

Prosecuting War Crimes in the Former Yugoslavia:

An Update

March 1996



**A Report Prepared by the Staff of the
Commission on Security and Cooperation in Europe**

ABOUT THE ORGANIZATION (OSCE)

The Conference on Security and Cooperation in Europe, also known as the Helsinki process, traces its origin to the signing of the Helsinki Final Act in Finland on August 1, 1975, by the leaders of 33 European countries, the United States and Canada. Since then, its membership has expanded to 55, reflecting the breakup of the Soviet Union, Czechoslovakia, and Yugoslavia. (The Federal Republic of Yugoslavia, Serbia and Montenegro, has been suspended since 1992, leaving the number of countries fully participating at 54.) As of January 1, 1995, the formal name of the Helsinki process was changed to the Organization for Security and Cooperation in Europe (OSCE).

The OSCE is engaged in standard setting in fields including military security, economic and environmental cooperation, and human rights and humanitarian concerns. In addition, it undertakes a variety of preventive diplomacy initiatives designed to prevent, manage and resolve conflict within and among the participating States.

The OSCE has its main office in Vienna, Austria, where weekly meetings of permanent representatives are held. In addition, specialized seminars and meetings are convened in various locations and periodic consultations among Senior Officials, Ministers and Heads of State or Government are held.

ABOUT THE COMMISSION (CSCE)

The Commission on Security and Cooperation in Europe (CSCE), also known as the Helsinki Commission, is a U.S. Government agency created in 1976 to monitor and encourage compliance with the agreements of the OSCE.

The Commission consists of nine members from the U.S. House of Representatives, nine members from the U.S. Senate, and one member each from the Departments of State, Defense and Commerce. The positions of Chair and Co-Chair are shared by the House and Senate and rotate every two years, when a new Congress convenes. A professional staff assists the Commissioners in their work.

To fulfill its mandate, the Commission gathers and disseminates information on Helsinki-related topics both to the U.S. Congress and the public by convening hearings, issuing reports reflecting the views of the Commission and/or its staff, and providing information about the activities of the Helsinki process and events in OSCE participating States.

At the same time, the Commission contributes its views to the general formulation of U.S. policy on the OSCE and takes part in its execution, including through Member and staff participation on U.S. Delegations to OSCE meetings as well as on certain OSCE bodies. Members of the Commission have regular contact with parliamentarians, government officials, representatives of non-governmental organizations, and private individuals from OSCE participating States.

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This memorandum is part of a continuing series of reports prepared by the staff of the Commission on Security and Cooperation in Europe on the conflict in the former Yugoslavia. For additional information, please contact the Commission staff at (202) 225-1901.

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1. EXECUTIVE SUMMARY

- ▶ The statute establishing the International Criminal Tribunal for the Former Yugoslavia was adopted by the U.N. Security Council in Resolution 827 in May 1993. The statute establishes an immediate and legally binding obligation for states to cooperate fully with the Tribunal.
- ▶ It is the first international tribunal established for the prosecution of war criminals since World War II.
- ▶ The Tribunal has jurisdiction over individuals responsible for war crimes, crimes against humanity, and genocide committed on the territory of the former Yugoslavia after January 1, 1991.
- ▶ Guilt must be proved beyond a reasonable doubt. The maximum sentence is life imprisonment.
- ▶ Judge Richard Goldstone of South Africa serves as Chief Prosecutor; he will be succeeded on October 1, 1996 by Judge Louise Arbour of Canada.
- ▶ The Tribunal consists of two trial chambers, each with three judges, and one appeals chamber with five judges. The appeals chamber is shared with the Rwandan War Crimes Tribunal. An American, Judge Gabrielle Kirk McDonald, was elected president of one of the trial chambers.
- ▶ The Tribunal may not try suspects in absentia, but it has the authority to hold special proceedings in open court at which evidence and testimony against the accused is received. These public proceedings may result in the issuance of an international arrest warrant. Thus far, two international arrest warrants have been issued; three more are pending.
- ▶ As of March 22, 1996, the Tribunal had indicted 57 people, including 5 indictments for genocide. Those indicted include 43 Bosnian Serbs, 8 Bosnian Croat leaders, 3 Serbian Yugoslav Army officers, and 3 Bosnian Muslims. The highest ranking political and military figures indicted to date are, respectively, Radovan Karadzic and General Ratko Mladic.
- ▶ Five indicted suspects are in custody, either in a 24-cell detention center in The Hague or pending transfer from Germany or Austria; Croatian authorities have agreed to turn over a sixth indicted suspect. An additional person is being held under provisional arrest in The Hague, and Serbian-Montenegren authorities are holding two additional suspects who may also be turned over to the Tribunal.

2. INTRODUCTION

"These indictments are not negotiable. Those accused of war crimes, crimes against humanity and genocide must be tried and, if found guilty, they must be held accountable."¹

-- *President William Clinton*

In early 1996, with little fanfare, the U.N. Security Council quietly and quickly selected Canadian Judge Louise Arbour to succeed Justice Richard Goldstone, the first chief prosecutor for the International Criminal Tribunal for the Former Yugoslavia. The relative ease with which a replacement was chosen -- in contrast to the prolonged, relatively public, and embarrassing manner in which the Security Council members fought among themselves for nearly a year over the selection of the first prosecutor -- reflects the dramatically changed circumstances in which the Yugoslav War Crimes Tribunal now finds itself. At the time of Goldstone's appointment in 1994, most observers of the Yugoslav conflict seemed to fall into one of two categories: those that thought war crimes trials should be held, but did not believe the Tribunal would ever indict anybody above the rank of private (let alone hold an actual trial), and those who believed that the mere discussion of war crimes trials undermined peace negotiations.

Under Goldstone's able stewardship, the Tribunal has developed a full complement of staff, including prosecuting attorneys and investigators; issued more than fifty indictments, including for the two highest ranking Bosnian-Serb political and military leaders and three members of the Yugoslav People's Army; obtained custody of three men; and begun the Tribunal's first trial. Goldstone has deftly managed a multitude of political crises, successfully traversed the treacherous waters of the U.N. bureaucracy, and, thus far, helped safeguard the legal integrity and credibility of the Tribunal. All of these factors, combined with the achievement of a tenuous peace agreement in Dayton in November 1995,² now make the possibility of war crimes trials seem, to many, more real than ever before.

This memorandum outlines the basic structure of the Tribunal and the most recent developments with respect to investigations and trials, cooperation by U.N. member states with the Tribunal, and funding.

¹Quoted by John Shattuck in *Why the U.S. must lead in Bosnia*, WASHINGTON TIMES, Nov. 13, 1995.

²As a result of a peace agreement worked out between Bosnia-Herzegovina, Croatia, and Serbia-Montenegro under U.S. auspices in Dayton, Ohio, in November 1995 (the Dayton Agreement), a multinational military implementation force, known as IFOR, has been stationed in Bosnia-Herzegovina. IFOR operates under NATO command and executes military tasks assigned to it under the terms of the Dayton Agreement.

