, 171
  - unified, 169
  - U.S. role in, 509
  - vote on military preparedness, 66
  - vote on sovereignty, 102-3

- during World War II, 145, 541n24
- Bosnia-Herzegovina (Bosnia-Herzegovina). *See also* Bosnia
  - and the CSCE, 149
  - bid for independence by, 113
  - military units in, 157
  - proposed division into cantons, 118-19
  - recognition of, 117
  - as republic, 83-5
  - as Serbian state, 116
  - Serbs in, 85-6
- Bosnian Croats. *See also* Croat-Muslim federation of Bosnia; Croats
  - Bosnian Croat assembly, 196, 197
  - and the Invincible Package, 197, 198
  - advantage over Muslims, 169
  - and Operation Storm, 324
  - and the Owen-Stoltenberg plan, 192
  - willing to sign peace agreement, 84-5, 202, 205
  - question of citizenship, 128-9
  - plan for secession, 110, 112, 113
  - deals with Serbs, 119, 147-8
  - and the Vance-Owen plan, 175-6
- Bosnian Muslims. *See also* Izetbegović, Alija; Muslim-Croat federation; Muslims
  - arms supply to, 141-3
  - assistance requested by, 295-6
  - and the Balkan wars, 28
  - and the war in Bosnia, 134, 152, 169, 276-8
  - Bosnian Muslim Green Berets, 141
  - and Bosnian peace initiative, 84-5
  - demographics in Bosnia, 82, 98, 113
  - enclaves of, 191, 201, 207-10, 218, 220, 224, 227, 239, 276-7, 280, 293, 306-11, 362, 404
  - mujahedin enlisted to support, 508
  - and NATO bombings, 234
  - and the Owen-Stoltenberg plan, 240
  - question of citizenship, 128-9
  - Sarajevo offensive, 309-10
  - secession threatened, 82
  - Srebrenica abandoned by, 311-14
  - and the Vance-Owen plan, 176, 240
  - surrender of weapons by, 286-8
- Bosnian Serb Army (BSA), 209, 247
- Bosnian Serb Republic, 115. *See also* Bosnia; Bosnian Serbs
- Bosnian Serbs. *See also* Serbs
  - assets of seized, 218
  - as Bosnians, 341
  - Bosnian Serb assembly, 179, 196, 197
  - and the ceasefire, 307
  - rejection of Contact Group Plan by, 212-14, 222
  - and demilitarization proposal, 282
  - economic activity with interdicted, 217-18
  - plan to isolate, 214-18
  - Muslim campaign against, 278-84
  - willing to sign peace agreement, 202, 205
  - represented at peace talks, 116
  - and Srebrenica massacre, 29, 313-27, 551n93
  - sanctions against, 214-18, 309
  - secession opposed by, 86
  - U.N. observers used as human shields by, 223
  - and the U.N. safe areas, 276
  - rejection of Vance-Owen plan by, 179, 285, 290, 313-27
  - violence attributed to, 404
- Bosnian Territorial Defense Forces (TDF), 134
- Both, Norbert, 280, 284
- Bouchard, Charles, 15
- Boutros-Ghali, Boutros
  - Annan as replacement for, 233, 330
  - and the bombing campaigns, 33, 193-4, 202, 226-30, 234-5
  - and Bosnia, 135, 159, 174, 221, 294, 547-8n11
  - and Croatia, 123, 132, 171, 214, 243-6, 248, 258-9, 263, 267
  - on Muslim military in safe areas, 277, 288

- on NATO peacekeeping role, 36, 188-89
- and the Owen-Stoltenberg plan, 192
- on safe areas in Bosnia, 294, 300
- on Sarajevo, 145, 153, 203
- concern for Serbs, 307
- on Srebrenica, 319, 322, 323
- on seizure of U.N. personnel, 223
- on UNPROFOR, 300
- Boyd, Charles, 136, 144-5, 208, 210, 221, 278
- Brčko, 239, 280, 330
- Brioni, meeting at, 76-9
- Britain, 71. *See also* Blair, Tony
- Brock, Peter, 138
- Brovet, Stane, 149-50
- Buja, Shukrit, 404, 409
- Bukoshi, Bujar, 423
- Bulatović, Momir, 95, 97, 196, 401, 538n107
- Bulgaria, monitors in, 168
- Burkina Faso v. Mali*, 107
- Burns, John F., 138-9, 507
- Burns, Nicholas, 229-30, 318
- Bush, George H.W., 64, 206, 384
  - letter to Milošević, 168
- Bush, George W. *See also* Bush administration
  - Ban's visit to, 37-8
  - disregard for international law by, 40, 367
  - on democracy in Iraq, 514, 534n35
  - and the Iraqi war, 21, 25, 512, 515, 552n111
  - transition to Obama from, 40
  - and war crimes, 529
- Bush administration. *See also* Bush, George H.W.
  - on Bosnia, 128
  - criticism of, 73
  - support for Marković by, 53
  - State Department, 168
  - and Yugoslavia, 554n167
- C.I.A. *See* Central Intelligence Agency
- Cameron, David, 15, 518
- Campbell, Alastair, 465, 471
- Canadian Supreme Court, 103
- Carr Center for Human Rights Policy (Harvard Kennedy School), 516
- Carrington, Lord Peter
  - on cantonization of Bosnia, 163
  - and the E.C. peace conference, 93, 167
  - on FRY, 538n107
  - replaced by Owen, 167, 173
  - skewing of data by, 102
  - warnings of ignored, 113, 128, 164
- Carrington Plan, 92-9, 191, 401
- Carrington-Cutileiro plan, 163, 165
- Carter, Jimmy, 218, 220, 222, 266, 272, 305-6
- Cassesse, Antonio, 323
- casualties
  - in Bosnia, 139-40
  - exaggeration of, 452-6, 466
  - in Kosovo, 452-3, 482-4
  - in Ustaša state, 55
- Cazinska Krajina, 148, 264
- Çeku, Agim, 379
- Central America, U.S. policy toward, 27
- Central Intelligence Agency (CIA)
  - in Benghazi, 509
  - intervention in Syria by, 20-21
  - report on Kosovo, 474-5
  - support of KLA by, 398
  - and the war on terror, 522, 529
- Cerska, link with Srebrenica, 280-81
- Charter of Paris, 81-2, 80, 130
- Chasing the Flame: Sergio Vieira de Mello and the Fight to Save the World* (Power), 22
- Cheney, Dick, 515
- Chernomyrdin, Viktor, 491-2, 497
- China, and action against Syria, 533n16
- Chirac, Jacques, 330, 364, 449, 451, 469
- Chretien, Jean, 468
- Christopher, Warren, 180-81, 193, 195, 204, 226-7, 235, 267, 330
- CIA. *See* Central Intelligence Agency

Claes, Willy, 199, 233

Clark, Wesley

- mission to Belgrade, 385-8
- on Kosovo, 423, 471
- negotiations with Milošević, 379, 407, 430
- on Milošević, 458
- and the Račak massacre, 406
- at Rambouillet, 441
- meeting with Tudjman, 554n167
- meeting in Zagreb, 271

Clinton, Bill. *See also* Clinton

administration

- phone call to Blair, 420
- on Bosnia and Croatia, 268
- credibility issues of, 467
- and the Dayton Accords, 329
- and Kosovo, 474, 479
- opportunism of, 518
- political machinations of, 240
- condemning Račak massacre, 406, 415

Clinton, Hillary, 516, 521-2

- on Bahrain, 14
- on humanitarian intervention, 516
- on Qaddafi, 521-2
- on intervention in Syria, 20

Clinton administration. *See also* Clinton, Bill

- bombings supported by, 180-81, 193, 194-5, 233, 366-7, 443, 468, 473
- on Bosnia, 36, 128, 510, 547n11
- on Bosnia and Kosovo, 448-52
- and humanitarian intervention, 512, 516
- KLA supported by, 361
- on Kosovo, 356, 404, 445, 474, 479, 503
- miscalculations of, 456
- and NATO plans for Kosovo, 430, 493
- pretext for bombing Yugoslavia, 420-21
- pro-Muslim attitude of, 172, 176-80, 195-6, 201, 205, 208-9

- Račak as opportunity for, 416
- on Rambouillet, 445-6
- rejection of Vance-Owen plan by, 290
- reversal of position by, 480
- sanctions against Yugoslavia by, 358
- as hostile to Serbs, 253
- sovereignty disregarded by, 40
- and the Srebrenica “massacre”, 324, 325-6, 551n93
- and the Third World Relief Agency, 143
- against further U.S. involvement, 225

Coalition of the Willing, 18

Cohen, Philip J., 58

Cohen, Richard, 319

Cohen, Roger, 25

Cohen, William, 359, 366, 467, 472, 476, 493, 572n54

Cold War, end of, 26, 333, 489, 506

Committee on Legal Affairs and Human Rights (European Parliament), 524

Communist Party

- in Serbia, 50
- in Yugoslavia, 50-52, 57, 103, 107

Conference on Security and Cooperation in Europe, 149

Contact Group

- agenda of, 220-21
- on need for bombing, 228, 372
- proposed division of Bosnia by, 307-8
- and Geneva negotiations, 264
- as replacement for ICFY, 208-10
- support for KLA by, 361-9
- in Kosovo, 420-21
- Račak massacre condemned by, 418
- at Rambouillet, 418, 429-32, 434-5, 438-42
- plan of, 210-14, 222
- re-establishment of, 347-53
- U.S. negotiating for, 237
- and Yugoslavia, 356, 358, 372

