

BOSNIA-HERZEGOVINA: OUTSTANDING ISSUES IN POST-CONFLICT RECOVERY AND RECONCILIATION

HEARING BEFORE THE COMMISSION ON SECURITY AND COOPERATION IN EUROPE

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

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NOVEMBER 8, 2007

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November 8, 2007

COMMISSION ON SECURITY AND COOPERATION IN EUROPE
WASHINGTON, DC

[The hearing was held at 2 p.m. in room B-318, Rayburn House Office Building, Washington, DC, Hon. Alcee L. Hastings, Chairman, Commission on Security and Cooperation in Europe, presiding.]

Commissioners present: Hon. Alcee L. Hastings, Chairman, Commission on Security and Cooperation in Europe; Hon. Benjamin L. Cardin, Co-Chairman, Commission on Security and Cooperation in Europe; Hon. Christopher H. Smith, Ranking Member, Commission on Security and Cooperation in Europe; and Hon. Robert B. Aderholt, Commissioner, Commission on Security and Cooperation in Europe.

Witnesses present: Dr. Raffi Gregorian, Principal Deputy High Representative and Brcko Supervisor, Office of the High Representative, Sarajevo; Ambassador Douglas Davidson, Head of Mission, OSCE Mission to Bosnia and Herzegovina, Sarajevo; Professor Diane Orentlicher, Professor of Law, American University; and Adam Boys, Chief Operating Officer, International Commission on Missing Persons, Sarajevo.

HON. ALCEE L. HASTINGS, CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Mr. HASTINGS. Good afternoon, ladies and gentlemen. Pretty obviously, we are having a very busy day in both the House of Representatives and the U.S. Senate and consider this to be a matter of critical importance.

So with your permission, I'd like to get started. And we've invited our other witnesses up. This hearing focuses on the current situation in Bosnia and what needs to be done to help that country move forward with reforms necessary for European integration.

Of course, to the extent the Balkans is the focus of attention today, that focus is squarely on determining the status of Kosovo. That is, indeed, a major issue, and if handled incorrectly could, in my view, lead to further instability in the region.

We can't, however, neglect what seems to be a growing political crisis in Bosnia.

The international community, including the United States, has invested considerable time and resources in the 10 years to 15 years, including troops, diplomatic personnel and financial assistance—and I might add I went to Bosnia six times over the course of events—to try and end the violence and rebuild a country devastated by conflict.

It would be a serious error if this international effort were allowed to fail.

We also owe it to the people of Bosnia to encourage them to move forward. Yes, many of Bosnia's politicians can be blamed for the failure to achieve progress.

But those politicians are in power at least in part because the wounds of the conflict have not been sufficiently healed. Persons indicted for terrible crimes continue to evade justice. And mass graves continue to be found.

The remains of missing family members or loved ones continue to be identified. And it's difficult to exaggerate the true horror of the Bosnian conflict with its many atrocities, including the genocide at Srebrenica and its impact on the people of the region.

Yes, we want the people of Bosnia to look forward and work toward achieving their country's integration in Europe. At the same time, it is too easy to tell them simply to forget the past or to put it behind them. At best, they can only reckon with the past and come to terms with what happened.

Having lived through the injustices myself of the segregated South here in the United States, I know how difficult it can be to move on when others refuse even to acknowledge the wrongs that were committed by them or in their name.

One defendant at the International Criminal Tribunal for the former Yugoslavia, during his sentencing hearing in which there was a plea agreement, is quoted as saying the following, "In Bosnia, a neighbor means more than a relative. In Bosnia, having coffee with your neighbor is a ritual. And this is what we trampled on and forgot. We lost ourselves in hatred and brutality. And in this vortex of terrible misfortune and horror, the horror of Srebrenica happened. I'll be happy if my testimony helps the families of the victims if I can spare them having to testify again and relive the horrors and the pain during their testimony. It's my wish that my testimony should help prevent this ever happening again, not just in Bosnia but anywhere in the world."

These sentiments need repeating perhaps thousands of times, and not just by those who committed the crimes but by those who at the time accepted or even supported what was being done in their name.

Our witnesses at today's hearing are unquestionably, if not uniquely, qualified to speak on these issues. We've provided their biographies, ladies and gentlemen, so without going into them, we welcome them all.

And I will at some point, after Senator Cardin and Representative Smith have made any opening comments they wish, start and begin with you, Dr. Gregorian.

Senator Cardin?

**HON. BENJAMIN L. CARDIN, CO-CHAIRMAN, COMMISSION ON
SECURITY AND COOPERATION IN EUROPE**

Mr. CARDIN. Mr. Chairman, thank you very much for holding this hearing.

And I thank our witnesses for being here.

I'm going to ask that my opening statement be incorporated into the committee record.

Let me just make a couple comments, if I might, and I'm going to make an early apology—the Foreign Relations Committee is meeting today on Syria, so I'm going to have to go back to the Senate. Also, my visa to be on the House side expires after—

[Laughter.]

Mr. CARDIN [continuing]. A relatively short period of time, so it's not safe for me to be here. Sometimes I feel like I'm a displaced person, so I have to be careful as to how we're treated.

I was listening to the Chairman's comments, and I agree completely, Mr. Chairman, with your opening comments. I've been in the region many times—not as many times as you have, but I've been to Sarajevo.

I was in Sarajevo when we opened up our U.S. Embassy and have seen a country that was torn by war, torn by ethnic cleansing, with deep scars; a beautiful, beautiful country that didn't ask for what happened to it, and where the international community was very slow in responding.

And ultimately, the United States provided the leadership that was needed to bring about some semblance of order in that part of the world.

And I think you're absolutely correct. We need to look forward. We need to look forward for the people of Bosnia and for the people in the region, the locale, reintegration into Europe will take place.

But in order to do that, you've got to bring closure. You've got to bring closure to the issues. The war crime tribunal has been working very hard without the cooperation of the countries in the region in order to turn over those who have been indicted as well as the information necessary to bring these matters to close.

And I can tell you—I've mentioned this now for the last decade—we're not going to give up. We're going to be insisting that there be full cooperation and that the tribunal have as much time as it needs to bring those people to justice.

We also want to make sure that those who have been victims of the ethnic cleansing are treated fairly, and we're going to be mindful of that.

So as we do look forward, and we do look forward to a strategy that will help the entire region move ahead in a stronger Europe and a stronger OSCE, we do want to make sure that we don't forget those who were treated wrong and the perpetrators are held to justice.

And with that, Mr. Chairman, I'll look forward to hearing from our witnesses.

Mr. HASTINGS. Thank you very much.
Representative Smith?

**HON. CHRISTOPHER H. SMITH, RANKING MEMBER,
COMMISSION ON SECURITY AND COOPERATION IN EUROPE**

Mr. SMITH. Thank you very much, Mr. Chairman and Co-Chairman Cardin. Thank you for your fine opening statements and for the great work you've done on these issues over many years right to the present.

I'm very pleased to be here for this important hearing today and eager to hear the testimony of our witnesses, experts on the region for whom I have great respect. They have spent years working on Balkan issues, including considerable amounts of time in the region, in Bosnia in particular.

I am especially pleased that we are having a representative of the International Commission for Missing Persons, Adam Boys, among the panelists.

Helping to learn the fate of missing persons is a relatively new field, but I was very impressed with the group that came to Washington about 4 years ago to discuss this issue.

They happened to be Serbs, and they were followed by a group of Albanians. In both cases, they were people who had lost sons and husbands among the many persons still missing in the aftermath of this conflict.

They are unable to have any closure in what was already a horrific experience in the war. We invited them to testify before the Helsinki Commission, and their statements were truly moving.

We now have their counterparts among the Bosniaks and the Croats and other people in the Balkans that had been victimized by conflict in the 1990s.

The current situation in Bosnia is of great concern to me and to every member of this Commission. As a longtime member and former Chairman of this Commission, I've had the opportunity to document in numerous hearings the atrocities which took place in Bosnia from 1992 to 1995, including the genocide in Srebrenica.

That event, I have to say, represented a true low point for the international community, as the Dutch UNPROFOR contingent turned over thousands of civilian men and boys for the Bosnian Serbs to abuse and to execute.

I was in Srebrenica this last July. It is impossible to describe the experience of seeing those graves and imagining what it was like 12 years ago in that town.

Now, with ongoing concerns about war criminals still at large; constitutional reform, or the lack of it; police reform; and population returns, we need to maintain, even increase, our attention to Bosnia and encourage the Europeans to do the same.

The most recent report from the Office of the High Representative notes very little progress in many of these key issues. We cannot let inaction and discord dim the bright future that I believe and we believe in the Commission awaits Bosnia.

No people in the region suffered more than the people of Bosnia in the 1990s. We look forward to hearing our witnesses as to how we can better engage the government and the people of Bosnia to help them move forward.

Finally, on a positive note, I want to mention that our country has been blessed by the strong growth of Bosniak-American community. Many Bosniaks came to the United States as refugees and

they and their children are now Americans living productive lives and contributing to our country's prosperity.