3. BACKGROUND ON THE ESTABLISHMENT OF THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA (HEREINAFTER, "THE TRIBUNAL")

In the summer of 1991, Members of Congress and representatives of non-governmental organizations began to call for the establishment of a war crimes tribunal that would hold those responsible for war crimes in the former Yugoslavia personally and individually accountable for their actions. As atrocities mounted over that summer and information about concentration camps, mass rapes and forced impregnation became public, these calls began to reverberate at on-going meetings of the Conference on Security and Cooperation in Europe (now called the Organization for Security and Cooperation in Europe -- the OSCE) then being held in Prague, Vienna and Helsinki.

The Commission of Experts

In October 1992, against a backdrop of continuing debate over the merits of establishing a full-blown war crimes tribunal, the U.N. Security Council established a five-member Commission of Experts mandated to investigate war crimes in the former Yugoslavia. Ultimately headed by an American scholar from Chicago, Cherif Bassiouni, this Commission spearheaded the arduous work of compiling the mountains of reports on war crimes produced by the public, the press, the non-governmental community, and eventually U.N. member states themselves.

In fulfillment of its mandate, the Commission established an extensive database of information on individual cases, conducted studies on specific battles and instances of ethnic cleansing, and laid the ground work for investigations of several mass grave sites in the former Yugoslavia. Testifying before the Helsinki Commission in April 1995, Cherif Bassiouni stated he had identified 200,000 dead, most of them civilians; 800 prison camps and detention centers in which more than half a million people have been held; and 151 mass grave sites. Furthermore, the Commission of Experts had investigated 1,600 cases of rape and forced impregnation of girls and women of all ages, and received allegations of thousands of other cases of rape, sexual mutilation, and torture.

The Tribunal

Meanwhile, acting on a mandate from the CSCE Council of Ministers, a small group of experts issued a report in February 1993 which contained a proposal for an international war crimes tribunal for the former Yugoslavia. This proposal was submitted to the United Nations as an official U.N. document by the Swedish CSCE Chair-in-Office and was the first concrete proposal for such a tribunal. As such, it spurred debate on this issue at the U.N. headquarters in New York.

Although increasing information about atrocities in the former Yugoslavia created a strong NGO lobby for establishing a war crimes tribunal, there was, at the same time, consistent political opposition to the idea for several reasons. First, some legal experts and some U.N. member states believed that an ad hoc tribunal for the former Yugoslavia would detract from their long-standing efforts to establish a *permanent* international criminal tribunal with jurisdiction over *all* countries. Second, at the other end of the spectrum, some U.N. member states saw an ad hoc tribunal as a dangerous precedent that might lead to demands for international accountability for wrong-doing

committed within their own countries. And third, some member states and political observers believed that a criminal tribunal would be at odds with the so-called peace negotiations initiated in 1991.

Finally, with strong U.S. leadership, agreement was reached in February 1993 to establish the Yugoslav Tribunal; in connection with that step, the Security Council instructed the Commission of Experts to conclude its work in order to fold it into a prosecutor's office.

4. DESCRIPTION OF THE TRIBUNAL AND ITS JURISDICTION

Title and Purpose

A statute for the Tribunal was adopted by the Security Council in May 1993; its formal title is: *International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991*.³ (It is more commonly known as the International Criminal Tribunal for the Former Yugoslavia or the Yugoslav War Crimes Tribunal.) The Tribunal, and the rules it has adopted thus far, reflects both civil and common law traditions, generally drawing on the strongest elements of the two different systems. In addition, it reflects the considerable evolution of human rights law since the Nuremberg trials were held fifty years ago.

The Secretary-General's report adopted by the Security Council along with the Tribunal's statute states that the Tribunal's purpose is to "contribute to the restoration and maintenance of peace" and to facilitate the cessation of violations of international humanitarian law in the conflict. In characterizing the Tribunal in this way, the Security Council rejected the view that seeking to hold violators of international humanitarian law personally accountable might intensify fighting by the warring factions. On the contrary, the Council implicitly supports the argument that accountability may play a deterring role, even in an on-going conflict. In establishing the Tribunal, the Security Council relied on Chapter VII of the U.N. Charter, relating to threats to international peace and security (the same provisions that are used to authorize peacekeeping missions). This rationale also appeared to be reflected in efforts to ensure that, at least for the time being, only persons indicted by the Tribunal would be subject to arrest by national officials in Bosnia-Herzegovina, Croatia and Serbia-Montenegro. (See section 7 below.)

Judges, Chief Prosecutor and Staffing

The selection of judges⁴ was highly contentious and, consequently, only completed in September 1993. The eleven judges chosen serve in their individual capacity (i.e., it is not intended that they take instructions from their national governments) and are paid by the United Nations, not their native countries. Their nationalities are American, Australian, Canadian, Chinese, Costa Rican,

³S.C. Res. 827, U.N. SCOR S/25704 (1993).

⁴Judges were nominated by the Security Council and approved by the General Assembly.

Egyptian,⁵ French, Italian, Malaysian, Nigerian, and Pakistani. Given that victims of this war have been, in many instances, targeted because of their gender or religion, the decision of the Security Council to include only two women and no Muslims among their nominees was highly criticized by many non-governmental human rights organizations.

The selection of a chief prosecutor was even more politicized than the selection of the judges and was marked by numerous delays and set-backs that undermined public confidence in the Tribunal. In July 1994 -- more than a year after the adoption of the Tribunal's statute -- the Security Council unanimously selected South African Justice Richard J. Goldstone to serve as first chief prosecutor of the Tribunal.⁶ Goldstone, a jurist who is highly regarded by the human rights community, came to the Tribunal having earned respect for his role in heading South African commissions of inquiry that revealed police violence and abuse and led to criminal prosecutions.

In February 1996, the Tribunal announced that Goldstone would return to Cape Town to assume a position on the Constitutional Court.⁷ He has agreed to stay with the Tribunal until the fall of 1996, at which time his successor, Louise Arbor, will take his place.⁸ Arbor, a Canadian judge from the Ontario Court of Appeal, is an expert in criminal law.

Graham Blewitt, who previously served as Director of the Australian War Crimes Prosecution unit, is the Tribunal's Deputy Chief Prosecutor. The prosecutor's office also now includes over 300 people from 37 countries serving as prosecuting attorneys, investigators and support staff, organized into nine different teams tasked with preparing indictments. In January 1995, three senior lawyers were named to present the prosecution's case at trials: Eric Ostberg, a Swede who was chief public prosecutor for special cases and financial cases in Stockholm; Minna Schrag, an American who had previously served as an assistant U.S. attorney and is a partner in the New York law firm, Proskauer Rose Goatz Mendelssohn; and Grant Niemann, an Australian who was formerly deputy director of public prosecutions for South Australia in Adelaide.