Cook, Robin

- on fascism, 465
- on the KLA, 396-7
- on Kosovo, 459, 497
- at Rambouillet, 418, 424, 432, 438-9, 442, 487
- on bombing Yugoslavia, 367, 370, 374
- Corasaniti, Aldo, 93
- Corwin, Philip, 309
- Čosić, Dobrica, 179
- Council for Defense and National Security (Croatia), 250
- Council for Security and Cooperation in Europe, 88
- Council for the Defense of Human Rights and Freedoms, 355
- Crete, 1997 summit on, 344-5
- Cretz, Gene A., 14
- Cristiani, Alfredo, 384
- Croatia. *See also* Croatian Army; Croats; Operation Flash; Operation Storm; United Nations Protected Areas (UNPAS)
  - influence on Bosnia, 82, 256
  - intervention in Bosnia, 132-4, 142, 159, 258, 284
  - and the Brioni agreement, 77
  - ceasefire agreement in, 96, 213-14, 244, 251
  - claims of atrocities by, 86
  - Croatian Serbs attacked by, 261-73
  - Dole's support for, 119
  - elections in, 50, 66, 102-3
  - warned by E.U., 253, 257
  - exemption from U.N. sanctions, 160
  - Fascism in, 50
  - and the federal presidency (SFRY), 68
  - foreign arms received by, 61, 259
  - independence demanded by, 43, 52-4, 58-9, 60, 65, 69, 70-72, 74, 95, 102, 126, 247
  - independence recognized, 76-8, 91, 100, 102, 105, 113-14, 121
  - taking over Krajina, 257-60 265-6
  - military violence against, 80
  - minorities in, 55, 92
  - modus vivendi in, 200
  - nationalism in, 50-51, 55
  - 1990 constitution of, 55-6
  - oil supply in, 246
  - opposition to IMF reforms by, 45
  - paramilitaries in, 61, 63
  - and peace negotiations, 95, 196-7
  - pink zones in, 243-4
  - public relations blitz by, 91, 137
  - regressive measures in, 56
  - repression of Serbs in, 64
  - sanctions threatened against, 198
  - Sector West in, 249-51, 253
  - Serb invasion of, 28
  - Serbs ejected from, 257-8, 325-6
  - Serbs in, 75, 126
  - war against Serbs in, 130, 213, 241-2, 347
  - as tourist destination, 54
  - as U.N. member, 123
  - U.N. personnel used as shields by, 558n52
  - U.N. sanctions against, 171
  - U.S. support for, 254-5
  - Yugoslav National Army barricaded by, 79, 92, 331
  - Yugoslav National Army in, 151-2
  - and the Yugoslav Constitution (SFRY), 74
- Croatian Army, 234, 267
- Croatian Constitution, in Krajina, 262-3
- Croatian Democratic Union (Hrvatska Demokratska Zajednica Bosnia-HDZ), 50, 55, 110
- Croatian Serb army, 247
- Croatian Serbs. *See also* Serbs
  - attack on, 261-73
  - refusal to accept Croatia's sovereignty, 285
  - as Croats, 341
  - expulsion of, 257-8, 325-6
  - bid for independence by, 58-9
  - pressured by Milošević, 264

- sanctions against, 215-16
- Croat-Muslim federation of Bosnia, 206-8, 236, 240, 247, 303-4
- Croats. *See also* Bosnian Croats; Serbian Croats
  - as Balkan war participants, 28
  - Bosnian war casualties, 140
  - acceptance of Contact Group Plan by, 212
  - demographic analysis of, 123
  - ethnic, 51
  - attitude toward peace plan, 174
  - represented at peace talks, 116
  - proposal offered by, 201
  - in Vojvodina, 131
- Cuba, 30, 336
- Cuban Missile Crisis, 26
- Cuellar, Perez de, 90-91, 113, 114, 121, 164
- Cutileiro, Jose, 116, 119, 163
  - on decentralization, 116
  - talks in Brussels under, 539n126
- Cutileiro plan, 152, 169, 240, 539n124
  - abandonment of, 173
  - revisiting, 191
- Czech Republic, 347
- D'Escoto, Miguel, 31, 40
- Daalder, Ivo, 516
- Darfur, 24, 523
- Dayton Accords, 238-41, 329, 485
- The Death of Yugoslavia* (BBC documentary), 184
- The Death of Yugoslavia* (Silber/Little), 184
- Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States, 108
- Del Ponte, Carla, 483, 524
- Delors, Jacques, 69, 70
- Democratic League of Kosovo (LDK), 423
- Democratic Republic of Congo, 523
- Demurenko, Andrei, 230-32, 552n109
- Department of Justice (DOJ), 529
- Deutch, John M., 510-11
- Dicker, Richard, 17
- Dini, Lamberto, 357, 439
- Direct Aid for Democracy Act, 64
- Djilas, Milovan, 106
- Djukanović, Milo, 401-2, 448
- Dole, Bob, 51, 64-5, 119, 206, 240, 442
- domino theory, 339, 445
- Drenica Group, 525-6
- Drewienkiewicz, (Karol) John, 384, 395-6, 404-5, 409-10, 463
- Drnovšek, Janez, 468
- Dudaković, Atif, 277
- DutchBat, 288-9, 314
- E.U. *See* European Union
- Eagleburger, Lawrence, 63-4, 72, 164, 165-7, 544n103, 545n104
- Eastern Slavonia, 121
- Eden, Anthony, 31
- Egypt, Anglo-French invasion of, 31
- El Salvador, 382-4, 564-5n10
- El Salvador Truth Commission, 383, 564n10
- Erasing History: Ethnic Cleansing in Kosovo* (U.S. State Department), 477
- ethnic cleansing, 163, 573n82. *See also* genocide
  - in the Balkans, 112
  - in Bosnia, 36
  - in Croatia, 198, 252, 268, 325-6
  - extent of, 130-32
  - in Kosovo, 343, 352, 363, 446, 458, 462, 474, 476, 478
  - in Krajina, 325-6
  - legalizing, 507
  - protection from, 33
  - by Serbs, 497
  - of Serbs, 276
  - in Srebrenica, 279
- European Commission, 69
- European Community
  - attempt to negotiate ceasefire by, 76
  - meeting with Milošević, 73-4
  - peace effort by, 116-21

- recognition of Croatia and Slovenia by, 112-16
- European Community Conference on the Former Yugoslavia, 173. *See also* International Conference on the Former Yugoslavia (ICFY)
- European Community Peace Conference on Yugoslavia, 92-9
  - Arbitration Commission of, 99-101
- European Council of Ministers, 69
- European Parliament, support for independence movements, 60-61
- European Union
  - in Contact Group, 208, 218-19
  - Croatia warned by, 253, 257
  - intervention on Kosovo, 345
  - and Yugoslavia, 43, 356, 372
- European Union Action Plan, 199-200, 208, 240
- European Union Monitor Mission, 262
- Evans, Michael, 312-13
- Farabundo Marti National Liberation Front (FMLN), 382
- Fazi, Afmad, 226
- Federal Executive Council, 72
- Federal Republic of Yugoslavia (FRY). *See* Yugoslavia, Federal Republic of (FRY)
- Federal Republic of Yugoslavia (Serbia and Montenegro). *See* Montenegro; Serbia; Yugoslavia, Federal Republic of (FRY)
- Federal Secretariat for People's Defense, 149
- Federation of Bosnia and Herzegovina, 237. *See also* Bosnia; Bosnia-Herzegovina
- Filipović, Muhamed, 83
- Finland, investigators from, 410-12
- Fischer, Joschka, 475-6
- Foley, James, 348, 350, 440
- Foreign Operations Appropriations Act, 64
- Foundation for Humanitarian Law, 483
- France, 204, 291
- Franken, Robert, 289, 315
- Frasure, Robert C., 219, 254
- Free Syrian Army (FSA), 19-20, 508
- Friedman, Thomas L., 514, 534n35
- FRY. *See* Yugoslavia, Federal Republic of (FRY)
- G-8 meeting, 490-94, 496
- Gaddafi, Muammar. *See* Qaddafi, Muammar
- Galbraith, Peter, 246, 251, 255-6, 261-2, 266, 271, 497, 568n102, 573n82
  - negotiating with Babić, 261-2
  - on Croatia, 264-5, 269
  - meeting with Tudjman, 261-2, 554n167
- Ganić, Ejup, 147, 177, 191, 195, 507
- Gaza, lack of U.N. action in, 24
- Gelbard, Robert, 349-50, 361, 398
- Geneva, meetings in, 237, 262-6
- Geneva Convention, 353-4, 521
- Genocide Convention (1948), 393, 470
- genocide. *See also* ethnic cleansing
  - in Bosnia, 137, 148, 450
  - in Cambodia, 514
  - in Croatia, 55
  - defining, 522
  - in Kosovo, 464-6
  - legalization of, 507
  - protection from, 22, 33, 517
  - in Rwanda, 514
  - Serbs blamed for, 238, 272
  - alleged at Srebrenica, 313-27
  - Serb leaders convicted for, 39
- Genscher, Hans-Dietrich, 72, 96, 113, 114
- Georgia (Soviet), 528
- Geremek, Bronislaw, 380
- Germany
  - and ethnic Albanians, 338
  - in Contact Group, 218-19
  - decision to recognize new states, 112, 114
  - criticized by Owen, 540n12
  - in Poland, 30, 336
  - sanctions favored by, 96