Some of them are in the audience today, and I want to welcome them here as well. They remain concerned about the future of Bosnia and have encouraged us to create in the Congress a Bosnian Caucus to followup on progress in Bosnia and to help the country whenever and however we can.

Representative Russ Carnahan and I co-chair the caucus and hopefully we'll be able to engage other members in those activities in the coming year.

I thank you, Mr. Chairman, and yield back.

Mr. HASTINGS. Thank you very much, Mr. Smith.

I'd like to acknowledge in our audience the Bosnian Ambassador, Ambassador Turkovic.

And I'm deeply appreciative of your being with us.

Dr. Raffi Gregorian is the Principal Deputy High Representative in Bosnia.

And Dr. Gregorian, we'll begin with you. And your full statement will be made a part of our record. And if you can, summarize.

And I'd ask all of you, as best you can, to try to summarize so that we can get all of your testimony in the record, because the possibility of votes is real, not only for the gentleman who is here on limited visa but for all of us.

Dr. Gregorian?

DR. RAFFI GREGORIAN, PRINCIPAL DEPUTY HIGH REPRESENTATIVE AND BRCKO SUPERVISOR, OFFICE OF THE HIGH REPRESENTATIVE, SARAJEVO

Dr. GREGORIAN. Thank you, Mr. Chairman, Senator Cardin, Congressman Smith.

I really appreciate you inviting me here to today's meeting and discussing outstanding issues of the post-conflict recovery of Bosnia-Herzegovina.

As you'll hear now in compressed detail, I hope, this hearing occurs at a vital moment in the history of Bosnia-Herzegovina. In fact, its very survival could be determined in the next few months, if not the next few weeks.

And let me just point out at the beginning of my remarks, although I am employed by the Department of State, I am here today only in my capacity as the Principal Deputy High Representative.

In June 2006, many of you will be aware, OHR's international oversight body, the Peace Implementation Council, agreed that subject to a review of the situation in February of this year, OHR should be able to close in the middle part of 2007 and hand over to an enhanced E.U. mission.

Indeed, 18 months ago, this seemed like the right choice. Bosnia-Herzegovina was moving from a stabilization phase to one of integration. The only question seemed to be when, and not if, Bosnia-Herzegovina would get into both NATO and the E.U.

Defense reforms passed in the autumn of 2005 have begun in earnest. Former warring armies and [inaudible] defense ministries have dissolved and a new NATO-compatible, multiethnic, single armed forces was taking shape.

VAT was introduced with less trouble and greater success than in any other European country, increasing government revenues and reducing the gray economy. GDP growth has remained strong and inflation low.

A number of fugitives from the ICTY have surrendered to authorities in BiH after mysteriously arriving from Serbia and other countries.

State and entity parliaments had accepted the E.U.'s principles for police reform and adopted a political agreement drafted by Republika Srpska politicians, and this allowed BiH to begin negotiations with the E.U. on a stabilization association agreement.

In January 2006, the council of ministers of Bosnia appointed a police reform directorate to begin developing the required implementation plan.

And last, the BiH House of Representatives began considering constitutional modifications intended to improve the efficiency of state-level institutions in dealing with the reforms required to join NATO and the E.U.

Well, by the time the PIC took its initial decision, there were ready—already signs of serious trouble ahead. Having announced the intention to leave and hand over ownership to local authorities, the worst instincts of local politicians emerged.

Constitutional amendments were the first to suffer when the party of Haris Silajdzic withdrew from the agreement it signed with other parties in Washington in November 2005, causing the amendments to fail by just two votes.

Problems with police reform emerged at roughly the same time. The government of Milorad Dodik that took control of Republika Srpska in March 2006 decided R.S. representatives would participate only as observers.

That followed in short order Milorad Dodik's infamous suggestion that if Montenegro could become independent, as Kosovo might soon do as well, then our citizens would be asking why couldn't they have a referendum on independence.

Dodik apparently liked the response he got from the public in the R.S., and the international community, not taking Dodik seriously, basically let him get away with it.

It was pre-election rhetoric from someone not thought to be an ardent nationalist, and he assured the High Representative it would stop after the elections, but it did not.

On the Bosniak side, Haris Silajdzic, who had scuttled constitutional reform by convincing people that entity voting in the parliament was a feature of the proposed amendments rather than a feature of Dayton, ran an election campaign on promising a Bosnia without entities and the abolition of Republika Srpska as a genocidal creation.

Such rhetoric fed into the paranoia of R.S. politicians and served to reinforce the passive-aggressive rhetoric of Dodik, creating a cycle of rhetoric between the two leaders and blocking agreement on both police and constitutional reform.

Their failure to agree has been attributable to two things. First, each saw police reform as a proxy for constitutional reform. Silajdzic refused to agree to anything that would recognize the ex-

istence or legitimacy of the R.S. despite it being a feature of Dayton.

For his part, Dodik did not want to give up the R.S. police because he believed it would weaken his position in any future talks on a new constitution.

Second, it now seems clear that neither man wanted to give up control of the police they currently exercise through their party's participation in government.

The fact that the two men eventually signed a meaningless agreement in contradiction with the E.U.'s conditions and without seeking support from the coalition partners was more about avoiding blame for failure than it was about meeting the E.U.'s conditions.

The end result is tragic. Despite the fact that SAA negotiations were successfully completed a year ago, and all other E.U. conditions essentially met, BiH is further than ever from the E.U., especially now that Serbia has initialed its own agreement just yesterday.

Dodik and Silajdzic apparently prefer the isolation of Bosnia-Herzegovina rather than having to meet the E.U.'s conditions for integration. And they suffer no political consequences from their constituencies.

I say this is tragic because more than 70 percent of BiH's population wants to join the E.U., but this majority expects the international community to make it happen rather than demand their leaders do the jobs for which they were elected.

Equally troubling is that party leaders are intent on moving forward on drafting a new constitution; troubling because they blame Dayton-based structures for their inability to agree on police reform, even though these same structures did not prevent defense, intelligence, judicial, tax, and other reforms adopted by the previous government.

Their respective stances on constitutional reform are at great variance from each other, but all future ideas on how to territorially divide up Bosnia.

Sadly, most BiH politicians still see politics as a zero-sum game where the goal is to divide wealth amongst cronies rather than create wealth for the common good. They see politics as just an extension of war by other means despite the fact that the public is most interested in improving the economy and getting decent jobs.

Nowhere has the cynicism of politicians been more clearly evident than the issues surrounding Srebrenica during the first half of this year.

In late February, the International Court of Justice rendered a verdict in the genocide case of Bosnia-Herzegovina versus Serbia.

The ICJ determined that Serbia violated the Genocide Convention by not doing enough to prevent genocide in Srebrenica in July 2005 and in refusing to hand over Ratko Mladic.

The verdict was deeply disappointing and disturbing to many Bosniaks. After all, the role of Belgrade in directing, financing and supporting the war in Bosnia has been well documented.

Undaunted by the limited verdict, though, President Silajdzic nevertheless claimed that the ICJ verdict required the abolition of Republika Srpska.

The reaction of R.S. officials, despite clear statements by the international community that the ICJ verdict did not mean the end of the R.S., was one of contrived paranoia.

Certainly, the movement by Bosniak politicians to detach Srebrenica from Republika Srpska and make it an independent district did not help, nor did threats by federation war veterans to send 10,000 of their number to Srebrenica to provide security for returnees there.

While the security situation in Srebrenica may have been calm for years, but the ICJ verdict awoke a sense of psychological insecurity among Bosniak returnees there, and politicians exploited this to the full.

Only by a concerted effort of OHR and U.S. officials did this volatile situation calm down before threatened secession or an exodus of Bosniak returnees materialized.

Certainly, the High Representative's timely and astute appointment of Ambassador Cliff Bond as his special envoy for Srebrenica helped turn the tide.

And let me take this opportunity to extend the High Representative's personal thanks to this Commission and Fred Turner for letting him take on this task at such a crucial time.

Success has been achieved in two ways. The first has been by working with local authorities to provide real support for sustainable returns, developing business and improving infrastructure and social service.

Second has been by prodding state and R.S. authorities to finally deal in a serious and systematic way with the many perpetrators of genocide who are still walking around free today, some of them even in police uniforms.

In both of these areas, though, Mr. Dodik's government has been helpful, despite his defiant and politically destabilizing behavior in other areas. On war crimes issues, BiH and R.S. authorities are co-operating with the ICTY, but I choose these words carefully.

Neither the BiH nor R.S. authorities demonstrate any initiative in this area. Almost every action against ICTY fugitives and their support networks occurs at the suggestion of the international community or in response to international actions.

Investigations against persons in the so-called "Srebrenica List" had to be spurred by OHR, as has the hiring of additional investigators, amendments to the criminal code, suspension of police officers and so on.

On a slightly more positive note, the war crimes chamber of the court of Bosnia-Herzegovina has been dealing satisfactorily with those cases transferred to it by the ICTY.

Nevertheless, the problem in ICTY lies in Serbia—the real problem lies in Serbia, where most, if not all, the remaining fugitives remain within reach of Serbian authorities.