Jurisdiction

⁵In October 1995, the first Egyptian judge appointed to the Tribunal, Georges Abi-Saab, was replaced by another Egyptian, Fouad Riad.

⁶The Security Council had formally designated a Venezuelan jurist, Ramon Escobar-Salom, as chief prosecutor in October 1993. In February 1994, however, he resigned in order to assume a ministership in Venezuela. At that point, he had not actually engaged in any duties for the Tribunal.

⁷From the outset, Justice Goldstone had indicated that he would only serve for two years as chief prosecutor so that he would be able to join the South Africa's newly created constitutional court. Accordingly, his announcement of his intention to return to Cape Town was not a surprise. Nevertheless, the prospect of another prolonged selection battle in the Security Council sent shudders through the human rights community until his replacement was secured.

⁸Her nomination by the U.N. Secretary General has not yet been approved by the Security Council. It is understood, however, that her selection would not have been announced prior to securing approval among Security Council members.

The subject-matter jurisdiction of the Tribunal covers "serious violations of international humanitarian law, "including the Geneva Conventions, the Genocide Convention, and crimes specified by the 1945 Charter of International Military Tribunal. It does *not* include the two Protocols to the Geneva Conventions, except to the extent that they may have become part of the customary international law binding on all countries. In essence, the three types of crimes which fall within the scope of the Tribunal's jurisdiction are: war crimes, crimes against humanity, and genocide.

Under international law, the right of parties to a conflict to choose the methods or means of warfare is not unlimited. Accordingly, military practices that are prohibited by international law constitute war crimes. Genocide requires an intent to destroy a specific group in whole or in part; the law of genocide does *not* require that each and every single member of the group be targeted or destroyed. In contrast, crimes against humanity, while directed against a specific group, do not require such intent. Genocide and crimes against humanity differ from war crimes in that they are offenses whether committed during international *or* internal armed conflict.

Article 5 of the Tribunal's statute specifies that rape, when committed in armed conflict and directed against any civilian population, constitutes a crime against humanity; forced impregnation is likely to be treated in an analogous fashion. Depending on the particulars of the crime -- how the rape was committed, by whom, with what coordination, etc. -- it may also be punishable as an act of genocide.

Crimes committed against United Nations peacekeepers and humanitarian aid workers are violations of international law and punishable by this Tribunal.

The personal jurisdiction of the Tribunal extends to individual "natural" persons but not to "juridical" persons such as organizations or corporations. Mere membership in, for example, Arkan's Tigers or Seselj's White Eagles will not be considered in and of itself criminal activity; the prosecutor will still have to prove that the defendant actually engaged in acts that constitute war crimes, crimes against humanity, or genocide. (In contrast, the Nuremberg prosecutions made membership in the Nazi party a punishable offense.)

Heads of State, government officials, and persons otherwise acting in an official capacity may not receive from that status immunity or a mitigation of punishment. On the contrary, such persons are to be held responsible not only for the orders they give directly but, under the principles of imputed responsibility or criminal negligence, may also be held responsible for the failure to prevent crimes committed by subordinates. Correspondingly, a subordinate may not rely on the defense of "superior orders" to relieve him or her of criminal responsibility. ("Superior orders," combined with other defenses such as coercion, may be a mitigating factor during sentencing.)

The Tribunal is authorized to punish crimes committed on or after January 1, 1991 on the territory of the former Yugoslavia. Crimes which continue to be committed in connection with the conflict are therefore also punishable.

Conviction, Sentencing, Restitution, and Incarceration

Guilt must be proved beyond a reasonable doubt.

The Tribunal may not impose the death penalty; the maximum sentence is life in prison. In addition, it is authorized to order the return of property and proceeds acquired by criminal conduct (including by duress).

The Tribunal is dependent upon the member states of the United Nations to volunteer to house prisoners. Currently, the Tribunal has a 24-person detention facility in The Hague.

Other Matters

In November 1994, the Security Council established the International Tribunal for Rwanda (the Rwanda Tribunal).⁹ The Yugoslav and Rwandan Tribunals have some separate and some joint elements. In practice, this means that the two Tribunals share the chief prosecutor, some of the prosecutor's staff, and the appeals chamber judges of the Yugoslav Tribunal. The decision to share the appeals chamber was designed to ensure consistent interpretations of international law. The decision to add additional tasks to those of the Yugoslav chief prosecutor does not serve a similar objective and may overburden his already heavily taxed (and under-funded) effort.

The eleven judges of the Tribunal constitute themselves in two trial chambers of three judges each and one appeals chamber of five judges. Gabrielle Kirk McDonald of the United States was elected president of one trial chamber; Adolphus Godwin Karibi-Whyte of Nigeria was elected as president of the other. Antonio Cassese of Italy was elected president of the appeals chamber.

In February 1994, the judges adopted rules of evidence and procedure. Those rules provide that the Tribunal's procedures will be largely adversarial in nature (rather than the inquisitorial approach generally followed in continental Europe); that immunity will not be granted as a form of plea bargaining, although cooperation with the Tribunal may be considered at sentencing; and that the Tribunal will receive *amicus curiae* briefs from interested parties (such as states or non-governmental organizations) on request. In May 1994, the judges also adopted rules governing the detention of the accused, the assignment of defense counsel, and measures for the protection of witnesses and victims.

The Tribunal is located in The Hague, Netherlands, and its official languages are English and French. Chief Prosecutor Goldstone has not ruled out the possibility of convening trials in the former Yugoslavia.

⁹The formal name of the Rwanda Tribunal is: *International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and other serious violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan citizens responsible for genocide and other such violations committed in the territory of neighboring states, between 1 January 1994 and 31 December 1994.*

5. RELATIONSHIP TO NATIONAL COURTS AND TRIALS

National courts in the countries of the former Yugoslavia have the authority to punish war crimes, crimes against humanity and genocide arising out of the war. However, the Tribunal has primacy over such national courts and may, at any stage of their proceedings, require these cases be transferred to the Tribunal.

In the event that someone has already been tried at the national level for crimes falling within the jurisdiction of the Tribunal and a judgment has been rendered, the Tribunal may seek to re-try the case provided that 1) the act(s) in question at the national level form the basis of a separate and distinct charge under the Tribunal statute (e.g., someone who was tried for the ordinary crimes of rape and murder at the national level might be charged with crimes against humanity by the Tribunal); or 2) the national trial was, in effect, a sham trial, and the result was manifestly unfounded.

Croat and Serb factions in Bosnia as well as in Zagreb and Belgrade have often stated that trials by the Tribunal will be unnecessary, since they plan to conduct their own war crimes trials. These factions also cite many instances where they have, in fact, already initiated proceedings against alleged war criminals. In general, however, Serbs have charged only Croats and Croats have charged only Serbs. For the most part, war crimes suspects have been exchanged in prisoner swaps prior to the conclusion of proceedings against them, and neither Serbia-Montenegro nor Croatia has seriously sought to investigate and prosecute war crimes committed by members of their own side in the conflict.