- criticism of Serbs by, 164
- hostility toward Serbs by, 51
- recognition of Slavonia and Croatia by, 112, 114, 123
- Goražde
  - bombing of, 233
  - crisis in, 296-301
  - link with, 330
  - NATO protection for, 312
  - proposed ceasefire around, 297-8
  - as safe area, 188, 191, 213, 239, 275, 277, 289, 290
  - Serbian threat to, 228
- Gore, Al, 247-8, 271
- Gotovina, Ante, 257, 259, 573n82
- Granić, Mate, 249
- Greater Serbia, 29, 156, 164-5, 182, 256, 546-7n149
  - “Greater Serbia” thesis, 126-30
  - rejected by U.S., 166
- Greece, 115, 339, 344
- Green Party (Germany), 372
- Gregorić, Josip, 149-50
- Group of 77, 32
- Grubišić, Božidar, 150
- Guantanamo Bay, 522
- Gutman, Roy, 139
- gypsies, in Croatia, 55
- Hadžihasanović, Enver, 313, 320
- Hague Convention on the Pacific Settlement of International Disputes, 99
- Halilović, Hamed, 316-7, 327
- Halilović, Sefer, 141, 158
  - and the disarmament agreement, 287-8, 294
  - and Srebrenica ceasefire negotiations, 282, 285-6
- Hall, Peter, 57
- Hannay, David, 160
- Hartwig, Dietmar, 456
- Havel, Václav, 57
- Hayden, Robert M., 65
- Hazmi, Nawaf al, 511
- Hearst press, 30, 336
- Helsinki Final Act, 77, 80, 91, 113, 114, 130, 502
- Helsinki Watch, 64-5
- Herak, Borislav, 139
- Herceg-Bosna/Hercog-Bosna, 132, 187
- Herzegovina. *See also* Bosnia; Bosnia-Herzegovina
  - as national state, 82
  - relocations to, 456
  - and the SFRY federal budget, 49
- Herzog, Roman, 93
- Hewitt, Gavin, 262
- Hill, Christopher
  - and the KLA, 363, 397-9
  - on Muslims in Bosnia, 236
  - Rambouillet plan, 424, 487
- Hitler, Adolf, 58, 127, 450
  - humanitarian intervention used as justification by, 30, 336
- HMS Invincible
  - meeting aboard, 196-7
  - package, 196-9
  - package rejected by Muslims, 200
- Hohenfellner, Peter, 160
- Holbrooke, Richard
  - Annan praised by, 330
  - on Bihać, 256
  - ending the war in Bosnia, 240
  - on Croatia, 270-72
  - and KLA, 361, 397
  - on Kosovo, 452
  - talks with Milošević, 372, 374-6, 386, 389, 416, 449
  - on Milošević-Holbrooke agreement, 369-80
  - on alliance with Muslims, 506
  - and Operation Deliberate Force, 230
  - quoted, 126, 129, 221-2, 227, 233, 236-7, 239, 241-2, 254
  - and the Račak massacre, 406
  - on Rambouillet, 487
  - negotiations with Tudjman, 237, 554n167
  - on bombing Yugoslavia, 373-4

- Holder, Eric H., Jr., 529-30
- Hollande François, opportunism of, 518
- Holocaust, 56, 137, 323, 392, 449-51, 459, 514, 544n103
- Honig, Jan Willem, 280, 284
- Hoon, Geoff, 482
- House of Commons Report, on Kosovo, 433, 486-7
- Hrvatsko vijeće obrane (army of the Croatian Republic of Herzeg-Bosnia, HVO), 198
- human rights, 112
  - in Bosnia's constitution, 174
  - and the Contact Group, 352-3
  - in Croatia and Slovenia, 92
  - and E.C. recognition, 112
  - Iran abuses of, 512-13
  - in Nicaragua, 369
  - protection of, 100
  - and U.N. intervention, 24
  - U.S. concern for, 64-5
  - U.S. monitors, 168
- Human Rights Watch (HRW), 17, 252, 272, 315, 512-13, 530
  - and Croatia, 272
- humanitarian aid. *See also* humanitarian intervention
  - to Bosnia, 170, 172
  - to Contras, 382
  - to Iraq, 276
  - from NATO, 333-4
  - to Sarajevo, 223
  - to Srebrenica, 281
- humanitarian intervention, 21, 24-6, 528, 531. *See also* humanitarian aid
  - Annan's defense of, 37
  - in Bosnia, 36, 241
  - criticism of, 25
  - in Croatia, 254
  - doctrine of, 334-6
  - failure of, 29-30
  - Group of 77's rejection of, 32
  - and the invasion of Iraq, 40
  - justification for, 31, 516-17
  - lack of basis for, 33
    - and NATO, 28
    - successful, 524
- Hungarians
  - in Vojvodina, 131
  - in Yugoslavia, 98
- Hungary, monitors in, 168
- Hurd, Douglas, 91, 163, 200
- Husayni, Mohammed Amin al-, 146
- Hussein, Saddam, 275, 505, 512-13, 515, 572n70, 574n15
  - human rights record of, 40
  - U.S. attempts to assassinate, 519
- ICC. *See* International Criminal Court
- ICFY. *See* International Conference on the Former Yugoslavia
- ICISS. *See* International Commission on Intervention and State Sovereignty
- ICJ. *See* International Court of Justice
- ICTY. *See* International Criminal Tribunal for the Former Yugoslavia
- IMF. *See* International Monetary Fund
- Independent International Commission on Kosovo, 389
- Independent State of Croatia (Nezavisna Država Hrvatska-NDH). *See* Croatia
- Independent Television News (ITN), 137
- India, 109
- International Commission of Inquiry on Libya, 520
- International Commission on Intervention and State Sovereignty (ICISS), 23, 35, 515
- International Committee of the Red Cross, 317-18, 371
- International Conference on the Former Yugoslavia (ICFY), 154, 173, 198
  - monitoring of Bosnian border by, 215
  - replaced by Contact Group, 208
  - and Croatia, 245, 264
  - sanctions imposed against Croatian Serbs, 215-16
- International Court of Justice (ICJ), 29, 38, 107, 369, 503

- disputed jurisdiction of, 469-71
- International Criminal Court (ICC), 17, 18, 24, 393, 522-3, 528-9
- International Criminal Tribunal for Iraq, 512-13
- International Criminal Tribunal for Rwanda, 24
- International Criminal Tribunal for the Former Yugoslavia (ICTY)
  - investigation in Albania, 525
  - on Bosnia, 135, 140
  - and Croatia, 259
  - and Kosovo, 353-5, 378, 387, 478, 480-81
  - critical of Milošević, 89
  - indictment of Milošević by, 24
  - on NATO bombings, 555n180
  - support of NATO by, 443
  - prosecution practices of, 522-3
  - and Račak massacre, 407, 419
  - on Rambouillet, 427, 433, 434, 441, 568n102
  - and refugee interviews, 460
  - on the Serbs, 124, 129, 391, 488
  - testimonies before, 184-7, 232, 504
  - war crimes jurisdiction of, 392-3
  - criticism of Yugoslavia by, 365
  - indictment of Yugoslav leadership by, 39-40
- International Crisis Group, 18, 358, 517
- International Monetary Fund (IMF)
  - economic reforms imposed by, 43-7, 51, 53
  - loans to Yugoslavia banned, 64
  - Yugoslavia denied membership in, 311
  - Yugoslav re-centralization program, 43-6
- Invincible Package. *See* HMS Invincible
- Iran, 512-13, 509
- Iraq
  - invasion of, 13-14, 21, 24-5, 26, 31, 34, 37, 38, 40-41, 130, 367, 403, 485, 505, 506, 511-12, 514-15, 526, 528, 542, 574n15, 575n38
  - refugees in, 455
  - “safe areas” in, 275
  - sanctions against, 165, 572n70
  - war crimes in, 523
- Islam, Saif al-, 17, 24
- Islamic Declaration* (Izetbegović), 146
- Islamists, 505, 526-7
  - in Bosnia, 132, 507-11
  - fighting prowess of, 508-9
  - in Iran, 509
  - in Libya and Syria, 508-9
- Israel
  - aggression against Muslims, 165
  - conflict with Palestine, 130, 562n16
  - 1973 war in, 27
- Italy, financial cooperation with Montenegro, 95
- Ivanišević, Milivoje, 327
- Izetbegović, Alija
  - rivalry with Abdić, 301
  - agenda of, 167-9, 175-6
  - breaking arms embargo, 132
  - Bartholomew as apologist for, 173
  - Belgrade Initiative rejected by, 152
  - on cantonization of Bosnia, 163
  - representing Bosnian Muslims, 98, 116, 129, 219
  - and Bosnian secession, 82-4, 113, 117, 125-6
  - on Bosnian war, 164-5, 209, 229
  - and the Cutileiro plan, 539n124
  - and the Dayton Accords, 239-40
  - and Dubrovnik peace talks, 544n96
  - E.U. Action Plan rejected by, 212
  - claims of genocide made by, 134
  - requesting bombers for Goražde, 297
  - conference on HMS Invincible, 196, 212
  - and Lisbon talks, 539n130
  - measures to strengthen, 276
  - mentioned, 192, 206
  - misconceptions concerning, 145-9
  - as “moderate,” 146
  - and mujahedin fighters, 132

- and paramilitary organizations, 141, 542n55
  - dissatisfaction with Owen-Stoltenberg plan, 191
  - and peace negotiations, 119-20, 196-7
  - resumption of fighting by, 221
  - accuses Serbs of genocide, 317
  - on Srebrenica, 319, 321, 323
  - territory demanded by, 202
  - U.N. support for, 198, 256
  - relations with U.S., 509-10
  - desire for Western intervention by, 167
  - World War II activities of, 146
  - and the Yugoslav army, 152-3
  - request for protection for Žepa by, 290
- Jackovich, Victor, 129-30
- Jamadi, Manadel al-, 529
- Janvier, Bernard, 235, 268
- Jarnjak, Ivan, 250
- Jasenovac, 56
- Javier, Bernard, 224
- Jertz, Walter, 477
- Jerusalem, 146, 562n16
- Jews, in Croatia, 55
- jihadists. *See* Islamists
- JNA. *See* Yugoslav National Army
- Johnstone, Diana, 45, 52, 338, 342, 424
- “Joint Action on the Former Yugoslavia” (Owen), 198
- Joint Commercial Oil Company Agreement, 246
- Joint Declaration on U.N./NATO Secretariat Cooperation, 38
- Joint Intelligence Committee (JIC), 231
- Jovanović, Živadin, 373
- Jović, Borislav, 60, 62, 66, 68, 73-4, 76, 77, 156, 186, 543n82
- Judah, Tim, 486
- Judt, Tony, 25
- Jugoslovenska Narodna Armija (JNA). *See* Yugoslav National Army
- Juppé, Alain, 199, 204
- Jurjević, Zvonko, 150
- Kadijević, Veljko, 57, 60, 65, 68, 90, 149-50
- Karadjordjevo, Milošević/Tudjman meeting at, 183-7
- Karadžić, Radovan
- representing Bosnian Serbs, 116, 119-20, 179
  - on peace initiative in Bosnia, 84
  - charged with genocide, 323, 325
  - indicted by ICTY, 39, 178, 238, 259
  - marginalization of, 129, 167
  - Mitterrand refuses to meet with, 545n10
  - negotiations with, 222
  - on partition of Sarajevo, 201
  - peace agreement signed, 147, 180
  - proposed trial of, 166, 178
  - on the Vance-Owen plan, 175, 282
  - Srebrenica strategy, 283-4
  - on territory exchange, 239
  - on voting referendum, 111
  - Washington’s campaign against, 241
  - pressure from West, 219
  - agreement with Zulfikarpašić, 152, 169, 182
- Karnavas, Michael, 185
- Karremans, Thomas, 289
- Keith, Roland, 385
- Keller, Gabriel, 384-5, 388, 399
- KFOR (Kosovo Force), 498
- Kinkel, Klaus, 164, 198-9, 248, 249, 260-61, 337, 338
- meeting with KLA, 361
  - on Kosovo, 348, 350
  - letter to Milošević, 345-6
- Kiriakou, John C., 576n45
- KLA. *See* Kosovo Liberation Army
- Kolšek, Konrad, 150
- Kolsteren, Tom, 256
- Korean conflict, 35
- Kosovars. *See* Kosovo Albanians