The June arrest of General Zdravko Tolimir in BiH by R.S. police after his transfer from Serbia shows that Belgrade can deliver fugitives when and how it wants to. The fact that numerous former and current ICTY fugitives have spent time in Serbia and other countries further complicates efforts to bring such people to justice.

In sum, the situation in BiH stays grim. Dodik and Silajdzic have no real interest in agreeing on the E.U.'s police reform condi-

tions for an SAA, despite a mildly encouraging declaration [inaudible] last month signed by the six members of the governing coalition.

The fact is that eventual E.U. membership is just not enough of an incentive for leaders who are playing for high stakes in the short term. The idea that these same leaders will agree on a new constitution that will promote political tranquility and prosperity in BiH is, at best, an illusion.

And now there is a possibility by the end of this year there will be no effective peacekeeping force to maintain a safe and secure environment in BiH.

By November 21st, the U.N. Security Council must vote to renew the mandate of the European Union peacekeeping force, but its extension cannot be assumed and could be tied to efforts to end OHR, despite the fact that OHR is sui generis from Dayton and not a creature of the United Nations.

Such a turn of events seems intended to make it easier for Banja Luka and Belgrade to realize R.S. secession from BiH in the event Kosovo becomes independent.

The contrived and deliberate overreaction of R.S. politicians to measures announced by the High Representative last month are part of the prelude for the drama to occur between November 21st and the period following the Kosovo Troika's report to the U.N. on December 10th.

R.S. government officials will continue to egg on R.S. non-governmental organizations calling for independence, will seek to prevent state institutions from functioning and will continue with legislative actions meant to facilitate eventual independence.

Indeed, as part of this separation strategy, echoing language from the R.S. national assembly, Serbian Prime Minister Kostunica has stated that the High Rep's measures, quote, "endanger," unquote, Serbs in Bosnia-Herzegovina and explicitly linked the idea of R.S. secession with Kosovo independence.

This is explosively loaded language, as Milosevic and his henchman used such terms to justify what he did as self-defense for Serbs. Of course, there is no objective basis for the use of such language.

The security situation in BiH has been calm for some time now but may not continue to be so as politicians continue to sow distrust in the minds of ordinary people.

Talk is now rife about how things are again like they were in 1991 to 1992, and there have been reports that the R.S. government is already preparing ballots for an independence referendum.

Failure to renew EUFOR's mandate or including OHR's termination in a U.N. Security Council resolution will play right into the hands of secessionists intent on abrogating Dayton and taking the region backward.

These people are betting on a weak response from the West which they calculate is too busy with problems elsewhere. I hope you will agree that it will be monstrous to allow this to happen.

Surely the international community can ill afford to have its successful post-conflict efforts in Bosnia overturned into a humiliating defeat. Nor can it afford to allow images of people fleeing areas in

which they are ethnic minorities, fearing the worst will happen again in the space of the same generation.

Only robust action by the United States and European Union can stop this from happening.

Thank you for your attention, and I look forward to your questions.

Mr. HASTINGS. Thank you very much.

We'll turn now to Ambassador Douglas Davidson.

And, Ambassador Davidson, I note that you have had postings in Pakistan, and in Kosovo and Zagreb and Belgrade, so I expect that you will be leaving soon for Georgia, since they are having a problem.

But thank you very much for being with us, and you may proceed, sir.

**AMBASSADOR DOUGLAS DAVIDSON, HEAD OF MISSION, OSCE
MISSION TO BOSNIA AND HERZEGOVINA, SARAJEVO**

Amb. DAVIDSON. Thank you very much, Mr. Chairman. I do thank you for the invitation.

Actually, if I were wise, I would just use your statement as my own, since you said all of the things I want to say. But let me just make a few points, picking up from where my colleague, Dr. Gregorian, left off.

I think he's absolutely right that the future of Bosnia and Herzegovina and of the international intervention to help reconstruct after conflict hang in balance at the moment.

I cited in my written report a Rand Corporation study suggesting that Bosnia was a successful example of nation-building. I would guess if they were to write this today they would hedge those statements or qualify them a little bit.

It seems to me that the kinds of things that the OSCE is doing in Bosnia and Herzegovina, which in the main have to do with strengthening of—I guess laying the foundation of democracy, if I can call it that, remain important for the long-term viability of the country in ways that I think directly would add to what Raffi here was just saying.

The Office of the High Representative often speaks of its reform agenda, and when you go to Peace Implementation Council meetings, that's always something on the agenda.

These reforms are essentially a set of either new laws or structural changes to strengthen the state of Bosnia and Herzegovina.

It does seem to me that they are necessary, but simply to have a new set of structures or laws that no one is committed to in practice is not going to be enough to assure this viability that I was just speaking about.

Here I think is where the kinds of things that the OSCE tends to do also have to play a role, a somewhat less visible one in the current political turmoil, because I think by strengthening structures of parliament, which I suspect you will agree is important, and some of the governmental and executive branch structures; by making the courts work better so that people, especially war criminals, are taken off the streets and out of the police force and put into jail, if that's where they belong; by trying to end the divided nature of schooling and by other sorts of means to work with what

I referred to in my written report as civil society, develop, I guess, a kind of a culture of democracy in the country—these all become important, in my view, because without them I don't think the reform agenda or the kinds of reforms that we would all like to see, are going to last over the long term, precisely because of the behavior of politicians, as you just heard, and others.

Now, it's probably too much to hope that, as you said yourself, Mr. Chairman, in the short term reconciliation can happen among people who not too very long ago were fighting a very bitter and destructive war.

But I do think that one element that could be fostered more—and if I can borrow a phrase from Dr. Lajcak, the High Representative—is the sense of a common vision, which is something else I think they've lost.

By that I think he means, or I do mean, that there's no commitment to the stakes the country—whatever you call it—Bosnia-Herzegovina as a whole, as a place made up of free peoples or have national minorities or whatever—that most of the political fightings has to do much with competing visions of what the country ought to look like or whether it ought to be a country at all.

Now, I think overcoming that, if we can do something to foster a sense among the peoples that they actually are living where they think they live, in Bosnia-Herzegovina, and they have to work together to make a country work, is a very important but very long-term endeavor.

I do think that it's something that the mission I lead can play a contributory role to, but we can't do it on our own, nor can anyone. It has to come from the people themselves.

But without that element, to add to what you just heard from Dr. Gregorian, I think the future may be more grim than we would all like to see in this, as one of you rightly said, very beautiful and actually interesting country.

I will stop there. Thank you very much.

Mr. HASTINGS. Congressman Aderholt joined us.

And, Robert, if you had any comment, it would be permitted.

**HON. ROBERT B. ADERHOLT, COMMISSIONER, COMMISSION
ON SECURITY AND COOPERATION IN EUROPE**

Mr. ADERHOLT. Thank you, Mr. Chairman. I just want to say thank you for having this hearing. You know, I've had opportunity to travel to the Balkans on several occasions, and so I was very interested in this hearing today, so thank you for it.

And thank you for being here today and for the testimony.

Mr. HASTINGS. I am fully appreciative that you all came, some of you, all the way from Bosnia to be with us.

But the votes that we are about to have to leave and cast are three in number and likely to take as much as 40 minutes or 45 minutes to conclude.

I will make every effort to get back, as will my colleagues if their time in other hearings don't permit. But let's try to be a little bit creative, if you all don't mind, particularly Professor Orentlicher and Mr. Boys, since we've heard the other testimony.

If you all would come up here, and the people that have come here would still be able to hear your testimony, and then if I could

ask staff if they could assume surrogate roles and maybe ask one or two questions.

But that way, we don't have a 45-minute break with you just standing there chatting and the audience not doing anything.

It's different, but hell, that's what I've been doing all my life being different, so please come up here.

And then, Dr. Orentlicher, if you would go, and then Mr. Boys. OK?

Mr. TURNER. That would be great. Thanks so much, Professor. I'm Fred Turner. I'm the Staff Director of the Helsinki Commission.

And like the Chairman just said, we're trying something a little different today, so we appreciate your indulgence. And if it's OK with you, I will proceed. And, Professor, thank you for being here.

**PROFESSOR DIANE ORENTLICHER, PROFESSOR OF LAW,
AMERICAN UNIVERSITY**

Prof. ORENTLICHER. My apologies for looking for you here. I still haven't quite gotten with the program.

First of all, thank you, the distinguished audience, for being here.

I was invited to testify about the importance of justice to the social reconstruction of Bosnia and Herzegovina.

And although the Commission members are not here, I would like to pay tribute to the Commission on Security and Cooperation in Europe, which more than any other body in the United States has kept sight across time of the very important and challenging issues confronting the Balkan region.

While others in the U.S. Government have often lost focus, this Commission has not ever lost sight of these issues.

I'm going to briefly speak about the role of justice in the recovery of Bosnia based on some research that I'm currently in the process of undertaking on behalf of the Open Society Justice Initiative, which has taken me to Serbia and Bosnia a couple of times in the past year.