In Bosnia-Herzegovina, a small number of war crimes trials have also been held, resulting in the conviction of a few Bosnian Serbs.¹⁰ More recently, however, Bosnian officials, who have established a State War Crimes Commission to conduct investigations of war crimes, have reiterated their willingness to defer such cases to the Tribunal.

A political firestorm erupted in February 1996, when Bosnian Government forces unexpectedly came across and arrested eight Bosnian Serbs as war crimes suspects. None of the eight had been indicted by the Tribunal at that time, and Bosnian Serbs claimed the arrest came in a zone demilitarized by the Dayton Agreement, thereby violating provisions of the accord.

Acting quickly, the Tribunal immediately asked the Bosnian authorities to hold and surrender to The Hague two of the men, General Djordje Djukic and Col. Aleksa Krsmanovic. The two were then transported from Sarajevo to the Netherlands aboard a U.S. military transport aircraft, an event later cited by Clinton administration officials as a concrete example of NATO's support for the Tribunal. The remaining detainees were released as Assistant Secretary of State Richard Holbrooke, a key negotiator of the Dayton Agreement, sought to defuse the crisis. Holbrooke secured agreement

¹⁰For example, Borislav Herak and Sretko Damjanovic were sentenced to death for war crimes in 1993. After Bosnia-Herzegovina abolished the death penalty, their sentences were commuted to life. At the time of their trials, which were observed by the press and non-governmental human rights groups, allegations were made that Herak's confession -- the sole evidence against him -- had been coerced.

from the Bosnians (as well as from the Croat and Serb factions) that they would not arrest persons who had not been indicted or were not sought by the Tribunal. Djukic was subsequently indicted for his role in the shelling of Sarajevo. (The London GUARDIAN also reported that papers in Djukic's possession indicate that he was tied to the Yugoslav People's Army in Belgrade, and many observers believe that Djukic may be able -- although not necessarily willing -- to provide critical testimony regarding the role of Belgrade in the Bosnian war.) Krsmanovic remains in custody, pending investigation.

In many ways, this incident underscores the need for an impartial body to hold war crimes trials and supports the argument that the Tribunal is necessary for "the restoration and maintenance of peace."¹¹ At least in the near term, any war crimes trials held at the national level in the former Yugoslav republics are likely to be perceived as so biased that they may actually be politically destabilizing. But without some form of individual accountability, collective guilt might be imposed on entire peoples -- not individual actors -- fueling another of the cycles of vengeance and violence that have typified much of Europe's (not just Balkan) history. An international criminal tribunal has the potential to provide the victims of war crimes with the sense that the perpetrators have been brought to justice, while demonstrating the required level of objectivity and fairness to give its proceedings and judgments credibility both internationally and with the parties involved.

The problem with relying *exclusively* on an international tribunal to adjudicate war crimes trials is that the Yugoslav Tribunal has only limited resources and will only be able to conduct a limited number of trials. If national governments are precluded from holding their own trials, it may mean that a significant number of suspects remain unindicted and, in effect, unaccountable.

Notably, while the Holbrooke compromise -- dubbed "the rules of the road" -- may limit national governments' authority to conduct their own war crimes trials at this time, national governments may still support the Tribunal by providing evidence of war crimes, conducting their own war crimes investigations, cooperating with Tribunal investigations, and arresting and surrendering to the Tribunal for trial those who are ultimately indicted. This agreement reiterated that persons indicted by the Tribunal are "subject to arrest anytime, anywhere."

6. AMNESTIES AND IMMUNITIES

The Tribunal's statute does not permit the granting of immunity as a form of plea bargaining. Nor does the Tribunal have the authority to offer amnesty. No other entity -- no government of any of the former Yugoslav states, none of the various international bodies or individual countries which have engaged in mediating peace negotiations -- has the authority to require the Tribunal to recognize any amnesties it might purport to grant. The International Criminal Tribunal for the Former Yugoslavia has been established by the Security Council as an independent body. The only way it could be required to recognize amnesties would be for the Security Council to amend its

¹¹See section 1, above.

statute or to abolish the Tribunal altogether -- acts which would require the express and public consent of the Security Council's five permanent members, including the United States.

Thus far, the United States has indicated no willingness to take such actions; on the contrary, the United States has repeatedly confirmed its commitment to hold war criminals accountable and to support the work of the Tribunal. Moreover, Chief Prosecutor Goldstone has repeatedly signaled that he would not recognize putative amnesties, stating that he will follow the evidence where it leads, including to the highest political levels.

There is also an emerging view among experts in the field of international human rights law that argues such amnesties are, in and of themselves, violations of international law since they run counter to the express and non-derogable obligation of states not only to refrain from engaging in torture and other, similar prohibited activities but also to ensure that persons whose internationally recognized human rights are violated have effective remedies.¹²

Croatia has passed several amnesties, beginning in 1992, to pardon people who committed crimes during the course of armed conflict in Croatia. In February 1996, Bosnia-Herzegovina also passed an amnesty law, which, *inter alia*, pardons Bosnian Serbs who joined the rebel Serb army. Neither the Croatian nor the Bosnian laws apply to cases of war crimes, crimes against humanity, or genocide. Neither of these laws extends to crimes specified by the statute of the War Crimes Tribunal. Under no circumstances would such laws have the power to restrict the legal authority of the Tribunal to hear cases arising under its own statute.

7. INVESTIGATIONS AND PROSECUTIONS TO DATE

The Tribunal issued its first indictment on November 7, 1994, charging Dragan Nikolic, a Serb, with crimes against humanity and other violations of international law.

At almost the same time the Tribunal issued its first indictment, it also began proceedings to require Germany to surrender to it another accused Bosnian Serb, Dusan Tadic, who was then under investigation -- and in custody -- in Germany. Subsequently, Germany complied with the Tribunal's order and Tadic was formally arraigned in April 1995.

Tadic is often dismissed as a "small fry" by those who question the Tribunal's overall utility. While it is true that Tadic is not one of the architects of ethnic cleansing, he is charged with 132 counts relating to rape, torture, and murder at the notorious Omarska concentration camp, including one of the most savage acts of torture and mutilation documented in this war. That someone indicted for double-digit murders is perceived as a minor character in a major tragedy reflects not the insignificance of his role but the overall magnitude of the crimes committed in this conflict.

¹²See, for example, article 3 of the International Covenant on Civil and Political Rights and article 13 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. There is also a school of thought which argues that states should only have the power to grant amnesties for crimes committed against the state, not for crimes committed against individuals.

(Significantly, Tadic was not a military man whose alleged atrocities were merely the excesses of warfare; he was a civilian who reportedly enjoyed the Omarska camp for the opportunities it provided him and others to engage in particularly fiendish and sadistic behavior. The commander of the Omarska camp, Zeljko Meakic, has also been indicted.) In the case against Tadic, both the court's trial and appeals chambers have upheld initial challenges to the Tribunal's jurisdiction. A trial on the merits of the charges is expected later this year.