Kosovo. *See also* Kosovo Albanians; Pristina

- American intervention in, 25, 26
- arms smuggled into, 419-20
- autonomy for, 45-8, 176-7, 199
- bombing of, 32
- Border Zone provisions, 501-2
- casualties in, 452-6
- coal strike in, 52
- conflict with Serbia, 340-43
- constitutional rights of, 166
- criminal activity in, 524-5
- human rights monitors in, 168
- humanitarian intervention in, 40, 524
- ignored at E.C. peace conference, 94
- independence declared by, 48-9, 340-341, 502, 526-7
- independence demanded by, 26, 43, 47, 340-41, 346, 352-3, 422-3, 428, 431-2, 489
- independence recognized, 130, 528
- mentioned by Milošević, 68
- proposal for NATO deployment in, 428-43
- Rambouillet plan for, 424-6
- refugees in, 266
- resistance to economic reform in, 46
- Serbia's treatment of, 331
- U.N. insertion into, 213
- U.S. threatens war over, 168
- uniqueness of, 527-8
- vote on military preparedness, 66
- Western intervention in, 331-3

Kosovo Albanians 62-3, 64-5, 83, 98, 112, 199. *See also* Albanians

- agreement to peace plan by, 410-11
- as participants in Balkan wars, 28
- boycotts by, 48
- demand for independence by, 435, 502
- as opponents of reform, 46
- purported goals of, 351-2

- at Rambouillet, 418, 424, 431, 434, 435, 441-3, 446
- as refugees, 337-9
- as ruling majority, 425-6
- mobility of, 455
- Serbs' alleged desire to eradicate, 29

Kosovo Diplomatic Observer Mission (KDOM), 439, 445

Kosovo Force (KFOR), 498

Kosovo Liberation Army (KLA)

- acts of violence by, 454
- aggression by, 388-91, 394
- criticism of, 364-5
- demilitarization of, 495, 502
- increased strength of, 475
- and international humanitarian law, 354
- as Kosovo Protection Corps, 426, 502
- and the Milošević-Holbrooke agreement, 378-9
- NATO partnership with, 448, 494, 525
- objectives of, 415
- origins of, 332, 343
- posing as villagers, 462
- pressure from NATO, 387
- relative impunity of, 395-9
- supply of arms to, 344-7, 352, 447
- as terrorist group, 348-9
- U.S. support for, 361-9
- violence attributed to, 348, 359, 399-400, 402, 416, 495, 498
- Western support of, 397-8

Kosovo Protection Corps, 426, 502

Kosovo Verification Mission (KVM), 363, 377, 380, 382, 394, 398, 404, 443

Kostić, Branko, 69, 79, 95, 97, 153, 157

Kouchner, Bernard, 21, 483

Kozyrev, Andrej, 214

Krajina, 115, 253-4, 265

- attacks on by Croatia, 257-62
- Croatian offensive against, 255, 258,
- ethnic cleansing in, 325-6
- exports to, 215-17

- plan for, 199-200
- Serbian, 122, 246
- Krajina Serbs, 62, 124, 255, 264, 268
  - and Bihać, 256
  - involvement of in Bosnia, 303-4
  - Croatia offensive against, 558n52
  - supply route for, 255
- Krajisnik, Momcilo, 85
- Krstić, Radislav, trial of, 287-8, 316, 319, 320
- Kučan, Milan, 50, 70, 97
- Kucinich, Dennis, 495
- Kundera, Milan, 72
- Kusturica, Emir, 147
- KVM. *See* Kosovo Verification Mission
- Laber, Jeri, 64
- Laity, Mark, 482
- Lake, Anthony, 211
- Lantos, Tom, 526-7
- Lanxade, Jacques, 142
- Lavrov, Sergei, 367
- League of Nations, 131
- Lenin, Vladimir 73
- Libya
  - bombing of, 13-15, 22-3, 514, 530-31
  - use of rape as government policy in, 18-19
  - 2011 war on, 40-41
  - U.S./NATO intervention in, 403, 505, 506, 517, 519-21
- Lieberman, Joseph, 181
- “lift and strike” plan, 133, 181, 195, 206, 209-10, 213, 225, 291, 541n13, 547n11
- Lisbon talks, 226-20, 539n130
- Little, Alan, 67, 74, 75, 77, 184, 186
- Livizja Popullore e Kosoves, 343
- Lončar, Budimir, 57
- London Conference, on Croatia, 163-9, 225-6, 256
- Loquai, Heinz, 477
- Macedonia, 87, 112, 165, 408, 443, 561n11
  - Albanians in, 339
  - demand for independence by, 98, 102, 113, 114
  - E.C.’s refusal to recognize, 114
  - Extraction Force sent to, 394
  - and Mesić, 90
  - monitors in, 168
  - NATO forces in, 481
  - negotiations with, 213
  - at peace conference, 95
  - referendum in, 102-3
  - refugees relocating to, 472, 455-6
  - relations with Albania, 344
  - threat from Serbs against, 448
  - vote on military preparedness, 66
  - vote on secession by, 80
- Macedonians, in Kosovo, 49
- MacKenzie, Lewis, 35, 124, 132, 134, 139, 153, 155, 161, 164, 167, 545n107
- Maisonneuve, Joseph, 409
- Major, John, 241, 330
- Mandel, Michael, 368, 413, 555n180
- Marani, Guiseppe, 467
- Marinković, Danica, 409-10, 435
- Marković, Ante, 51-2, 53, 57, 70, 72, 80, 186, 188, 449
- Marković, Ratko, 427, 501
- Martić, Milan, 39, 252, 259, 266
- Marty, Dick, 423, 498, 524-5
- Mass Atrocity Response Operations (MARO) Project, 516
- May, Richard, 406, 546n149
- Mayorsky, Boris, 424, 434, 441-2
- McCurry, Mike, 193
- McDonald, Gabrielle Kirk, 155-6, 365-6, 370, 391-2, 443
- Medak attack, 245
- media
  - role in Bosnian war, 134-40
  - erroneous reporting by, 138-40
  - objection to Owen-Stoltenberg plan by, 192
  - Pulitzer Prizes won for reporting by, 138-9
  - role of, 517, 567n91
  - Western, support for Mesić by, 88-9

Mendoza, Yushy René, 69, 564n10

Mesić, Stjepan, 57, 66, 68-71, 186, 188

- on conspiracies, 546n149
- on federal disarmament order, 61-2
- supported by U.S. State Department, 88
- critical of Yugoslav military, 86-7
- critical of Yugoslav government, 87-8
- as Yugoslav president, 73, 90-91, 537n83

Metohija, 45-8, 68

Michelis, Gianni de, 73, 76, 95

Mihdhar, Khalid al, 511

*A Military Planning Handbook* (MARO Project), 516

Military Professional Resources Inc., 242, 269-70

Milošević, Slobodan

- connection with Abdić, 192
- agenda to depose, 162, 447-8
- allegations against, 465-7, 471, 474-8
- on arbitration, 538n107
- authority of peace conference questioned by, 95
- and the Belgrade Initiative, 83
- influence of in Bosnia, 84, 159, 200, 214-15
- trade embargo against Bosnia, 309
- objection to Carrington plan, 97, 191
- concessions granted by, 238-9
- conference on HMS Invincible, 196
- Contact Group Plan presented to, 211
- targeted by Contact Group, 347-8
- criticism of, 64-5, 69, 70, 73-5, 89, 271, 402
- and Croatian Serbs, 217, 251, 265
- and the Dayton Accords, 329-30, 485
- demonization of, 370, 374, 448-9, 452, 458-9, 462-3, 486, 571n37
- distrust of, 329-30
- education agreement with Rugova, 342-3

- and Greater Serbia, 127

- Hill's visit to, 424

- as Hitler, 127

- indicted for war crimes, 24, 76-7, 259, 484

- Karadjordjevo meeting, 82-7

- and the end of the Kosovo war, 500-501

- on military withdrawal from Bosnia, 155

- NATO attempts to assassinate, 519

- NATO's attempt to depose, 447-8

- and the success of NATO's mission, 41

- negotiations with, 219-20, 225, 416, 492-3

- Okun's dislike for, 185

- pressure on, 176-7, 212

- proposed trial of, 166, 178

- on Rambouillet plan, 445

- meeting with Rugova, 357

- and the Serbian elections, 50

- as leader of Serbs, 129, 236, 238

- on Serbian autonomy, 59-60

- as scapegoat, 126, 326, 337, 360, 364

- use of Slovenia as pawn by, 75

- Srebrenica strategy, 283-4

- trial of, 61, 154, 158, 315, 395, 402-6, 409, 420, 461, 477, 481, 511, 529, 539n124, 542n55