My written testimony makes four points. I'm going to focus on two in the brief time I've got here. But let me briefly note the four principal points of my written testimony.

First, based on the research I've been doing this year, it has been brought home to me that the promise of justice and the Yugoslavia war crimes tribunal's work are deeply important to many Bosnians for whom the hellish conflict that ended in 1995 is all too fresh and for whom criminal accountability is an essential element of their recovery.

I'd like to quote the observation of Srdjan Dljrdarevic, who's the President of the Helsinki Commission of Bosnia, who captured the broad importance of the Yugoslavia war crimes tribunal quite succinctly.

He said to me in one of my interviews, quote, "The whole process of normalization includes justice. It's part of the process of healing—can't be the only mechanism, but it is the key pillar of reconciliation."

The second point I'd like to make is that while some of the ICTY—I'm sorry, the Yugoslavia war crimes tribunal's prosecutions

have already brought an important measure of justice, Bosnians are profoundly disappointed in what the ICTY has so far failed to accomplish.

Above all, the fact that the two men who most personified their suffering, Ratko Mladic and Radovan Karadzic, are still at large more than 12 years after they were first charged with genocide is an almost incomprehensible failure of justice.

For this, many Bosnians blame not only the ICTY but the international community, which Bosnians see as aiding and abetting these two fugitives' impunity.

Third, one of the most tangible contributions of the ICTY as well as the other institutions who are represented at this hearing has been its role in spurring the establishment of a domestic war crimes chamber in Bosnia which is bringing justice home.

As a byproduct of this development, one of the sort of positive developments that's beginning to emerge is cooperation across borders among Bosnian, Serbian and Croatian prosecutors.

This is still in nascent stages, and a lot remains to be done, but it's a hopeful sign. To give you one example of what's happening, just today the Serbian war crimes prosecutor indicted a Croatian Serb for war crimes committed against civilians.

That indictment by the Serbian prosecutor was based on evidence referred by the Croatian state prosecutor. So again, we see cooperation across borders in bringing war criminals to justice.

But far more work remains to be done to ensure that all of Bosnia's courts are able to play their part in bringing perpetrators to justice.

Fourth, in Bosnia as well as other countries in the former Yugoslavia, the positive impact of war crimes tribunals would be significantly greater if they, particularly the Hague tribunal, devoted greater resources to what is called outreach. That is, engaging with the communities that are affected by their work.

As I explain in my written remarks, in circumstances where the Yugoslavia war crimes tribunal has undertaken meaningful outreach efforts, the results have often been quite powerful, helping to dispel toxic rumors while also establishing the truth about events that had been all too often denied.

But the tribunal has for the most part left the field of interpreting its judgments and its work to local political figures who have all too often manipulated the meaning of the tribunal's judgments to advance nationalist agendas.

I want to just take a few minutes to elaborate a little bit more on the first two points. I want to emphasize the importance of justice, because there has become something of a cottage industry among pundits and academic experts questioning the value of the work of the international criminal tribunal in the Hague.

Those critiques may raise many valuable points, but I think they tend to obscure the fundamental point that victims of atrocious crimes, for the most part, have a painful need for justice.

And I want to illustrate this by describing an exchange I had with a man who's still a young man in Prijedor that was typical of what I have heard in my interviews.

This gentleman was 17 years old when he was detained in the infamous concentration camp at Omarska. While he survived an or-

deal that he, of course, could never forget, his 15-year-old brother and his father did not. They were killed, as were dozens of members of his extended family.

He told me that he thought justice for crimes was very important. I asked him to explain why, and he looked at me as though I had asked a nonsensical question and said to me, patiently, quote, "What I went through, whoever was in my shoes would like to see some justice being done."

I was able to—I'm going to give just a few more examples of the way that the kind of justice the Yugoslavia war crimes tribunal in The Hague has been able to dispense has made some positive, if incomplete, contributions to justice.

I happened to be in Sarajevo when the appeals chamber of the Hague tribunal raised to life imprisonment the sentence of Stanislav Galic, who had previously been sentenced to 20 years for his role in the siege of Sarajevo.

When his sentence was raised to life in prison, Sarajevans were deeply gratified by this and believed that their suffering had been honored and there was some measure of healing by this judgment.

I was frequently told that many Bosnians felt a similar sense of gratification by a previous judgment that ruled that what had happened at Srebrenica was a genocide.

As one woman in Sarajevo put it to me, but I heard this in variations across my interviews, quote, "the ICTY's finding that what happened at Srebrenica was genocide is the most important achievement and without the ICTY this would not be possible."

The last example I want to give of the many ways in which its contributions were seen as valuable is that some of my sources in Bosnia told me that the Hague tribunal's recognition of rape as an international crime has helped many rape survivors in Bosnia.

One woman put it this way, quote, "ICTY judgments created a new kind of awareness that women had been used as a means of war. They became visible, personalized and recognized as one kind of victim. This enabled them to become more active," she said, in asserting their rights.

Moving on to the final point that I want to make, while the contributions that the ICTY has already made are important, they risk being overwhelmed by one monumental failure, the fact that Radovan Karadzic and Ratko Mladic, the two men who are the face of Bosniak suffering more than any others, remain at large more than 12 years after they were first indicted on genocide charges.

Again, to quote one person whose views were representative of many, she said that the ICTY has done so many good things but they're in the shadow of Karadzic and Mladic. Because these two men have eluded justice for so long, she said, many ordinary people can't see the good things the ICTY has done.

I want to reiterate what Dr. Gregorian said earlier. When local authorities—and here, I am speaking in particular of authorities in Serbia—have cooperated with the ICTY in surrendering indictees, it has been only as a result of consistent pressure from the international community, and meaningful pressure by the international community.

Earlier this year, Serbia was legally judged to be in violation of the Genocide Convention, the first time that has ever happened in

history, in part because it has refused to surrender Ratko Mladic to the Yugoslavia war crimes tribunal. Shamefully, this did not lead to renewed pressure for Serbia to surrender him to the ICTY.

There have also been recent reports that Karadzic, too, may be in Serbia, but in any event he's believed to be in the region.

And so again, I want to simply reiterate how deeply important it is to the overall success of the ICTY in being able to carry out its very important mission that we maintain the pressure and use every leverage we have to insist that these two men find their way to the Hague, where they belong.

Thank you.

Mr. TURNER. Thank you very much, Professor.

And our final witness is from the International Commission on Missing Persons.

Mr. Boys, you have the floor.

ADAM BOYS, CHIEF OPERATING OFFICER, INTERNATIONAL COMMISSION ON MISSING PERSONS, SARAJEVO

Mr. BOYS. Thank you. I should like to thank the chairman and the committee for inviting me to this hearing. And I've submitted a larger written statement as well that I would like to be included in the record.

In the buildup to war, nationalists exploited the lingering uncertainty over previous atrocities. They grossly misstated or denied the numbers of those who died during the Second World War and inferred the existence of vast hidden mass graves in terms of stir up ethnic hatred, fear and distrust.

More recently, the Republika Srpska initially denied that large numbers of people were missing from the fall of Srebrenica and the Milosevic regime sought to hide evidence regarding the disappearance of over 800 persons from Kosovo who were buried in Belgrade.

At the end of the conflict, the reality of tens of thousands of missing persons was seen as a barrier to the implementation of peace agreements. To assist in finding a solution, President Clinton announced the creation of ICMP.

Its first chairman, Cyrus Vance, invited eminent commissioners to engage directly with regional governments. By working within domestic legal structures, ICMP has acquired a unique expertise in guiding post-conflict states through the difficult task of accounting for the past.

In doing so, states themselves not only meet their human rights obligations, they also build institutional capacity that promotes longer-term public confidence in government, judicial and parliamentary systems.

In Bosnia and Herzegovina, ICMP has helped the state to adopt unique legislation on missing persons and, under its second chairman, Senator Bob Dole, began to establish the Missing Persons Institute, a state structure responsible for pursuing cases regardless of ethnicity.

ICMP also considers family members to be critical to the process. By consulting them at every stage and by creating a mechanism for them to directly engage with governments, they are fully included in an increasingly transparent process where responsibilities are defined and accountability clear.

Early inability to make positive identifications granted war criminals a measure of protection. Uncertainty as to the identity of those in the graves enabled the denial of the atrocities.

Under James Kimsey, our current chairman, ICMP has developed identification techniques that directly undermine attempts to deny mass atrocities. These efforts in the former Yugoslavia have resulted in 13,000 DNA-based identifications in 6 years.

In the specific case of Srebrenica, we initially expected to resolve only a very limited number of cases. Extraordinary efforts have been made to conceal evidence by digging up primary mass graves and reburying the contents in multiple secondary locations.

But by combining detailed skeletal analysis with DNA testing, identifications are possible, even in highly commingled sites.

This week, 6 years since its first match, ICMP has completed DNA I.D.s of 5,000 different individuals from the fall of Srebrenica. Our matching rates also prove that the total loss of life from this event will total 8,000.

However, these sophisticated technical methods rely upon the political will of government to deal with the issue of missing persons and to disclose information.