Initially, many skeptics doubted that the Tribunal would ever indict top leaders. But on July 25, 1995, the Tribunal ended months of speculation when it indicted Radovan Karadzic and Ratko Mladic, the highest political and military leaders in the Bosnian-Serb leadership. (It has subsequently been reported that Mladic has hired a Greek criminal lawyer, Alexandros Lykourios.) Their initial bill of particulars charged them with genocide, crimes against humanity, and war crimes; in November 1995, additional indictments against Karadzic and Mladic were issued to include their role in the attack on and fall of the UN-designated "safe-haven," Srebrenica.

Tribunal officials have also indicated that Serbian President Slobodan Milosevic is a suspect -- as are many other people who remain under investigation. While it is not impossible to build a case against a sitting head of state, it would not be easy. Tribunal officials are undoubtedly aware that such an indictment would be subject to the most rigorous and intense legal scrutiny imaginable. Lacking the kind of paper trail that facilitated the convictions of Nazi leaders, Chief Prosecutor Goldstone has indicated he will seek to build cases against those who orchestrated the war against Bosnia by moving up the chain of command. (In this context, bringing indictments against the Tadic and Meakic of the war -- those who may provide evidence against their superiors -- may contribute to building cases against higher ranking offenders.)

As of March 22, 1996, the Tribunal had indicted 57 people, including 5 indictments for genocide. Those indicted include 43 Bosnian Serbs, 8 Bosnian Croat leaders, 3 Serbian Yugoslav Army officers, and 3 Bosnian Muslims. As stated above, two indicted criminals (Dusan Tadic and Djordje Djukic, both ethnic Serbs) are in custody in The Hague. A third suspect (Aleksa Krsmanovic, also a Serb) has been subjected to provisional arrest as a suspect and witness and is also in custody in The Hague. Germany currently holds two indicted criminals (Zejnil Delalic, a Bosnian Muslim, and Goran Lajic, a Bosnian Serb) and is in the process of surrendering them to the Tribunal; Austria also holds an indicted suspect (Zdravko Mucic, a Bosnian Serb) and is preparing his surrender to the Tribunal.

On March 19, 1996, a joint statement issued by Bosnia-Herzegovina, Croatia, and Serbia-Montenegro indicated that three other suspects would be turned over to the Tribunal: Croatian General Tihomir Blaskic (who has already been indicted and is currently a member of the Croatian Army in Croatia) and two people wanted in connection with atrocities in Srebrenica (held by Serbia-Montenegro forces) (see section 9, below).

8. TRIALS IN ABSENTIA AND SUPER-INDICTMENTS

According to the Tribunal's statute, trials in absentia are not permitted.¹³ Rule 61 of the Tribunal's statute, however, does give the court the authority to issue what has been called by some a "super-indictment." In the event that an indicted individual has evaded execution of an arrest warrant issued by the Tribunal, the Tribunal's prosecutor may re-confirm the indictment in open court. Accordingly, this rule permits the presentation of the full panoply of evidence upon which the original indictment was based as well as the public receipt of testimony from witnesses. Upon re-confirmation of the indictment, the Trial Chamber may issue an international arrest warrant to all member states of the United Nations, branding the accused perpetrator, in effect, a notorious outlaw.

Combined with the liberal opportunity for non-governmental organizations to present *amicus curiae* briefs, these super-indictments are extremely important in and of themselves. First, they cause the perpetrators of these crimes to become hunted fugitives -- sort of a Balkan version of *America's Most Wanted*. (In addition, indicted individuals are prohibited under the terms of the Dayton Agreement from holding elected office in Bosnia-Herzegovina.¹⁴) Equally important, these super-indictments provide some measure of accounting for the victims of the war by establishing a public record of the crimes that have been committed against them. Finally, such high-profile indictments further the goal of holding *individuals* -- not entire peoples -- personally accountable for their actions in this conflict.

Thus far, three indictments have been confirmed through Rule 61 proceedings: Dragan Nikolic, the first person indicted by the Tribunal; Milan Martić, a Serb leader from Croatia who allegedly ordered cluster-bomb attacks against Zagreb; and the three Yugoslav Army officers indicted for atrocities committed at Vukovar.

9. COOPERATION WITH THE TRIBUNAL

All member states of the United Nations are legally obligated to cooperate with the Tribunal, including by surrendering indicted persons, helping to locate witnesses, and supplying information related to war crimes. This commitment was reconfirmed in the Dayton Agreement. An order to surrender an indicted person creates an immediate and legally binding obligation on all member states of the United Nations to surrender that person to the Tribunal. Failure to cooperate with the

¹³Trials in absentia are viewed by many as undesirable since they require an expensive, full-blown trial to be mounted, lack a critical degree of credibility since the accused is unavailable to direct his or her defense and, by definition, can never result in the incarceration of the convicted.

¹⁴Article IX (1) of Annex 4 of the Dayton Agreement reads as follows: "No person who is serving a sentence imposed by the International Tribunal for the Former Yugoslavia, and no person who is under indictment by the Tribunal and who has failed to comply with an order to appear before the Tribunal, may stand as a candidate or hold any appointive, elective, or other public office in the territory of Bosnia and Herzegovina."

Tribunal may be referred to the Security Council for action; the Security Council may punish non-compliance by, *inter alia*, maintaining or imposing sanctions.

Bosnia-Herzegovina

Bosnia-Herzegovina has generally cooperated with the Tribunal, supplying it with evidence and investigative resources, surrendering war crimes suspects when requested to do so (see section 5 above), and facilitating the Tribunal's efforts to establish a liaison office in Sarajevo. In April 1995, Bosnia passed implementing legislation to provide the legal framework for cooperation with the Tribunal, including compliance with the Tribunal's orders to surrender indicted person.

Bosnian Serbs in Bosnia-Herzegovina have, however, hampered or blocked the Tribunal's work. In late March 1996, Bosnian Serbs however, gave permission for Tribunal investigators to monitor their exhumation of a mass grave, possibly signaling increased cooperation.

Croatia

Croatia has been criticized for failing to surrender to the Tribunal Tihomir Blaskic, a Bosnian Croat General who was indicted in November 1995 in connection with crimes committed in the Lasva Valley in 1992 and 1993, including attacks on Muslim villages during which children are believed to have been burned alive. A few days after his indictment, Blaskic was made an inspector in the Croatian Army under Zagreb's control -- a move portrayed by Croatian officials as a demotion, but widely perceived as a promotion. In any event, his transfer from the Bosnian Croat Army to the Croatian Army demonstrated Zagreb's control over the Bosnian Croats, raising the level of suspicion that Zagreb had, in fact, approved of earlier atrocities committed by them. Moreover, by placing Blaskic in the Croatian Army, Zagreb's promise to cooperate with the Tribunal appeared to ring hollow.