- warning West about Tudjman, 57

- and the Vance plan, 122, 124

- backing of Vance-Owen peace plan by, 179, 182

- vilification of, 25, 385, 421, 422

- warned by Albright, 431-2, 439

- warned by General Short, 373

- Washington's view of, 28-9, 457

- Western victory over, 515

- and Yugoslavia's dissolution, 59, 66-8, 90

- on Yugoslav troops, 129, 156

Milošević-Holbrooke agreement, 369-80, 382, 395

Milutinović, Milan, 435, 440-42

- minorities, rights of, 97, 106, 109
- Mitchell, Sandra, 461-2
- Mitsotakis, Constantine, 179
- Mitterrand, François, 91, 164, 167, 177, 545n107
- Mladić, Ratko
- as Bosnian, 157
  - Boutros-Ghali on, 159
  - as commander of Bosnian army, 155
  - and the disarmament agreement, 287, 294
  - charged with genocide, 238, 323, 325
  - indictment of, 39
  - marginalized during negotiations, 129
  - negotiations with, 235
  - proposed trial of, 166, 178
  - protests to UNPROFOR, 309
  - and Srebrenica ceasefire negotiations, 282
  - and Srebrenica evacuation, 314
  - agreement on relief to Srebrenica, 281
- modus vivendi, in Croatia, 200
- Mohammed, Khalid Sheikh, 511
- Montenegrins, in Kosovo, 49
- Montenegro
- on the Carrington plan, 97
  - democracy in, 400-402
  - as member of FRY, 115, 164
  - independence of, 105, 503
  - JNA conscripts from, 150
  - vote on Mesić, 69
  - vote on military preparedness, 66
  - objections at peace conference, 100
  - ordered to cease intervention, 166-7
  - as pre-existing state, 82
  - refugees relocating to, 455-6, 472
  - representation in Yugoslavia's presidency, 79
  - threat from Serbs against, 448
  - trade concessions from E.C., 120
  - U.S. accusations against, 88
  - Walker's visit to, 405
  - part of former Yugoslavia, 29
- Moral Combat* (BBC documentary), 343
- Moreno-Ocampo, Luis, 17-18, 522-4
- Morillon, Philippe
- and Bosnia, 291
  - frustration with Bosnian Muslims, 145
  - demilitarization plan of, 281-2, 284
  - and the disarmament agreement, 287, 294
  - taken hostage, 558n52
  - on the JNA, 151
  - on Kosovo, 161
  - meeting with Milošević, 155
  - at Milošević trial, 280-81
  - frustration with NATO, 35
  - and Srebrenica, 283-4
- Mostar, proposed E.U. administration of, 191
- Movement of Non-Aligned Countries, 32, 33, 52, 471
- MPRI, 242, 269-70
- mujahedin. *See* Bosnian Muslims; Islamists
- Muslim Albanians, in Kosovo, 131
- Muslim Bosniak Organisation (MBO), 84
- Muslim Brotherhood, 21
- Muslim military, in Bosnian safe areas, 277-8
- Muslim SDA party (Srebrenica), 311
- Muslim Slavs, in Sandžak, 131
- Muslim-Croat federation, 206-8, 236, 240, 247, 303-4
- Muslims. *See also* Bosnian Muslims
- acceptance of Contact Group Plan by, 212
  - agenda of, 173
  - alliance with Croats, 206-8
  - arms embargo on, 209
  - arms supplied to, 169-70
  - in favor of continued bombing, 236
  - killed in Bosnian war, 139-40
  - tactics in Bosnian war, 140
  - and the Dayton Accords, 239
  - demand for more territory by, 196-7, 199, 201

- failure to accept Geneva agreement by, 196
  - claim of genocide against, 127, 137
  - global community of, 165
  - rejection of HMS Invincible package by, 200
  - leaving the Lisbon talks, 120
  - military capability of, 170
  - military mobilization of, 141
  - NATO support for, 172-3
  - and the Owen-Stoltenberg plan, 191-2, 196
  - putative protection of, 32
  - and peace negotiations, 116, 196-7
  - shelling of Sarajevo airport by, 136
  - retreating from Srebrenica, 313-16
  - controlling Srebrenica, 278-84
  - staged attacks by, 161
  - territory offered to, 201-2
  - U.S. alliances with, 506-7
  - U.S. arming of, 210
  - unwillingness of to compromise, 219
  - unwillingness of to sign peace agreement, 202, 205-6
  - as victims, 140-45, 165
  - violence attributed to, 125, 161-2, 164, 177, 202-3, 231, 404
  - in Yugoslavia, 83
- Mustafić, Ibran, 311
- Nambiar, Satish, 35, 154, 155, 293
- Nano, Fatos, 38, 344, 346, 357, 364, 420
- National Assembly of the Republic of Serbia, 371. *See also* Serbia
- National Endowment for Democracy, 355
- National Intelligence Estimates, on risk of atrocities, 22
- National Liberation Army (Macedonia), 561n11
- National Security Strategy (U.S.), 22
- National Transitional Council (NTC), 14
- NATO. *See also* NATO bombing campaigns
- and Bosnia, 127-8, 241, 293-4
  - criticism of, 503
  - 50th anniversary celebration, 468-9
  - humanitarian intervention doctrine of, 27, 332-6
  - as impartial participant, 234
  - allied with KLA, 398, 494, 525
  - concerns about Kosovo, 394
  - cost of war in Kosovo, 500-501-
  - deployment in Kosovo, 423, 428-43
  - anti-Milošević rhetoric by, 379-80
  - as Muslims' air force, 188
  - as pro-Muslim, 285
  - pretense of evenhandedness by, 395-403
  - in Rambouillet Appendix B, 435-7
  - and unexpected Serb resistance, 456-62
  - Serbian objections to, 445-6
  - status-of-force agreements, 437-8
  - intervention in Syria, 19-20
  - partnership with U.N., 35-6, 38-9, 169-73, 193-4, 223, 367-9
  - deployment in Yugoslavia, 374-8
  - preparing military action against Yugoslavia, 366-7
  - threats to Yugoslavia by, 359-60, 386-8
- NATO bombing campaigns. *See also* NATO
- authorization for, 226-8
  - requested in Bihać, 303
  - in Bosnia, 233-4
  - civilian casualties resulting from, 518-21
  - in Croatia, 268
  - in support of humanitarian relief, 194-5
  - justification for, 446-52
  - in Libya, 13-17
  - proposed by Owen, 178-9
  - preparations for, 478-80
  - rationale for, 360, 462-3
  - to protect Sarajevo, 202-3
  - Serbs threatened with, 428-43
  - in Serbia, 33, 493-5
  - suspension of, 498
  - unintended results of, 471-2

- U.S. in favor of, 180-81, 193, 194-5, 226, 366-7, 443, 468, 473
- in Yugoslavia, 34, 37-8, 223, 360, 394-5, 407-8, 416-18, 462-3, 489-90
- Naumann, Klaus, 379, 385-8, 397, 402, 407, 420, 430, 481
- Nicaragua, U.S. involvement in, 369, 382
- Nice, Geoffrey, 151-2
- Nickles Amendment, 64-5
- 9/11 attacks, 506-7, 511, 527
- no-fly zones
  - in Croatia, 253
  - in Iraq, 275-6
- Non-Aligned Movement. *See* Movement of Non-Aligned Countries
- Norris, John, 329
- North Atlantic Treaty of 1949, 27, 292-3
- Northern Ireland, 45-6, 354
- Northern Krajina, 121. *See also* Krajina
- Northern Uganda, 523
  
- Obama, Barack. *See also* Obama administration
  - and drone strikes, 520
  - humanitarian wars of, 512
  - on the bombing of Libya, 13-15, 40, 517
  - manipulation of U.N. by, 40
  - opportunism of, 518
  - on prevention of atrocities, 22
  - supportive of regime change, 21
  - transition from Bush, 40
- Obama administration. *See also* Obama, Barack
  - and humanitarian intervention, 516
  - intervention in Syria by, 19, 21
  - on “responsibility to protect,” 22
  - and war crimes, 529, 575-6n45
- Office of the United Nations High Commissioner for Human Rights, 453
- Office of the United Nations High Commissioner for Refugees (UNHCR), 145, 403, 455-6
- Okun, Herbert, 185, 539n124
- Operation Deliberate Force, 230-37
- Operation Flash, 242, 248-53, 309, 315
- Operation Horseshoe, 474-7
- Operation Storm, 39, 229, 241-2, 253-61, 324, 449, 477, 492, 497, 558n52, 573n82
- Operation Unified Protector, 15
- Organization for Security and Cooperation in Europe (OSCE)
  - report on the KLA, 363, 447
  - on refugees, 460-61
  - verifiers, 394, 403, 404, 409, 453, 475
  - and Yugoslavia, 356, 377, 380
  - Yugoslavia’s desire to rejoin, 345
- Organization of American States, 35
- Organization of the Islamic Conference, 146, 148
- Orić, Naser
  - on the surrender of weapons, 287-8
  - in Srebrenica, 278-81
  - surrender of Srebrenica, 282, 313
  - in Tuzla, 309
- Owen, David,
  - on Abdić, 147-8
  - position on bombing, 549n59
  - on Bosnia, 161, 200-201, 207, 216-18, 239, 558n57
  - replacing Carrington, 167, 173-82
  - on the Contact Group Plan, 210-11
  - on Croatia, 142, 246-7
  - Germans criticized by, 540n12
  - and the E.U. Plan, 201
  - HMS Invincible meeting, 196
  - as ICFY co-chairman, 166
  - on internal boundaries of Yugoslavia, 131-2
  - on Izetbegović, 181
  - on Krajina, 123-4
  - on Milošević, 212-13, 217
  - on NATO and stability, 128
  - quoted, 299
  - on Rambouillet, 489
  - on Rugova, 341
  - on Sarajevo, 204
  - on the Serbs, 125
  - with Stoltenberg, 191-2, 215, 221-2
  - tactics of, 238

- on Tudjman, 58
- with Vance, 174, 182, 198
- Owen-Stoltenberg plan, 147, 191, 195, 198-9, 208-240, 507
  - demise of, 202-6
- Pakistan, 109, 505, 562n16
- Panetta, Leon, 534n35
- paraffin-glove test, 410, 413
- paramilitary units
  - in Bosnia, 542n55
  - in Kosovo, 332, 371, 390, 400, 477.