Twelve years after the end of the war, there are still remains of over 9,000 individuals in mass graves in Bosnia alone.

ICMP has already been asked to apply its approach elsewhere and is working with Iraq and Colombia in this regard. In 2001, our experts were invited to New York after 9/11 to share our matching software, developed in Bosnia. And last year, we assisted in identifying those who died in Hurricane Katrina.

We've also provided DNA identifications of 900 victims of the Asian tsunami in Thailand and in the Maldives. Yesterday, following excellent cooperation during this process, ICMP and Interpol signed an agreement on future disaster victim identification.

The United States especially and ICMP's other donors have enabled the development of a unique capacity which has worldwide applications.

ICMP's work, particularly in Bosnia and Herzegovina, has established a center for excellence in the field of human identification. In a country where positive news is rare, this is something to be celebrated.

For family members, the concept of reconciliation is hard to accept. However, they do demand the truth, and they have reached across ethnic barriers to families in similar situations.

United and determined, family associations meet at conferences organized by ICMP with high-level government representatives. Families closely question them and issue joint declarations demanding that governments meet their obligations.

Increasingly, families from across the former Yugoslavia invite each other to attend funerals and commemorations. Six years ago, they could hardly bear to sit in the same room together.

Governments in the region must also be recognized for their efforts. The post-Milosevic governments of Serbia have worked hard to resolve the fate of missing Kosovo Albanians and others that went missing or ended up in Serbia.

The government of the Republika Srpska in its revised report on Srebrenica formally accepted ICMP's numbers of missing.

And both Bosnian entities, as well as Brcko District, have cooperated to establish the Missing Persons Institute as a state-level structure that has not been imposed by the international community.

Regrettably, while progress has been made, ICMP has not been able to provide comprehensive assistance to Croatia or to the authorities in U.N.-administered Kosovo.

It is difficult, and perhaps too early, to quantify the effects of this process on post-war reconciliation. However, it is clear from many examples around the world that not addressing the issue, not determining the truth of what happened, will almost certainly hamper reconciliation and fuel future conflict.

Thank you.

Mr. TURNER. Thank you very much for that, Mr. Boys.

I'd like to introduce my colleague, Bob Hand, to ask the first few questions, if that's OK.

Mr. HAND. Thank you.

I'm Bob Hand. I'm a Staff Advisor at the Helsinki Commission. And as somebody who's organized dozens of hearings on Bosnia and other topics relating to the Balkans, I always wanted to get behind the microphone.

Now that I am and I look at all the material I prepared, I have to decide which of my questions I want to ask, and I see how difficult a task it really is. But I'll do my best.

I'll ask several questions and I'll direct them to each one of you, and that will give you time to think about the answer before you get to take the microphone.

And I think I'll finalize them with one question that I'd like for all of you to try to answer, if you can.

If I could ask Dr. Gregorian about Brcko, which we don't hear too much about anymore—maybe that's a good thing, because of progress that had been achieved there.

As many people know, Brcko was so highly contested that its status couldn't actually be agreed to at Dayton, and it was subject to international arbitration.

But the international community had pumped in a lot of money there and worked very hard to get people to return and to get a multiethnic society functioning there. And in many ways, it might be viewed as a model.

I'm wondering if you could comment whether that's still the case, whether it's still going well there, and whether some of the backsliding that we've seen in Bosnia or with the gradual withdrawal of the international community—whether that poses any threats to Brcko.

For Ambassador Davidson, I'd like to ask him if he could comment in a little bit more detail about how returns have gone over the years.

I know that the OSCE mission has been involved in I think what's called the Sarajevo process in terms of trying to get Croatia, Serbia and Bosnia to all work together on returns, in large part because you can't return one family without taking whoever's living

in their house and are themselves displaced returned back to their region.

And I know there are a lot of Serbs from Croatia that are still living in Republika Srpska, and they need to return. So I'm wondering if you could comment on how that is progressing, as well as—as you know, traditional concerns of this Helsinki Commission and of the OSCE are the rights of Roma, and I was wondering if you could comment on the ability of Roma to return.

You commented on education, and I know the mission is active there—what educational opportunities may exist for them, as well as what their housing needs or other problems that are traditionally problems for Romani communities—if you could talk about that a little bit.

Mr. Boys, one thing that constantly astonishes me—and I mentioned this to you when we met earlier—is the fact that the international community continues to discover new mass graves so long after these graves were created. I think just a week or so ago yet another one was found with 100 or so bodies in it.

I was wondering if you could talk a little bit what the local reaction is when these things are discovered. And also, you described at one point how the remains of one individual are often found in more than one grave, sometimes as many as five, and this is because the mass graves were dug up, people reburied.

Do you have a sense of when this occurred, why they were doing it? To me it just boggled my mind that this kind of activity was taking place, so I was wondering if you could just elaborate a little bit on that. I would appreciate it.

And, Professor Orentlicher, you commented extensively on the question of genocide and noted how important the decision of ICTY and Srebrenica was on the question of genocide.

Still, genocide is a very controversial issue—what is, what isn't genocide—including in Bosnia. I know many people have felt that in Prijedor or the shelling of Sarajevo, where more people were actually killed than in Srebrenica, but it was over a longer period of time, that maybe they should constitute genocide, or maybe the whole thing was genocide. There's others that would disagree with that.

The decision actually has to ultimately be a legal one, but it also needs to be understandable to the population on all sides as to what it really is.

So I'm wondering if you could elaborate a little bit on the whole question of genocide and how the decision was made to state that Srebrenica was, whereas it hasn't occurred for some of these other instances.

And then at risk of maybe making the future of Bosnia not seem so bright but in the hope that maybe there is a bright spot, I'm wondering if all of you could comment briefly, based on your experiences in Bosnia, about the future generation of political leaders in the country.

Many of the leaders that are in power now were there during the war years. Many of them did very noble things on behalf of their country. Some of them may not be quite as productive now, and we've heard some comments on some of the politicians in Bosnia today.

But is there a sense that the next generation of political leaders in Bosnia have a different way of thinking, will be able to move the country forward, or is there still a lot of work that really needs to be done to develop a political culture in Bosnia that can help it move into European integration and greater prosperity in the future?

So with that, I'll turn it over to you. You can answer in whichever order you would want. And even though I directed questions at specific panelists, if anybody wants to comment on any of those questions, feel free to do so.

Dr. GREGORIAN. Thank you very much. First of all, I'd like to acknowledge the presence of Ambassador Roberts Owen here. He is the president of the Brcko arbitral tribunal and the reason why I am supervisor of Brcko, because there's a district to supervise, and it's tremendous work that he did, and I'm very glad he's here.

Brcko District, I'm happy to say, is still a relative bright spot in Bosnia and Herzegovina. It is a place where American leadership in particular has been very strong, both in terms of military and diplomatic manpower, but also technical expertise and financial assistance.

Not to discount the contributions of others, but it has been seen in Bosnia and in the region as an American project, and I think we all as Americans should be proud of our record of success there.

When I took over the district as supervisor about a year ago, there were two fundamental sets of outstanding issues to deal with in terms of concluding supervision.

Internally, they had to do with issues about concerns related to what they call out-voting or over-voting—that is, where one ethnic group could be simply pushed aside by the other two ethnic groups or constituent peoples.

We have subsequently dealt with that in terms of the way the government is structured and the way it functions without specifically having to require ethnic quotas. It's a careful balance, and hopefully that will serve as a model for other parts of Bosnia to consider, if not emulate.

And we still need to deal with out-voting or over-voting issues in the assembly, but there are discussions on that ongoing now.

External to the district is establishing for the first time both in law and hopefully in the constitution the actual relationship between the district, which is an institution of Bosnia-Herzegovina, as defined by the final award, and the state of Bosnia-Herzegovina.

What does that mean? What are its actual legislative, judicial, executive relationships between the institutions of the state and the district itself? There has been some significant work done on that over the past 2 years.

Unfortunately, the rollout of a draft law and some constitutional amendments has been basically put on hold, given the higher priority issues of whether or not there's going to continue to be a Bosnia and Herzegovina.

Within the district itself, day-to-day life has been partially affected by the general deterioration of politics in the rest of the country, but thankfully it has not felt the full brunt of them.

Today the big issues there are some changes to the education law, itself an exemplary system. Ambassador Davidson and I think we'll be speaking about that publicly shortly after our return.

But also they deal with mundane things like stray dogs and absorb an inordinate amount of time with my staff, but also creation of jobs, I think, is quite impressive.

Over the space of the past year, helped, in part, by prodding by people in my office, the spacial and regulatory features of the district have been finally concluded. Corruption has been reduced in those areas.

And now several large-scale investment projects have been realized or about ready to be signed that over the next 5 years will probably create anywhere between 3,000 and 7,000 new jobs in the district, which is substantial in a district of about 100,000 people total.

We have some other events coming up that we have to worry about. One is about war memorials. There's currently only a war memorial to Serb soldiers in the district, and Bosniak and Croat soldiers also want their own memorial. That will certainly be a contentious issue.