Croatia has also been criticized for failing to secure custody of and surrender to the Tribunal Ivica Rajic, an indicted Bosnian Croat being held by Bosnian Croat authorities on charges unrelated to the Tribunal's indictment. After being acquitted of charges brought against him in Croat-controlled territory of Bosnia-Herzegovina, Rajic was released rather than turned over to The Hague.

In March 1996, Croatian President Franjo Tudjman urged parliament to pass implementing legislation necessary to provide a legal basis under Croatian national law for the surrender of war criminals to the Tribunal, but his effort failed due to a lack of a quorum.

The Tribunal has opened a liaison office in Zagreb to facilitate its investigations.

Serbia-Montenegro

In early November 1995, the Tribunal issued its first indictments of suspects who were openly tied to Belgrade -- in this case, members of the Yugoslav People's Army. They were charged with atrocities committed during the attack on Vukovar, Croatia in 1991, during which some 300

hospital patients, staff and others (primarily Croat) were removed from a hospital, executed, and buried in a mass grave.

In November 1995, Dutch officials detained a Bosnian Muslim who was believed to have served in a Bosnian Croat militia unit and to have committed war crimes against ethnic Serbs. Belgrade and Bosnian Serb factions in Bosnia refused to cooperate with the Tribunal regarding this case, however, and, without the ability to obtain the evidence necessary to develop its case, the Tribunal was forced to release the suspect without issuing an indictment.

In March 1996, Drazen Erdemovic, an ethnic Croat who fought with Bosnian Serb forces, reported to Western media that he had participated in perpetrating atrocities in Srebrenica. Immediately thereafter, he was arrested in Serbia by Serbian authorities, who claim to have begun their own investigation of him for war crimes. Serbia has not yet complied with the Tribunal's order that Erdemovic, along with a second man, Radoslav Kremenovic, be turned over to the Tribunal for questioning, although Tribunal investigators have had access to the men for questioning.

In February 1996, Serbian President Milosevic agreed to permit the Tribunal's investigators to open a liaison office in Belgrade.

The United States

In January 1996, the United States passed legislation that would permit the United States to surrender to the Tribunal indicted war criminals who may be found on U.S. territory. (Only fifteen countries have passed this kind of implementing legislation.¹⁵ **WITHOUT SUCH LEGISLATION, A TECHNICAL ICH OEW OUDEN IN MOST COUNTRIES IT WOULD GAIN THE PROSITHEICAL GROUNDSTOCK ALL ENCE JURIDICIONADAODIRAL OBVIATE OR DEFEAT THE INTERNATIONAL LEGAL OBLIGATION TO COOPERATE**

In addition, legislation passed in February 1996 prohibits U.S. military or economic assistance to any country which "knowingly grants sanctuary" to indicted war criminals. This provision has already been utilized to suspend military training programs between the United States and Croatia. (There are no similar training programs between the United States and Serbia-Montenegro.)

Assistant Secretary of State John Shattuck has stated, "[i]n the event of non-compliance [with the Tribunal], then economic and reconstruction assistance, access to the UN, and access to international financial institutions will be denied. . . . The signal is very, very clear: Cooperate or face the consequences."¹⁶ Nevertheless, in accordance with the Dayton Agreement, most of the

¹⁵As of February 29, 1996, the countries that have adopted implementing legislation are: Austria, Bosnia-Herzegovina, Denmark, Finland, France, Germany, Iceland, Italy, Netherlands, New Zealand, Norway, Spain, Sweden, Switzerland, and the United States.

¹⁶Quoted by Jonathan S. Landay and David Rohde in *Imperfect Peace Dogs US in Bosnia*, CHRISTIAN SCIENCE MONITOR, Dec. 4, 1995.

economic sanctions against Serbia-Montenegro were lifted in December 1995; a so-called "outer-wall" of sanctions against Serbia-Montenegro, barring membership in and financial assistance from some international organizations, thus far remains in place.

More difficult questions have surrounded the degree to which the United States itself will directly work to secure custody of indicted criminals. A number of non-governmental organizations, such as Human Rights Watch and Amnesty International, have criticized the reticence of IFOR to support actively the Tribunal's efforts to secure evidence and custody of indicted persons. In fact, considerable confusion persists regarding the scope of activities that the United States will undertake in order to ensure compliance with orders of the Tribunal, particularly with regard to securing custody of indicted individuals. Assistant Secretary John Shattuck has said, for example, "[t]he United States is committed to [Karadzic's and Mladic's] removal from power and bringing them to justice. We will pursue this goal relentlessly."¹⁷ This relentless pursuit seems, however, to exclude IFOR initiatives. Admiral Leighton W. Smith, the IFOR commander, has stated that "IFOR is not authorized to seek out indicted war criminals nor am I required to attempt to develop intelligence on their whereabouts. Our responsibilities are clear: we will detain indicted war criminals when/if we come in contact with them during the course of our normal duties."¹⁸

The legal obligation to cooperate with the Tribunal extends to the provision of information ~~and the~~
~~AND AT THE SAME TIME TWO CONFIDENTIAL WAR CRIMES REPORTS BY SERBIAN DON HUNDREDS OF REFUGEE INTERVIEWS AND OTHER~~
~~INTELLIGENCE.~~

In an October 1995 letter to the U.S. Embassy in The Hague, Chief Prosecutor Richard Goldstone raised concern regarding the "quality and timeliness" of information provided to the Tribunal by U.S. intelligence sources.¹⁹ In the same letter, however, Goldstone characterized the United States as "the strongest supporter and most reliable friend of the Tribunal" and, in subsequent meetings with Members of Congress, Goldstone acknowledged the unprecedented relationship between the Tribunal and the intelligence community and emphasized that his purpose in sending the letter was to improve the learning curve. Nevertheless, concerns have persisted in some quarters, particularly the non-governmental human rights community, that U.S. intelligence agencies have intentionally withheld some information from the Tribunal in an effort to shape specific political outcomes.

10. FUNDING

¹⁷On-the-record briefing by Assistant Secretary of State John Shattuck, Feb. 14, 1996.

¹⁸Letter from Leighton W. Smith to Kenneth Roth, Executive Director of Human Rights Watch (no date appears on the response, although it was received in January 1996).

¹⁹Michael Dobbs, *War Crimes Prosecutor Says U.S. Information Insufficient*, WASH. POST, Nov. 7, 1995.

Although public debate on the ultimate effectiveness of the Tribunal has often centered on its relationship to peace negotiations, the greatest threat to the work of the Tribunal is a lack of sufficient funds to carry out its mandate. If the prosecutor's investigations are dictated by a U.N. budget director rather than the merits of the evidence presented to the Tribunal, his or her hands will be tied.

Until the end of 1995, budget negotiations at the U.N. were repeatedly stalled over the question of whether U.N. funds would be drawn from the regular general budget or from peacekeeping funds.²⁰ While this debate continued, the Tribunal was not only chronically underfunded, but compromised by an inability to enter into long-term contracts for personnel and resources. Some non-governmental experts have argued that the Tribunal budget does not provide enough funding for items such as mass grave exhumations, witness protection programs, forensic laboratory expenses, defense counsel, travel for witnesses, witness counseling and security, travel of accused, and expert witnesses for the prosecutor.