*See also* Kosovo Liberation Army
- Paris Charter, 113
- Partnership for Peace, 357, 377
- Party of Democratic Action (SDA), 82, 84, 145, 542n55
- Patriotic League (Muslim), 141
- Pavelić, Ante, 55-6, 58
- Peacekeeping and Stability Operations Institute (U.S. Army War College), 516
- Pearce, Edward, 304
- Perry, William
  - on bombings in Bosnia, 226, 233
  - on Croatia, 260, 268-9
- Petar, Mate, 150
- Petrisch, Wolfgang, 397, 424, 441, 442, 568n102
- Petry, Irene, 93
- Podujevo, KLA seizure of, 399-400
- Pol Pot, 514
- Poland, 30, 347
- Poos, Jacques, 73, 76
- Posavina corridor, 280-81
- Potočari, civilian refugees at, 314, 320-21
- Potočari Memorial Complex, 327
- Power, Samantha, 22, 24-5, 505
- Powers, Colonel, 232
- Pristina, 46, 345, 357, 365, 412, 415, 439, 464, 498. *See also* Kosovo
- A Problem from Hell* (Power), 22
- propaganda
  - in Bosnia, 138, 140, 144, 146-7, 304, 323, 325, 327
  - in Croatia, 91
  - NATO, 16, 35, 40, 446, 458, 463, 466, 469, 471-2, 484-5, 488, 503, 555n180
  - in Slovenia, 71, 74
  - U.S., 270, 361, 448, 463, 512
  - Western, 270, 474
  - Yugoslavian, 59, 361
- Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), Articles 2 and 3, 353-5
- Qaddafi, Muammar, 13-17, 24, 40, 505, 509, 515, 529-31
  - murder of, 521-2
  - U.S. attempts to assassinate, 519
- Qadafi, Saif al-Arab, 519
- Qatar, intervention in Syria by, 21
- Quebec, possible secession of, 103
- Račak
  - forensic tests on victims, 410-414
  - further investigations, 409-18
  - massacre alleged in, 405-6, 514
  - massacre condemned by Contact Group, 418
  - NATO bombings justified by, 407-8
  - Walker investigation of, 404-8
- Radan, Peter, 107
- Radanović, Ivan, 150
- Radielovic, Petar, 52
- Rahman, Gul, 529
- Rambouillet Accords, 410-11, 486
  - Appendix B, 435-7, 458, 486-91, 500, 569n111
  - failure of, 485-491
  - false statements concerning, 447, 457
  - signed by Kosovo Albanians, 442
  - jettisoned by NATO, 500
  - negotiations at, 418-23
  - provisions for Serbs in Kosovo in, 500-502
  - mentioned by Yugoslavia, 487
- Randall, John, 396

- Ranta, Helena, 410  
 – Račak report by, 412-15
- rape  
 – as act of repression in Libya, 18-19  
 – allegations of, 465  
 – unsubstantiated charges of, 136-7
- Rapid Reaction Force, 234
- Rasmussen, Anders Fogh, 520
- Rawnsley, Andrew, 25
- Raznjatović, Zeljko “Arkan”, 465, 555n180
- Redman, Charles, 219, 297-8, 308
- refugees  
 – from Bihać, 303  
 – as rationale for bombing, 360  
 – in Bosnia, 36, 450  
 – Bosnian Serb, 302  
 – from Croatia, 477  
 – destabilizing effect of, 335, 337  
 – interviews with, 460-61  
 – in Kosovo, 374, 390, 403, 447, 452, 454-6  
 – caused by NATO bombings, 458-61, 472-3  
 – from Srebrenica, 314, 320  
 – Yugoslav, 41
- regime change  
 – in Libya, 13-16, 18-19  
 – endorsed by Obama, 21  
 – in Syria, 19-20
- Renwick, Robin, 176-7
- Republic of Montenegro. *See* Montenegro
- Republic of Serbia. *See* Serbia
- Republic of Slovenia. *See* Slovenia
- Republika Srpska, 237. *See also* Bosnia; Federal Republic of Yugoslavia (Serbia and Montenegro)  
 – shunned by FRY, 214
- Republika Srpska Krajina, 259, 573n8.  
*See also* Krajina
- Research and Documentation Center (Sarajevo), 139
- “responsibility to protect” (R2P), 21, 31-5
- Riad, Fouad, 316
- Rice, Susan, 20, 516
- Rifkind, Malcolm, 226
- Robertson, George, 448, 464-5
- Rohde, David, 139
- Romania, monitors in, 168
- Rome Statute, 17, 523
- Rose, Michael, 35, 132, 138, 144, 161, 172, 203, 209, 230, 297, 299, 304
- Roth, Kenneth, 512
- Rovera, Donatella, 19
- Rubin, James, 351-2, 360, 367, 372, 421-2, 429, 441, 446, 464, 467
- Ruder Finn Global Public Affairs, 137
- Rugova, Ibrahim  
 – on Kosovo independence, 344, 346, 422-3  
 – Milošević meeting with, 357  
 – education agreement with Milošević, 342-3  
 – and the Milošević-Holbrooke agreement, 378  
 – replaced by Thaçi, 423  
 – praised by West, 341, 343  
 – refusal to negotiate with Yugoslavia, 351
- Rumsfeld, Donald, 575n38
- Russia  
 – concerns about, 451  
 – ethnic solidarity in, 347  
 – possible intervention by, 339  
 – response to Kosovo, 528  
 – takeover of Pristina by, 498  
 – on Rambouillet plan, 441, 450, 452  
 – and military action against Syria, 533n16  
 – as successor of USSR, 109  
 – opposed to bombing Yugoslavia, 372, 496
- Russian Federation, in Contact Group, 208
- Ruzinovski, Mile, 150
- Saddam Hussein, 275, 505, 512-13, 515, 572n70, 574n15  
 – human rights record of, 40  
 – U.S. attempts to assassinate, 519
- safe areas, U.N.-designated

- in Bosnia, 284
- bombing on behalf of, 227-8
- designation of, 188-9
- disarming of, 276
- extending, 275-6, 289-94
- function of, 300
- in proposed Muslim-area republic, 191
- use by Muslims, 276-7, 331
- protection of by air, 291-2
- sieges around, 204
- San Salvador, U.S. involvement in, 405
- sanctions
  - against Bosnian Serbs, 309
  - economic, 96, 120
  - as negotiating tool, 198, 199-200, 213, 219, 225, 238-40
  - against Serbs in Bosnia and Croatia, 171
  - against Serbs, 182, 284, 357, 424
  - imposed on Yugoslavia, 158-62, 167
- Sandžak/Sandjak, 68, 83, 166, 168, 353
- Santer, Jacques, 69, 70
- Sarajevo
  - attacks on, 134-5, 282, 309-10
  - bombings to protect, 202-3
  - as Bosnian multi-cultural center, 128
  - as capital of Bosnia-Herzegovina, 208
  - Clinton's speech praising, 450
  - in Contact Group Plan, 210
  - in the E.U. Plan, 201
  - exclusion zone surrounding, 204, 205, 235
  - humanitarian relief to, 135, 145, 223
  - marketplace bombings in, 160-62, 202-5, 230-32, 404, 552n109
  - Milošević's concessions on, 330
  - ceded to Muslims, 239
  - protection of, 233
  - siege of, 144, 194
  - proposed U.N. administration of, 191, 201
  - U.S. proposal for, 239
- Šarinić, Hrvoje, 187, 250
- Sarkozy, Nicolas, 15, 518
- Saudi Arabia, 21, 518
- Scammell, Michael, 72
- Scharf, Michael, 545n104
- Scharping, Rudolf, 464, 475-6
- Scheffer, David, 466
- Scheffer, Jaap de Hoop, 38
- Schwarz-Schilling, Christian, 256
- Security Council Resolutions. *See* U.N. Security Council Resolutions
- SEM-EDX technique, 413
- Senate Armed Services Committee, 475-6
- Senussi, Abdullah al-, 17, 24
- Serb Republic of Bosnia. *See* Bosnia; Serbia
- Serb Republic of Krajina. *See* Krajina
- Serbia. *See also* Serbs; Yugoslavia, Federal Republic of (FRY)
  - as aggressor, 126
  - and Albania, 344-7
  - autonomous provinces of, 45-7, 94
  - on the Carrington plan, 97
  - Carrington's prejudice against, 102, 105-6
  - constitution of 1989, 47-8
  - economic hardships in, 120
  - at E.C. peace conference, 94-5, 100
  - elections in, 50-51
  - as independent state, 67, 105
  - JNA conscripts from, 150
  - as legal successor to FRY, 115, 503
  - on Kosovo autonomy, 341-2
  - conflict with Kosovo, 340-43
  - military operations of (VRS), 155-6
  - as Nazi Germany, 464
  - ordered to cease intervention, 166-7
  - political divisions of, 45-6
  - as pre-existing state, 82
  - pressured to influence Bosnia and Croatian Serbs, 215
  - problems with SFRY government, 51
  - and the Rambouillet plan, 424
  - sanctions against, 191, 193, 200
  - secret agenda of, 474-7