We have elections coming up a year from now. These will be the second ever elections. For those who don't know it, Brcko only had its first elections about 3 years ago. Prior to that, they were all appointed.

And then last, the very issue of what happens to Brcko if there is a significant change in the constitutional order of Bosnia-Herzegovina itself, both in terms of implementing constitutional change, or in the event that there really is a secessionist movement by Republika Srpska.

The district is a condominium between Republika Srpska and the federation, but it has its own judiciary, police, executive and legislative structures. What would happen to the district in the event that something terrible happened there?

We've already had a statement by one senior R.S. politician who said that they want to get R.S.—that R.S. would like to get Brcko back, whatever that means, because the district is bigger than just R.S. territory.

On your second question about the future generation of BiH leaders, I'll refer briefly to my original comments. Eighteen months ago, things seemed really very positive in Bosnia.

Just about every area in which you care to or were able to measure progress, it was all trending upwards. And certainly, I would have put some of the politicians responsible for that as being part of the reason why that was so.

In the subsequent 18 months, personally, my view on all this has taken a rather negative turn, which for people who know me as generally an optimistic person is quite a change of attitude.

People like Milorad Dodik, who I've known for almost 10 years, have changed dramatically, I'd say, in the last 18 months.

People like Dodik who are mentioned in Holbrook's book on how to end the war as the most promising sorts of moderate politicians, that they could help lead modern Bosnia and Herzegovina into Europe, are now indeed seen as part of the problem.

Generally speaking, the role of the population and their involvement in politics is very limited. Civil society is weak.

As I mentioned in my remarks, the population, if they say anything at all about the situation, it's to complain to the international community about the situation and ask them what we're going to do about it, despite the fact that they elected these people.

There's no such thing as calling your representative or writing a letter expressing your discontent in any way other than to complain to us.

There are a few bright spots out there, though. I would say one of the most impressive—I wouldn't call him a politician, but I'd say a leader—would be someone like Nikola Radovanovic, who is the first defense minister of Bosnia-Herzegovina, currently their Ambassador to NATO and Brussels—an exceptional figure, thoughtful, realistic, practical, moderate.

If we had more people like him, I think the country would be much better off.

Amb. DAVIDSON. Thank you for your questions. Actually, I'd like—since elections have come up, I'd like to recognize someone, too, which is my distinguished predecessor once removed, Ambassador Robert Barry.

The fact that I didn't need to mention elections, which was one of the core OSCE tasks in the first part of its existence, is due largely to him, I think, because he wrapped things up and handed them over nicely to the local institution, which still functions, probably not as well as it did in your day, but it still functions fairly well, except it occasionally gets into tiffs with the Brcko supervisor. But these things happen in any kind of electoral situation, as you know better than I.

But to go to returns, I have to mention another thing, I think, again, in Ambassador Barry's time which came to an end in my time, which was called property law implementation plan process.

Everything we deal with in Bosnia-Herzegovina turns into a process of some sort, so this was shortened to PLIP. And with it was something called PLISC. I can't resist mentioning that when I first got to Sarajevo, everyone started talking to me about PLIP and PLISC, and I tried to pretend as if I knew what they were talking about.

But this was actually the return of people's property who had been kicked out of it, cleansed out of it, whatever, driven out of it, quite often, during the war. And it, as far as I know, is something that hasn't happened in one of these post-war interventions before.

And it happened because I think people in the late '90s, if I'm not mistaken, began to notice that despite implementation of the Dayton agreement and all sorts of other things, nobody was actually returning.

So the international community began, one, to fiddle around with the property laws and, two, to lean on the local authorities to return property to those people who had lived in before the war.

Now, there's an aspect of what I guess I would call Yugoslav property law that I've—although I'm no lawyer, I've become something of an expert on, which was a category called socially owned property.

I mention this because I'm going to get to the Sarajevo process. Most of you here are probably familiar with it, but it's not something I could define except neither private property or state property, but it—in effect, if you worked in a Yugoslav institution or factory, you paid a certain percentage of your salary into a housing fund, and you were given an apartment in return.

The international community and actually the courts of Bosnia and Herzegovina in 1996 ruled this was a property right and therefore people had a right, much like Annex 70 again saying you have the right to return to your pre-war home of origin or be compensated for it.

It was legally designated a property right, and therefore this property law implementation plan process and things like that followed from it.

In about, I guess, a year ago, a bit more, we hit almost 100 percent of these cases being settled. About 200,000-some people—these are about 70,000, 80,000 families—but there were more than 200,000 cases in the courts, but these were administrative proceedings.

But they were adjudicated, so this is actually a precedent-setting action. This doesn't, however, mean that people have actually stayed in these houses. But at least they've been given their old apartments back.

People were expelled quite often. The gentleman who was the previous Minister of Human Rights and Refugees, Mirsad Kebo, once told me that in order to make this work, when he was head of Sarajevo Canton, he threw out of their apartments a politician and a leader of the Islamic community, thus sending the signal that they were serious about it. And it worked.

I get to the Sarajevo process because this is a regional returns process. People were displaced regionally, and particularly from within—particularly within Bosnia and Herzegovina and from Croatia.

I think the largest mass movement of the entire war was actually in July of—August, excuse me, of 1995 after Operation Storm, which is where Croatia captured two-thirds of the illegally occupied parts of its country by Serbs.

And depending on who you ask, somewhere between 180,000 and 300,000 people left. Most of those went to Serbia, but a fair number stopped in what's now mainly the Republika Srpska.

There are, I think, something like 7,000 to 9,000 of them left who are registered as refugees in Bosnia-Herzegovina, probably 30,000—a larger number—in Serbia.

If you asked all of the—if you tried to add up, excuse me, the number of people who have rights to get their property back it would be a lot higher.

And one of the things that has impeded this regional return and, therefore, caused a burden for Bosnia and Herzegovina is the fact that Croatia has not done the same thing that Bosnia and Herzegovina and, I think, Kosovo subsequently did, which was to recognize socially owned property as a property right.

They have said, "We privatized these apartments 12 years ago. We can't give them back, nor can we pay compensation." So the Sarajevo process that was an outgrowth of something that began in

2001 just among what were then three OSCE heads of mission in Serbia, Montenegro, Croatia and Bosnia and Herzegovina, expanded in 2004 to the European Commission, UNHCR—got the refugee ministers of these three and now four countries together.

They decided in January 2005 they'd have everything solved by the end of 2006, and the process hasn't advanced very far beyond January 2005. It's essentially because everybody thinks—who's not in Croatia thinks Croatia should either pay compensation or give property back. Croatia doesn't think that.

And so I don't quite know how to surmount this, because there are disagreements within the international community as well.

That said, I will note that in, I think, December 2004, UNHCR announced that the millionth refugee or displaced person had returned home, which is about half of those who were—who had fled or who were displaced internally.

So it's a good record of success, I have to say. It doesn't mean that people are able to stay where they used to live, because they go in the end—if I can comment on the importance of justice, to a fact that lots of people, as Raffi said earlier, are still in the police force who probably ought to be in jail or at least on trial for war crimes, and it intimidates—that intimidates people from returning.

And there are all sorts of problems that we'll get to with Roma in just delivery of equitable social benefits or what other sorts of things you need to stay in place, such as a job. The economic situation being what it is, a lot of these returns areas have no jobs for people to go back to.

So on Roma in specific, Roma—if I'm not mistaken, there are more Roma in the country now than there were before the war, which has to do with movements from other parts of Southeast Europe into Bosnia and Herzegovina.

Their condition across the board is pretty bleak, because they are a prime example of discrimination in almost everything you mentioned—housing, education.

One of the things my mission does is work with them to encourage them simply to go register their births, because they often are completely outside the social system. They don't have paperwork.

But then things such as—we sort of fought against about a year ago, where there's been a Roma community outside Sarajevo for 40 years. The city just suddenly decided it was a threat to public health and sanitation and decided to move them out.

We want to say that's maybe fine, but how come the non-Roma population living in the same place is not—doesn't represent the same threat? We never got a good answer.

But clearly, there was an attempt just to displace the population further. That happens everywhere in the country, and it remains a huge problem.

On political leaders, if I can just followup a bit, I think one of the things you noticed is quite correct. The generation of political leaders now in power is—I don't know how to put this politely—not that old. And they tend to recycle themselves.

If you look at the—say, the council of ministers now, people are sitting in different chairs behind different desks, but the people in it are not so different from the ones who were there before, if you expand this to include the house of peoples and a few other things.

There seems just to be a recycling, a rotation, among the current crop of political leaders as they come up. And I think it drives out or suppresses the ability of good young politicians to move up into responsible positions.

One thing that I would point to is just to look at municipalities. I think one of the great and good changes that was introduced that no one really paid attention to was in 2004, when mayors were directly elected for the first time.

And if you go around the cities, you get some bright spots of people of all three ethnicities who actually now have to respond to their constituents.

I was quite amused when I first got there, because it was election season. They were about to have municipal elections again in 2008. But I was driving around the country to visit all of my field offices, and I noticed this flurry of activity in towns.