Estimating the cost of an as yet-undetermined number of full-scale war crimes investigations and prosecutions has been difficult, since it stands as an unparalleled endeavor. One source, in an effort to rough out some figures, has considered the costs of other trials: the U.S. Iran-Contra investigation (\$40 million); France's Tuvier case (court costs alone for a single defendant from WWII ran to Frf 7,000,000); Canada's Finta case (prosecution and defense costs for a single defendant from WWII ran to Can\$2,000,000).²¹ Other large-scale investigations and trials -- prosecution of the Berlin Disco bombers, Mafia prosecutions in Italy, and other high-profile terrorism or international drug trafficking cases -- are also estimated to require significant commitments of resources.

As with most murders or other serious crimes, this war will produce few confessions on which to base convictions; the effective investigation and prosecution of war crimes will require building cases based on victims' accusations, eye-witness accounts, assessments of command responsibility based on military intelligence and other public sources, and extensive forensic and medical evaluations. In addition to outlays necessary for judges' and prosecutors' salaries, the Tribunal must also pay for interpreters, forensic experts, forensic laboratory expenses, exhumation of mass grave sites (estimated to cost \$2 to \$3 million per site), defense counsel, travel for witnesses

²⁰Developing countries (the Group of 77) argued that, because the Tribunal was established by the Security Council under Chapter VII of the U.N. Charter (following procedures analogous to those for peacekeeping), the Tribunal should be financed out of the peacekeeping budget -- approximately 31% of which is contributed by the United States. The United States and some other countries argued that the Tribunal should be funded like the International Court of Justice, out of the UN's general budget -- 25% of which is contributed by the United States. (Some observers felt that the fact that the United States is more than a billion dollars in arrears of its assessed payments did not facilitate the U.S. negotiating position.) After months of debating this issue, during which time the Tribunal existed as a kind of financial Brigadoon, agreement was finally reached in July 1995 to charge 50% of the Tribunal's costs to the peacekeeping budget and 50% to the General Assembly budget.

²¹Expert Consultation on Technical and Financial Requirements for the International Criminal Tribunal for the Former Yugoslavia, Yale Law School, Feb. 11, 1995. Sponsored by the Jacob Blaustein Institute for the Advancement of Human Rights and the Orville H. Schell, Jr. Center for International Human Rights at Yale Law School.

and accused, security, witness protection, and administrative costs. The expansion of the chief prosecutor's tasks to include responsibility for Rwanda imposes additional financial burdens on his office.

For 1993 through 1995, the Tribunal was appropriated a total of \$43,991,600. It has also been appropriated \$8,619,500 for the first quarter of 1996. Additional funds for calendar year 1996 are the subject of on-going U.N. budget negotiations in New York, where Tribunal officials are reportedly seeking a total of \$46 million for calendar year 1996.

In addition, the Tribunal has received \$6.329 million in cash contributions from 18 different countries to date. Six countries and the European Union have seconded 52 staff members.²² The Netherlands, as the host country for the Tribunal, has provided significant support for the Tribunal's premises, security, logistics, etc. Some non-governmental organizations, including the Open Society Institute and the Rockefeller Foundation, have also provided significant support in the form of equipment.²³

For 1993 through 1995, the United States supplied to the Tribunal a total of \$18.4 million in cash and in-kind support. This includes funds provided through the regularly assessed U.S. contributions to the U.N. general budget (\$5.5 million); U.S. contributions made available through the U.N. peacekeeping budget (\$5.1 million); salaries and other costs for approximately 23 personnel seconded by the Departments of State, Defense, and Justice (\$3.0 million); and contributions in cash and in-kind (\$4.8 million).

11. OTHER EFFORTS TO SEEK ACCOUNTABILITY FOR WAR CRIMES

The Tribunal does not have the authority to consider the responsibility of states (versus individuals) as such; a state-to-state suit brought by Bosnia-Herzegovina against Serbia-Montenegro for a claim of genocide was lodged before the International Court of Justice on March 22, 1993 and is still pending.

In addition, two cases (joined on appeal) alleging violations of the Alien Tort Act and the Torture Victims Protection Act by Bosnian-Serb leader Radovan Karadzic are pending before U.S. courts. (Karadzic was served with papers in the suit during a 1993 visit to the United Nations.) In a brief filed with the 2nd U.S. Circuit Court of Appeals in New York, the administration supported upholding jurisdiction, which the court subsequently did.²⁴

²²The Tribunal is not required to accept personnel offered by U.N. member states if they do not meet staffing needs or requirements.

²³As of November 5, 1995, the Open Society Institute had provided \$105,000 in equipment and the Rockefeller Foundation had provided \$50,000 in equipment.

²⁴*Doe v. Karadzic*, 70 F.3d 232 (2nd Cir. 1995).

**APPENDIX:
CASES UNDER INDICTMENT BY
THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA
AS OF MARCH 22, 1996**

Name	Ethnicity or Affiliation	Basis of Charges/Location of Crimes	Date of Indictment(s)	Intn'l Arrest Warrant Issued	Location of Indictee
Zlatko ALEKSOVSKI	Bosnian Croat	Ex-prison chief, Mostar; LASVA VALLEY	Nov. 10, 1995		at large
Mirko BABIC	Bosnian Serb	Civilian, Borovnica, near the OMARSKA camp	Feb. 13, 1995		at large
Nenad BANOVIC	Bosnian Serb	Guard, KERATERM camp, Prejedor	July 7, 1995		at large
Predrag BANOVIC	Bosnian Serb	Guard, KERATERM camp, Prejedor	July 7, 1995		at large
Tihomir BLASKIC	Bosnian Croat	Militia chief; LASVA VALLEY	Nov. 10, 1995		at large; now a member of Croatian forces in Croatia
Goran BOROVNICA	Bosnian Serb	Civilian, OMARSKA camp	Feb. 13, 1995		at large
Mario CERKEZ	Bosnian Croat	Army Commander; LASVA VALLEY	Nov. 10, 1995		at large
Ranko CESIC	Bosnian Serb	Leader at Luka camp, BRCKO	July 21, 1995		at large
Zejnil DELALIC	Bosnian Muslim	Commander, CELEBICI camp, Konjic	March 22, 1996	n/a	in custody in Germany; will be transferred to Tribunal
Hazim DELIC	Bosnian Muslim	Deputy Commander, CELEBICI camp, Konjic	March 22, 1996		at large
Damir DOSEN	Bosnian Serb	Shift Commander, KERATERM camp, Prejedor	July 7, 1995		at large
Djordje DJURKIC	Bosnian Serb	General with Bosnian Serb forces; shelling of civilians in SARAJEVO	Feb. 29, 1996	n/a	in custody; The Hague
Dragan FUSTAR	Bosnian Serb	Shift Commander, KERATERM camp, Prejedor	July 7, 1995		at large