- Serbian national assembly, 425
- threatened by Albright, 434
- U.S. accusations against, 88
- Serbia and Montenegro. *See* Montenegro;
- Serbia; Yugoslavia, Socialist Republic of
- Serbia's Secret War* (Cohen), 58
- Serbian Autonomous Region of Krajina. *See* Krajina
- Serbian Croats, 449. *See also* Croats; Serbs
- Serbian Democratic Party (SDS), 84, 85
- Serbian Krajina. *See* Krajina
- Serbian Republic of Bosnia and Herzegovina, 110, 159. *See also* Republika Srpska
- Serbs. *See also* Bosnian Serbs; Croatian Serbs; Krajina Serbs
  - accused of atrocities, 230-33, 482
  - accused of duplicitous actions, 395-6
  - accused of genocide, 272
  - accused of mass murder, 270
  - Albanian persecution against, 46
  - atrocities committed by, 462
  - in Balkan wars, 28
  - bombing campaign against, 33
  - in Bosnia, 39, 84-5, 98, 110-11, 113, 126, 128-9, 130, 148, 166, 169, 175-6, 180, 192, 197, 200
  - killed in Bosnian war, 140
  - criticism of, 95-6, 163-4
  - in Croatia, 71, 122-4, 126, 171, 213-14, 242-6
  - Croatian persecution of, 56-7
  - killed by Croats, 573n82
  - demographic distribution of, 98, 123
  - demonization of, 331, 348, 350-55, 379, 391, 422, 503-4
  - denial of confederation to, 207
  - ethnic cleansing blamed on, 132
  - demands of E.U. Plan for, 201
  - honor of, 501
  - invasion by, 28-9
  - in Kosovo, 495-8
  - in Krajina, 39, 199, 200, 216
  - medieval history of, 340
  - minority status of, 112
  - Muslim violence against, 125
  - NATO allegations against, 463-7
  - as obstructionist, 426-30, 443
  - Partisan-Chetnik division of, 506
  - and peace negotiations, 196-7
  - plan to bomb, 178-9
  - preservation of multi-national Yugoslavia as goal of, 55
  - pressure on, 212
  - proposal offered by, 201
  - at Rambouillet, 426-40, 435
  - as refugees from Croatia, 254
  - resistance to NATO bombings, 456-62
  - rights of, 106
  - sanctions against, 357
  - Sarajevo marketplace bombing blamed on, 203, 205
  - as scapegoats, 51, 126, 137-8
  - defense of by U.N. generals, 35
  - U.S. bombings of, 29
  - viewed by U.S. and E.U., 215
  - violence attributed to, 249, 411
  - WWII persecution of in Croatia, 55
  - in Yugoslavia, 94-5
  - in Yugoslavian military, 152
- Šešelj, Vojislav, 131
- Sewall, John O.B., 269
- SFRY. *See* Yugoslavia, Socialist Federal Republic of (SFRY)
- Shalikashvili, John, 143, 208, 297
- Shattuck, John, 318
- Shelton, Henry, 572n54
- Short, Clare, 465
- Short, Michael, 372-3
- Silajdžić, Haris, 117, 120, 134, 177, 304, 544n96
- Silber, Laura, 67, 75, 77, 84, 184, 185
- Silić, Andrija, 150
- Simpson, John, 305
- Slaughter, Anne-Marie, 19-20, 533n16
- Slavonia, Baranya, and Western Srem, autonomous district of, 59

- Slocombe, Walter, 339
- Slovenia
- influence on Bosnia, 82
  - objection to Carrington plan by, 97
  - and the federal budget, 49
  - guarding borders of, 77
  - opposition to IMF reforms by, 45
  - demand for independence by, 43, 53-4, 58, 60, 65, 70-71, 74-5, 81, 95, 97, 102, 121, 126
  - national elections prevented by, 50
  - nationalism in, 51
  - negotiated agreement with, 76
  - paramilitaries in, 61, 63
  - as pawn, 75
  - at peace conference, 95
  - recognition of, 76-8, 91, 100, 102, 105, 113-14
  - referendum in, 102-3
  - secession of, 52, 65, 70-71, 104, 243
  - securing borders of, 71-2
  - invasion of by Serbs, 28, 449
  - supporting striking Kosovo miners, 52
  - and the Yugoslav Constitution, 74
  - withdrawal of Yugoslav military from, 79
- Smith, Rupert, 224, 229, 231-2, 310
- Social Democrats (Germany), 372
- Socialist Federal Republic of Yugoslavia (SFRY). *See* Yugoslavia, Socialist Federal Republic of
- Socialist Republic of Serbia. *See* Serbia
- Solana, Javier
- on humanitarian intervention, 333-4, 416-17
  - on Kosovo, 419-20, 434, 447, 448, 463-4, 468, 503
  - blaming Milošević, 380, 452
  - on NATO bombing campaign, 359-60, 364, 374, 390, 393, 418, 472, 474-5, 498
  - remarks to Yugoslav people, 379
- Somalia, NATO bombings in, 505
- South Ossetia, 528
- Southern Krajina, 121. *See also* Krajina
- Soviet bloc, collapse of, 26, 44
- Soyster, Ed., 270
- Spain, U.S. aggression against, 30
- Special Court for Sierra Leone, 24
- Spirkovski, Aleksandar 150
- Split Declaration, 256
- Sray, John, 140, 141, 209
- Srebrenica
- attack on, 272
  - demilitarization of, 285-6, 288
  - Dutch report on, 231
  - humanitarian aid to, 281
  - alleged massacre at, 29, 313-27, 551n93
  - controlled by Muslim military, 278-84, 308-10
  - plans for, 240
  - as safe area, 191, 275, 277-80, 282-3, 289-90, 309-10
  - safety of, 284
  - capture by Serbs, 225-6, 311-14
  - surrender of by Orić, 282
  - U.N. protection of, 226
- Stalin, Joseph, 51-2
- State Department, 483
- status of forces agreement, 485, 486
- Stepinac, Archbishop, 50
- Stevens, Christopher, 509
- Stoltenberg, Thorvald
- on the Contact Group Plan, 211
  - on Croatia, 246-7
  - and the E.U. Plan, 201
  - Geneva meeting, 262-3
  - HMS Invincible meeting, 196
  - negotiated plans with Owen, 173, 191, 192, 198, 215, 221, 222, 266
- Stoltenberg plan, 262
- Summer Olympics (1992), 116
- Surroi, Veton, 354
- Šušak, Gojko, 236, 269
- Syria, 19-20, 533n16
- Tabeau, Ewa, 140
- Talbott, Strobe, 329, 356, 492

- Taylor, Charles, 24
- Tenet, George, 475
- Territorial Defense of Bosnia and Herzegovina, 159
- Thaçi, Hashim
- on civilian endangerment, 343
  - and drug smuggling, 525-6
  - meeting with Hill, 398
  - as prime minister of Kosovo, 499
  - at Rambouillet, 432, 441-2
  - on Račak, 404
  - as replacement for Rugova, 423, 428
- Thatcher, Margaret, 57-8
- The Last Days of the SFRY* (Jović), 77-8, 157
- Third World Relief Agency (TWRA), 143, 511
- 13th Handžar division (ss), 145-6
- Thomas, Francis Roy, 135
- Thomas y Valiente, Francisco, 93
- Thornberry, Cedric, 243
- Tito, Josip Broz, 45, 51, 57, 58, 105, 466
- Tokača, Mirsad, 139
- Treaty of Westphalia, 333-9
- Trepča, alleged massacre at, 355, 482
- Tribunal de Grande Instance (Paris), 161
- Tripoli, U.S. embassy in, 14
- Trnopolje concentration camp, 137
- Tudjman, Franjo
- and the Bosnian Croats, 110, 129, 137
  - promises made to by Clinton, 207
  - as Croatian nationalist, 50, 55-7, 270-71
  - and ethnic cleansing in Croatia, 325
  - receipt of foreign arms by, 61
  - invited to conference on HMS Invincible, 19
  - justification for aggression, 229
  - mentioned, 192, 236, 265-6
  - meeting with Galbraith, 261-2
  - meeting with Holbrooke, 237, 554n167
  - and Croatian independence, 70, 81
  - Karadjordjevo meeting, 182-7
  - refusal to negotiate with Krajina Serbs, 263-4
  - meeting with Milošević, 182-3
  - and minority rights, 92, 114
  - as nationalist, 50
  - and Operation Storm, 354-5, 254-8, 449
  - and peace negotiations, 255, 262
  - on Serbian autonomy, 59, 126
  - on the Serbs in Croatia
  - and the Z-4 plan, 247-8
- Tupurkovski, Vasil, 87
- Turkey, 20-21, 24, 146, 339, 533n16
- Tus, Anton, 60, 150
- Tutwiler, Margaret, 65
- Tuzla
- airport in, 204, 305
  - arms shipments to, 305, 309-310
  - evacuees in, 281
  - as Muslim army base, 272, 282, 309
  - Muslim withdrawal from Srebrenica to, 313-14, 321
  - plans for, 240
  - as safe area, 188, 275, 277, 288-289
  - and Srebrenica evacuees, 281-2
- U.N. *See* United Nations
- U.S. *See* United States
- U.S. Agency for International Development, 513
- U.S. Army War College, 516
- U.S. European Command, 136
- U.S. Military, atrocity prevention by, 22
- U.S. Senate Foreign Relations Committee, 87
- U.S. State Department, 88, 238
- U.S. Treasury, and funding to abusive regimes, 22
- United Nations. *See also* United Nations Charter; United Nations General Assembly; United Nations Security Council; United Nations Security Council Resolutions
- in Contact Group, 208
  - involvement in Croatia, 243

- and the Geneva talks, 264
- as ally to the Muslims, 300
- partnership with NATO, 35-6, 38-9, 169-73, 193-4, 223
- rapid reaction force, 224-5
- Western support for, 26-7
- Yugoslavia denied membership to, 331
- and bombing of Yugoslavia, 372
- United Nations Charter, 80, 81, 528
  - Article 2(3), 27
  - Article 2(4), 27, 81
  - Article 2(7), 81, 334
  - Article 41, 34
  - Article 53, 34, 292
  - Chapter VI, 33
  - Chapter VII, 31, 33, 39, 333-4, 368, 417
  - Chapter VIII, 33, 35
  - on use of force, 332
- United Nations Commission of Experts, 137
- United Nations Confidence Restoration Operation in Croatia (UNCRO), 247-8
- United Nations Convention Relating to the Status of Refugees, 455
- United Nations General Assembly, 38
  - Resolution 377(V), 368
- United Nations High Commissioner for Refugees (UNHCR), 223, 279-80, 472, 477
- United Nations Human Rights Council, 520
- United Nations Military Observers (UNMOS), 135, 324
- United Nations Peacekeeping Force, 121-2
- United Nations personnel
  - taken as hostages, 224, 228, 298, 303, 417, 558n52
  - used as human shields, 558n52
- United Nations Protected Areas (UNPAS), 121, 124, 132, 242-5
  - attacked by Croatia, 254
  - in Croatia, 200, 207, 216, 217, 246, 248-9, 284
  - economy of, 171
- United Nations Protection Force (UNPROFOR)
  - deployment against Abdić, 301
  - authorized to use force, 292
  - in Bosnia, 170-72, 193, 194, 214, 223, 224-5, 280, 284, 293-6, 434, 548n11
  - blockaded by Bosnians, 558n52
  - Croatia, 216, 217, 243-5
  - as occupation force in Croatia, 243
  - failure to enforce disarmament, 288
  - hostages taken, 303
  - in Krajina, 246
  - mission expanded, 292
  - created by NATO, 122
  - as NATO's enforcer, 188-9
  - neutrality of questioned, 172-3
  - patrolling of airport by, 135-6
  - personnel, dangers to, 132, 223-4
  - personnel, protection of, 229
  - in Sarajevo, 145, 203
  - in Srebrenica, 281
  - tasks imposed on by NATO, 205
  - withdrawal of, 211-13, 225, 305
- United Nations Rapid Reaction Force, 229, 312
- United Nations Security Council, 33, 34-5, 37, 38, 88, 203, 323, 418. *See also* United Nations Security Council Resolutions
  - authorization of force by, 23
  - creation of international criminal tribunal by, 133-4, 178
  - creation of "safe areas" by, 133
  - and Croatia, 250, 257
  - and Kosovo, 500
  - examination of Owen-Stoltenberg plan by, 198
  - siding against the Serbs, 160
  - and action against Syria, 533-4n16
  - and threats to international security, 31