People were repairing roads and building things. And it struck me that this probably had something to do with the election campaign. Mayors were now fighting because they wanted to spruce things up, as one does when one, I guess, runs for mayor.

So one of the things I think that I'm also happy that we do is work on municipal governance. And I think if we can foster some of these young, and sometimes not so young, but good political leaders, that it would—if they can become nationally more prominent, it would help.

I actually think of the mayor of Foca, whose name I confess I suddenly forget—but he's worked—his town was a complete black hole, and still is in many ways often. I think it's called the Lautenberg list, the set of sanctions that the U.S. Government imposes on certain of these communities.

But there are some bright spots. I guess people don't, in the turmoil that we all focus on in Sarajevo, probably pay enough attention, try to encourage these people.

I know from talking to them they often feel completely isolated, but if you go to Bijac (ph), where there's another good young mayor, he says, you know, Sarajevo's far away, they never think about us. It probably would behoove us to pay some attention to it.

Prof. ORENTLICHER. Thank you. You asked me to say that—about the findings that a genocide occurred in Srebrenica and why not elsewhere.

You know, it's a difficult question, and I think it, in fact, raises a number of questions. The definition of genocide is, as you know, very narrow and legally exacting.

And proving genocide is extremely difficult in a court of law, in large part because we have to persuade judges that you have evidence established beyond a reasonable doubt that a perpetrator not only did horrific things to people but did them with the very specific intent of destroying not just the people but their whole community, their ethnic group, or a substantial number of them.

It was possible for the ICTY to reach that judgment in Srebrenica because the victims—men, not just young men were beyond a substantial portion of the men from that region. So that's sort of a technical, lawyerly answer.

But I think the larger question is why don't people understand what this legal judgment means and why it wasn't found elsewhere. And I want to just say two things about that.

One is it kind of emphasizes the point that I make in my written testimony but didn't talk about so much today, which is that it's desperately important for the ICTY to be able to answer those questions.

It's not so important for me to answer, but it's—it's imperative that they be able to provide answers so that it's comprehensible to people.

The second point is I think your question really highlights a conundrum, which is that on the one hand, as my own remarks indicated, when a genocide occurs, it's very important for victims to have that acknowledged.

And so the determination that there was a genocide in Srebrenica was very important to many, many people, and it restored a sense that the world recognized exactly what happened to them. And we do value that.

And yet the flip side of that is that it may inadvertently convey the idea, and it would be quite wrong, that crimes against humanity are not enormous.

And so the other crimes we mentioned in Prijedor and elsewhere have been found to be among the most serious, egregious, atrocious, unspeakable things that people can be—I'm using lots of words because there's no word that is enormous enough to capture how terrible they are.

And I think while it's important for us to acknowledge genocide and call it by its name, when it's appropriate, we have to be very careful that we don't devalue the seriousness of the other crimes that have been judged by the ICTY.

And the message, too, has to be made more clearly by representatives of the tribunal.

And I want to just add to your general question about the demoralizing state of politics in Bosnia that even though this wasn't what I was looking at in my trips to Bosnia, I was frequently struck by the sense of helplessness among the young professionals I worked with, collaborated with, in Sarajevo in particular, who were the natural young, coming politicians of their generation, who should have gone into politics, who had the talent and the ability and the values.

And they all said the same thing when we talked about this, which is that they saw the political structures as closed. They talked about politics in Bosnia as it were a closed union shop. And so it wasn't for a lack of aspiration but, really, they felt they had no way in to the system.

Mr. BOYS. You asked me about mass graves and why there are so many outstanding graves. One thing that's important to remember is that every mass grave is a crime scene, and therefore—and especially with Srebrenica, we're talking about incredibly technically challenging grave sites.

Often, one primary site will have 15 or 16 secondary sites. And all of these must be very painstakingly excavated, so it takes a long time.

And there aren't very many people within the country as professionals, pathologists and prosecutors, who are available to do these sort of things, though it's fairly slow, although the case—the number of cases each year is quite high.

But also, there are problems such as the—some sites need extensive de-mining, and we've also had cases where mines have been used to effectively stop people from investigating the grave, with the mines being laid between the bodies.

So it's simply not possible to exhume more than a certain rate a year, and that's one of the reasons why it takes such a long time.

But I think it's worth noting that we're—in terms of the region, in summary, we're looking for one large mass grave in Forchko (ph) of about 200 people. There are about 1,000 missing in the area of Visegrad Bocha (ph).

There are about 1,900 reported by the R.S. government throughout the federation. And in Herzegovina there are probably about 1,000 missing individuals, so in terms—plus 500 in Travnikzenitza (ph), Vissikuritza (ph) and middle Bosnia. There was also about 1,500 in Krina and a lot of single graves.

A lot of these will never be found. And a lot we'll have to use technology that we've been trying to experiment with using ground-penetrating radar and the use of sniffer dogs. But it's very slow.

You asked also about the reaction to hearing that a mass grave is being opened. To be honest, I think the people are quite—so used to hearing this that it slightly passes them without surprise.

However, there is anecdotal evidence that by addressing a mass—by addressing the problem, by exhuming the mass grave, it somehow encourages people to start having more interest in that region again.

And there has been anecdotal evidence that it's encouraged return, possibly more so than even the identification process. So it's an interesting finding, but we haven't really got any evidence.

After the Srebrenica massacre or event, it was stated that satellite images had shown very clearly what had happened—very large groups of men standing, and then scattered on the ground, followed by backhoes filling holes. These are very clear.

But the news that these satellite images were there was broadcast and then, in a sort of fog perpetrators or people close to them used backhoes and trucks to take the contents of the primary graves and dump them into secondary sites.

Because of the complexity, especially with Srebrenica, although it's a majority of our case load, we actually spend more than 50 percent of our effort on Srebrenica, simply because of the complexity of the sites.

We found one man in 13 different locations in four different mass graves, two of which were 50 kilometers from the other two. There was no way that it could be positively identified unless using DNA.

I think it also shows not only the horror of the crime but the thought process going into covering it up.

In terms of future leaders, ICMP doesn't do political analysis. This is a personal view, perhaps. I second everything that my colleagues have said, but in the longer term, I'm optimistic.

I think that a younger generation—I see some very brilliant people in Bosnia, capable of incredible contributions to the process

that we've created, where—in an environment where there is free speech, where there is freedom of expression, an increasing ability to travel in Europe and the rest of the world, an improving economic situation.

And I think that there will be engagement in the future by these folks, and I think that that will certainly give it a better future.

But I think that there is a hiatus at the moment with these war-time politicians who have maintained power.

Mr. HAND. Thank you.

Mr. TURNER. I had a question. It could probably be addressed to most specifically either Dr. Gregorian or Ambassador Davidson, but it focuses on the trial of Fikret Abdić. And I think many of you know the history of him.

He was accused of war crimes. He was tried and convicted in Croatia. I'm curious if you believe Abdić's trial was politically motivated and not fairly and impartially conducted, especially given the acquittal of his military commander in Sarajevo that some way was politically motivated, and if you have a view as to whether or not it would heal any continuing wounds in rival Bosniak communities for Abdić to be released from prison or given a new trial.

Dr. GREGORIAN. Well, first of all, I think it's still a pending legal matter in the sense that Mr. Abdić is appealing his conviction to the European Court of Human Rights in Strasbourg.

So I wouldn't care to comment on an ongoing trial in that sense, because I think it would be slightly improper for me to do so.

That being said, we don't have an active role in—OHR does not have an active role in many of the processes in Croatia the way we do in Bosnia-Herzegovina.

What is clear is that under the previous regime of Franjo Tudjman, Abdić was not subjected to criminal prosecution, but when the change of government occurred, I think at the end of 1999, early part of 2000, he was subsequently tried and convicted.

He is considered a controversial figure in Bosnian history, pre-war as well as during wartime. I've looked into some of the issues about claims that property distribution of the company that he led may have been subjected to improper processes.

My organization, OHR, has looked into the matter and contacted everything from the E.U. police mission to OSCE and others, and we cannot find any substantial information on this particular issues of the property, about what's happened to his company.

Mr. TURNER. This is Agrocommerce.

Dr. GREGORIAN. Agrocommerce. And I find that interesting in and of itself. It's not something that normally would fall within the purview of any of these organizations.

But as my staff contacted me a couple days ago, they said to go any further in terms of this inquiry would probably require contacting criminal elements to find out what has happened with these things.

So it seems to be an intriguing case. The only thing I could tell you at this point is with respect to that particular issue, the distribution of assets and the privatization of it, we'll continue to look into it.

But at this point I just don't have any facts I can comment on.

Amb. DAVIDSON. I'm even less able to comment than my colleague, Dr. Gregorian.

I would just note that politics of the canton, which Agrocommerce came from, continue to be a mess. Canton had a government that didn't function for most of the last round.

I guess it's functioning a bit better now, but his legacy, for better or for worse, lives on up there politically, and I imagine some kind of settlement one way or the other would help to tamp down some of the continuing tensions there.

But my only real brush with this was as I was posted in Croatia more than 10 years ago—and I remember seeing all of his followers come over, camp out in a muddy field over the Croatian border at the end of the war.