Name	Ethnicity or Affiliation	Basis of Charges/Location of Crimes	Date of Indictment(s)	Intn'l Arrest Warrant Issued	Location of Indictee
Zdravko GOVEDARICA	Bosnian Serb	Guard, OMARSKA camp	Feb. 13, 1995		at large
[Goran?] GRUBAN	Bosnian Serb	Guard, OMARSKA camp	Feb. 13, 1995		at large
Momcilo GRUBAN	Bosnian Serb	Shift Commander, OMARSKA camp	Feb. 13, 1995		at large
Nikica JANJIC	Bosnian Serb	Civilian, OMARSKA camp; civilian, KERATERM camp, Prejedor	Feb. 13, 1995; July 7, 1995		at large
Goran JELISLE	Bosnian Serb	Commander of Luka camp, BRCKO	July 21, 1995		at large
Radovan KARADZIC	Bosnian Serb	Highest ranking political leader of the Bosnian Serbs; SREBRENICA; charges include GENOCIDE	July 25, 1995; Nov. 16, 1995		at large
Dusan KNEZEVIC	Bosnian Serb	Civilian, OMARSKA camp; Civilian, KERATERM camp, Prejedor	Feb. 13, 1995; July 7, 1995		at large
Dragan KONDIC	Bosnian Serb	Guard, KERATERM camp, Prejedor	July 7, 1995		at large
Dario KORDIC	Bosnian Croat	political leader; LASVA VALLEY	Nov. 10, 1995		at large
Milojica KOS	Bosnian Serb	Shift Commander, OMARSKA camp	Feb. 13, 1995		at large
Predrag KOSTIC	Bosnian Serb	Guard, OMARSKA camp	Feb. 13, 1995		at large
Miroslav KVOCKA	Bosnian Serb	Deputy Commander, OMARSKA camp	Feb. 13, 1995		at large
Dragan KULUNDZIJA	Bosnian Serb	Shift Commander, KERATERM camp, Prejedor	July 7, 1995		at large
Goran LAJIC	Bosnian Serb	Guard, KERATERM camp, Prejedor	July 7, 1995	n/a	in custody in Germany; will be transferred to the Tribunal

Name	Ethnicity or Affiliation	Basis of Charges/Location of Crimes	Date of Indictment(s)	Intn'l Arrest Warrant Issued	Location of Indictee
Esad LANDZO	Bosnian Muslim	camp guard, CELEBICI camp, Konjic	March 22, 1996		at large
Milan MARTIC	Bosnian Serb	KERATERM camp, Prijedor; President of Croatian Serbs in Knin		yes	at large
Zeljko MEAKIC	Bosnian Serb	Chief Commander of OMARSKA camp, Prijedor; charges include GENOCIDE	Feb. 13, 1995		at large
Slobodan MILJKOVIC	Bosnian Serb	Deputy Commander of paramilitary troops; BOSANSKI SAMAC	July 21, 1995		at large
Ratko MLADIC	Bosnian Serb	Highest ranking military leader of the Bosnian Serbs; SREBRENICA; chages include GENOCIDE	July 25, 1995; Nov. 16, 1995		at large
Mile MRKSIC	Serbian	Col., Yugoslav Peoples Army; VUKOVAR	Nov. 7, 1995		at large
Zdravko MUCIC	Bosnian Croat	Commander, CELEBICI camp, Konjic	March 22, 1996	n/a	in custody in Austria; will be transferred to Tribunal
Dragan NIKOLIC	Bosnian Serb	Comander of SUSICA camp, Vlasenica; charges include GENOCIDE	Nov. 4, 1995	yes	at large
Nedjeljko PASPALJ	Bosnian Serb	Guard, OMARSKA camp	Feb. 13, 1995		at large
Milan PAVLIC	Bosnian Serb	Guard, OMARSKA camp	Feb. 13, 1995		at large
Milutin POPOVIC	Bosnian Serb	Guard, OMARSKA camp	Feb. 13, 1995		at large
Dragoljub PRCAC	Bosnian Serb	Deputy Commander, OMARSKA camp	Feb. 13, 1995		at large
Drazen PREDOJEVIC	Bosnian Serb	Guard, OMARSKA camp	Feb. 13, 1995		at large
Miroslav RADIC	Serbian	Capt., Yugoslav Peoples Army; VUKOVAR	Nov. 7, 1995		at large

Name	Ethnicity or Affiliation	Basis of Charges/Location of Crimes	Date of Indictment(s)	Intn'l Arrest Warrant Issued	Location of Indictee
Mladen RADIC	Bosnian Serb	Shift Commander, OMARSKA camp	Feb. 13, 1995		at large
Ivica RAJIC	Bosnian Croat	Commander of STUPNI DO camp	July 7, 1995		at large
Ivan SANTIC	Bosnian Croat	Mayor of Vitez; LASVA VALLEY	Nov. 10, 1995		at large
Dragomir SAPONJA	Bosnian Serb	Civilian, OMARSKA camp; civilian, KERATERM camp	Feb. 13, 1995; July 7, 1995		at large
Zeljko SAVIC	Bosnian Serb	Guard, OMARSKA camp	Feb. 13, 1995		at large
Dusko SIKIRICA	Bosnian Serb	Military leader of Bosnian Serbs; KERATERM camp, Prejedor; charges include GENOCIDE	July 7, 1995		at large
Blagoje SIMIC	Bosnian Serb	President of local Serbian Democratic Party; BOSANSKI SAMAC	July 21, 1995		at large
Milan SIMIC	Bosnian Serb	Local politician; BOSANSKI SAMAC	July 21, 1995		at large
Pero SKOPLJAK	Bosnian Croat	Ex-Chief of Police, Vitez; LASVA VALLEY	Nov. 10, 1995		at large
Veselin SLJIVANCANIN	Serbian	Maj., Yugoslav Peoples Army; VUKOVAR	Nov. 7, 1995		at large
Dusan TADIC	Bosnian Serb	Civilian, OMARSKA camp	Feb. 13, 1995	n/a	in custody; The Hague
Miroslav TADIC	Bosnian Serb	Local politician; BOSANSKI SAMAC			at large
Nedjeljko TIMARAC	Bosnian Serb	Civilain, KERATERM camp, Prejedor	July 7, 1995		at large
Stevan TODOROVIC	Bosnian Serb	Local Chief of Police; BOSANSKI SAMAC	July 21, 1995		at large
Simo ZARIC	Bosnian Serb	Serb milita leader	July 21, 1995		at large

Name	Ethnicity or Affiliation	Basis of Charges/Location of Crimes	Date of Indictment(s)	Intn'l Arrest Warrant Issued	Location of Indictee
Zoran ZIGIC	Bosnian Serb	Civilian, OMARKSA camp; civilian, KERATERM camp	Feb. 13, 1995; July 7, 1995		at large