- vote on resolution to lift arms embargo to Bosnia, 193
- United Nations Security Council Resolutions
  - Resolution 688, 275
  - Resolution 713, 169, 171
  - Resolution 743, 122, 242
  - Resolution 752, 150, 160
  - Resolution 757, 171, 543n86
  - Resolution 770, 170, 171, 194-5
  - Resolution 777, 544n86
  - Resolution 781, 170
  - Resolution 787, 160, 171
  - Resolution 802, 132-3
  - Resolution 815, 243
  - Resolution 816, 170
  - Resolution 819, 188, 284, 289, 290
  - Resolution 820, 171, 178, 216, 243
  - Resolution 824, 128, 277, 289, 290
  - Resolution 836, 188, 195, 292, 294, 293
  - Resolution 844, 294
  - Resolution 908, 302
  - Resolution 942, 217
  - Resolution 958, 103
  - Resolution 970, 217
  - Resolution 981, 248
  - Resolution 1160, 356-7, 365-6, 420
  - Resolution 1199, 366, 369, 371, 373-6, 380, 382, 390, 407
  - Resolution 1203, 385
  - Resolution 1244, 491, 493, 498, 502, 527
  - Resolution 1970, 17
  - Resolution 1973, 13, 15, 18
- United States
  - arms sent to Bosnian Muslims by, 142-3, 210
  - reluctant to continue bombing, 236
  - opposed to cantonization of Bosnia, 163
  - involvement in Bosnia, 147
  - involvement in Bosnia and Croatia, 269
  - and Bosnian peace agreements, 240-41
  - in Contact Group, 208, 218-19, 257
  - and Croatia, 260-61, 269
  - support for KLA by, 361-2, 397-8
  - on decentralization, 416
  - intervention by, 62-8
  - deception at Rambouillet, 428-43
  - criticism of Serbs by, 164, 266-7
  - and bombing of Yugoslavia, 62-3, 226, 372-3
  - indifference toward Yugoslavia by, 53
  - on preservation of Yugoslavia, 70-71
- Uniting for Peace resolution (U.N.), 368
- “Uniting for Peace” procedure, 35
- universal jurisdiction, 24
- Ushtria Çlirimtare e Kosovës (UCK). *See* Kosovo Liberation Army (KLA)
- Ustaša state, 50, 55-6, 58, 145, 186
- uti possidetis juris*, 107-8, 109
- van den Broek, Hans, 73, 76-7, 93, 95-9, 113
- Vance, Cyrus, 121-4, 164, 173-4, 185
- Vance Plan, 122-4, 262
  - in Croatia, 242-4, 249, 262
- Vance-Owen Plan, 175-82, 240, 275, 282, 285, 290
  - failure of, 191, 192, 195
- Vasiljević, Aleksandar, 61, 149, 151-2
- Večernje Novosti*, 79
- Védrine, Hubert, 418, 428, 442
  - letter to Milošević, 345-6
  - at Rambouillet, 424
- Velec, Branko, 138
- Venezuela, 530
- “Viagra” story, 18-19
- Vienna Convention on the Law of Treaties, 487
- Vietnam
  - bombing of, 237
  - lack of NATO involvement in, 27
  - U.S. involvement in, 130, 485, 505
- Visnica, Muslim attack on, 310-11

Vojska Republike Srpske (VRS, Army of the Serbian Republic of Bosnia and Herzegovina), 143, 203

- association with Yugoslav national army, 155-8

Vojvodina

- autonomy of, 45-7
- constitutional rights of, 166
- and the Contact Group, 353
- ignored at E.C. peace conference, 94
- human rights monitors in, 168
- Milošević and Tudjman agreement at, 183
- threat from Serbs against, 448-9
- vote on military preparedness, 66

Vollebaek, Kurt, 443

Vuono, Carl, 270

Wahlgren, Lars-Eric, 282, 286

Wald, Patricia, 319

Wałęsa, Lech, 57

Walker, William

- on use of force, 481
- on KLA, 395, 402
- on Kosovo Verification Mission, 382-5, 400, 443, 479
- lies of, 568n102
- and the Račak investigation, 404-9, 412, 414

Walsh, Lawrence, 382

war crimes. *See also* genocide

- in Bosnia, 36, 131, 134
- ICC investigation of, 523-4
- in Iraq, 18, 523
- investigated in Kosovo, 391
- prosecution of, 529-30
- protection from, 33
- Serbs accused of, 318-19

Warburton, Ann, 136

Warsaw Pact, 27

Wartime (Djilas), 106

weapons

- availability of, 141-6, 148
- exclusion zones, 296-8
- manufactured in Bosnia, 141

- supplied to Bosnia, 141-2, 193, 308-10

Western Bosnia, 301. *See also* Bosnia

Western Herzegovina, 83, 110, 142, 184

Western Slavonia, 59, 121, 271, 309

Westphalia, Treaty of, 333-9

“Why Keep Yugoslavia One Country?” (Laber), 64

Will, George, 73

Williams, Michael, 298

Woodward, Susan, 44-6, 49, 105, 122, 151, 154

World Bank, 64, 331

World Health Organization, 321

World Summit Outcome (2005), 32-3, 34

World War II, 55, 58, 106, 145

Yemen, 14, 505

Yugoslav National Army (Jugoslovenska Narodna Armija-JNA)

- aggression blamed on, 80
- association with Vojska Republike Srpske (VRS), 155-8
- blockade of, 60, 77, 148, 153-4
- blockaded by Bosnian Muslims, 134-5, 159
- blockaded by Croatians, 60, 74, 92
- blockaded in Slovenia, 74
- commanders of (1991), 149-50
- criticism of, 91, 357
- in Croatia, 124
- demographic distribution of, 152-3
- denounced as illegal occupation force, 149-54
- equipment left in Bosnia by, 152-5
- redeployment of troops, 156-7
- refusal to serve in, 50
- reportedly supporting Serbia, 92
- and the VRS, 155-8
- withdrawal from Bosnia demanded, 141, 149-54, 158
- withdrawal of from Slovenia, 78-9

Yugoslavia. *See* Yugoslavia, Federal Republic of (FRY); Yugoslavia, Socialist Federal Republic of (SFRY)

Yugoslavia, Federal Republic of (FRY). *See also* Serbia; Serbs

- relations with Albania, 344-5
- as catalyst for NATO intervention, 28, 130
- Clinton/Blair war on (1999), 40
- compared to Nazi Germany, 392-3, 395, 449-51
- democratization of, 400-401
- demonization of, 363
- NATO bombing of, 34, 37-8, 394-5, 407-8, 416-18, 462-3, 489-90
- oil embargo on, 96
- petition to ICJ by, 469-71
- reconstituted, 165
- representing Bosnian Serbs, 238
- response to Rambouillet plan, 424-8
- sanctions against, 120, 143, 193, 200, 212-13, 215, 219, 330-31, 424
- sanctions imposed by against Bosnia, 214
- sealing border with Bosnia, 215-16
- as successor of SFRY, 109, 115
- U.N. intervention in, 23, 332-4, 356-60
- U.S. involvement in, 24, 356-60, 403
- Yugoslav federal assembly, 425

Yugoslavia, Socialist Federal Republic of (SFRY)

- arms embargo on, 76
- cause of wars in, 43
- constitution of, 70, 74, 94, 108, 109
- defending borders of, 75
- demand for decentralization in, 44
- demographic distribution of population, 98
- dire predictions concerning, 40-41
- dissolution of, 100, 102, 104-5, 109, 131

- economic aid to, 64, 73
- federal government, reactions against, 49-51
- fall of Communism in, 103
- government's dilemma, 78
- impending civil war in, 65-6
- international debt of, 43
- as leader in Non-Aligned Movement, 52
- multiparty elections in, 50
- origin of crisis in, 43-9
- presidency of, 86-91
- republics' bids for independence, 28
- ruling on Slovenian independence by, 54
- relationship with West, 24

Zagreb. *See* Croatia

Zagreb-4 group, 246

- Z-4 Plan, 246-7, 262-4

Zagreb-Belgrade highway, 245

Zagreb-Lipovac highway, 249-50

Zakaria, Fareed, 515

Zekan, Branimir, 57

Žepa

- demilitarization of, 288
- plans for, 240
- as safe area, 188, 191, 275, 289, 290
- in Serb hands, 225-6
- as link with Srebrenica, 272, 280-81, 311

Zimmermann, Warren

- and Bosnia, 162
- on Croatia, 75
- and the Cutileiro plan, 539n124
- meeting with Izetbegović, 118
- on Kosovo, 62-4, 340
- on Marković, 53
- on Mesić, 69, 70
- meeting with Milošević, 57

zone of action (U.N.), 229

Zulfikarpašić, Adil, 83-4, 182