So he clearly had inspired a great deal of loyalty. I'll say that for him. But I couldn't really comment on the details of the case.

Mr. HAND. If I could ask one additional question—it's not directed to anybody specifically, but we've focused quite a bit on the Bosniak community as well as Republika Srpska and how Serbs may feel about the situation in Bosnia.

We haven't focused too much, except maybe a little bit on the return side, on issues relating to Croats and, specifically, in this question, Bosnian Croats.

I was wondering, how do they feel about this current situation? Are they waiting to see which way it goes, and then they will make their own decisions as to whether to seek a third entity, or whether they're going to push as well for the integration of all people as citizens, including Croats?

And in responding to this, if you could elaborate a little bit, because I know that the Croat communities in Bosnia are somewhat different. What's down in Herzegovina is not necessarily the same that's up in Posavina and central Bosnia.

So if you could comment a little bit on what currents are going through the Bosnian Croat community right now, because I know that it was some Bosnian Croat votes that helped defeat the constitutional reform package last year.

And there's a question of whether they have valid concerns and where exactly they want to see Bosnia going.

Dr. GREGORIAN. First of all, on a general note, I think the Croat people who are indigenous to Bosnia and Herzegovina are incredibly important to the country generally, but also historically.

In terms of the role of Franciscans, in terms of literary and cultural life and the development of the country as an identifiable country—Croats have played a very important role in that.

They are, of course, the smallest of the three so-called constituent peoples, and their numbers, I think, in the 1991 census were a little over 17 percent.

We don't have any firm data today about numbers of people actually living in Bosnia and Herzegovina, but estimates by some international organizations suggest it's a little bit over 10 percent.

And the reasons for that are many. Some of them have to do with the issues that Ambassador Davidson touched on with respect to a very complicated return process.

I know in Brcko there are a number of people who have been able to recover their properties, but they don't live there. They rent

them out or they visit them only occasionally, and they choose to live in Croatia.

And the reasons for that are not hard to find. The per capita GDP is about, I don't know, four times or five times higher than what it is in—or maybe not quite that high, but substantially higher in Croatia than it is in Bosnia-Herzegovina.

They're also, by most public accounts—they're about a year away from joining NATO. And they're substantially closer to joining the European Union, Croatia is.

And many people of, if not all people of, Croat ethnicity inside Bosnia are, in one way or another, probably able or are eligible to get Croatian passports.

So in one respect, they have a good backup plan, which is to take a Croatian passport and join the E.U. before anyone else in Bosnia and Herzegovina does.

On the political side of all of this, they have—they are politically dissipated in a number of small political parties. Their abilities to form meaningful and lasting coalitions among these smaller parties—they don't have a very good track record of doing that.

And your reference to constitutional reform is about the splitting of the main, or what had been the largest, Croat party, the Croat Democratic Union, into two parties, one the Croat Democratic Union of BiH and the other the Croat Democratic Union 1990, which took an opposing stance to constitutional reform.

The reasons for that are many. But generally speaking, I think from a political point of view Croats tend to favor reforms that strengthen central state institutions because they feel they get or should get a better deal at the state level with more equal sharing in policy and decisionmaking than they do in the federation of Bosnia-Herzegovina, where they generally are—they perceive themselves to be subject to domination by Bosniaks in most parts of the federation.

Right or wrong, I wouldn't care to comment on that. But that's their perception. So for example, on defense reform, they are very supportive of creating a single army for Bosnia-Herzegovina because they felt that they would get a better deal there than they did in the federation army.

I think they felt the same way about police reform and some of the other reforms, too. So they generally tend to be more pro-E.U. and pro-NATO than some of their counterparts in—Bosnian Croats or Bosnian [inaudible] for those reasons.

What happens to them from this point on? I don't know. I mean, constitutional reform talks, as I mentioned in my written and stated remarks—all of the political leaders who have spoken on the subject tend to focus on the territorial division of Bosnia-Herzegovina in a future constitutional order rather than what is the division of competencies between different levels of government from municipal to state level.

And here, I think Milorad Dodik has played a rather cynical role in terms of encouraging Croats to have a third entity. But he specifically means an entity carved out of the existing federation. He by no means is suggesting that Republika Srpska be subjected to territorial redivision.

And I think most of the Croat political leaders are aware of that, and that is why some of them have said yes, we would love to have our own third entity which takes parts of Posavina out of Republika Srpska and western part of Republika Srpska and form them into a new entity.

So I think they see through that. But I think they feel themselves sometimes being on the short end of the stick. But generally speaking, in terms of the reform agenda that we have, they tend to be pretty substantial contributors to that in most instances.

Amb. DAVIDSON. Yes, I have to be careful here, because—by virtue of my complaining about Croats and education returns, I seem to have developed a reputation as an anti-Croat force, to the extent that 1 day I was—ODIHR was trying to organize a conference in Croatia on tolerance in education and wanted to invite me, and Croatia refused to let me attend, so—which I thought was pretty interesting, since it was a tolerance conference.

But nonetheless, I do think that Dr. Gregorian here has a very good point. If you go to central Bosnia and visit some of these monasteries, which if ever anyone's touring around I'd recommend doing—give evidence of community up there 600, 700 years old.

And it's emptying out in central Bosnia, but I visited the place where the last king and queen of Bosnia and Herzegovina lived before the Ottomans had arrived.

And the guardian of the monastery showed me the fact that in 1991 he had far more births and marriages than deaths, and today it's exactly the reverse. No one's still there.

So I think the Croats do feel themselves threatened as a community, partly because of the better deal they get in Croatia itself and for the reasons you just heard.

Also, I think on returns they were resettled in great numbers during the war into these very properties that they don't want to restore to maybe the Serbs would come back and take them, so that the—what I would suspect the biggest problem that faces the Croat community is the fact that they can probably easily move over the border and do better than if they remain in Bosnia-Herzegovina.

So for them, it's sort of an existential issue about what happens to them in the future. And again, I think this is a very interesting example of one of the—of the forces that are pulling the country apart slightly in that in about 3 weeks there's going to be an election in Croatia.

And because of the importance of the vote of Croats who are actually Bosnian Croats in that election, Croatia is going to erect 120 or so polling stations on the soil of Bosnia and Herzegovina so people can vote in Croatian parliamentary elections.

Now, I just cast an absentee ballot in Virginia, but it would have been nice if someone had set up a polling station for me in Sarajevo.

Maybe, Ambassador Turkovic, we can do this next time. But I had to go through the rigamarole of requesting a ballot and all that.

But in essence, the Croat parts of Bosnia and Herzegovina are treated as an electoral district in Croatia. There would be diaspora seats in the Croatian Sabor.

I might maintain that's probably more benign than the influence you're seeing out of Belgrade right now. But nonetheless, it tends to say that—it tends to divide one's loyalties, I would think, if you're as worried about getting elected or who you get elected into the Croatian parliament as you do your own.

And a lot of the social benefits, employment prospects, particularly when Croatia accedes to the European Union, are going to be so much better that I think it's going to be very difficult for the Croatian community to hold all of its people in the country. And this is one of the things they have to wrestle with politically.

I do think on—as far as I can tell, as a distant observer, on some of these things you just heard, they have played a constructive role in trying to bridge the gaps between the Bosniak and the Serb differing political points of view. And they do tend to advocate for stronger state institutions [inaudible] for reasons you've heard already.

The last thing I'd look at is the Croat proposal now tends to be: "let's have a country of three regions, state, regional and then local," which is probably not a bad idea in the abstract, but whether it leads to ethnically—I guess to ethnically pure entities in other ways, it, you know, would give me some pause as I looked at this, because as Croats do move out of central Bosnia and Posavina, they do seem to be moving into Herzegovina or remaining there.

And it's contributed, I think, to what I think is a continuing tendency in the country to divide on an ethnic basis so that you get—I do believe you have far fewer communities now than you did before the war that are more than 10 percent multiethnic, and even Sarajevo now probably falls into that category.

Mr. SMITH. Again, to our distinguished panelists—although we're now the panelists—thank you, and I'm just going to have to read the record to catch up on what you've said and conveyed to the committee or the commission.

And I do apologize for all of us. We had a series of votes and a meeting with 40 African Ambassadors that's just breaking up now.

So I do look forward to looking at your comments. And I know most of the questions probably have been asked. But I do have one. After the visit to Sarajevo in July—while I was there, I went to the trafficking shelter.

And it struck me that, one, there were no women there. There was no referrals. And there seemed to be a problem with the police and the—you know, the connection was not being made that if a woman's been trafficked or at risk, here's a safe haven where she should go.

And second, I was struck by the lack of any kind of faith-based component to it and asked those that I met with on the trip and then asked the people running the shelter, is there any attempt being made to get, at least on some basis, a faith-based component.

Because obviously what I have found all over the world that I've been in, probably at least 20 shelters in 20 different countries, where there is a faith-based—I mean, the women can avail themselves or not.

But it provides, you know, a source of great healing whether they be Muslims, or Christians, or Jews or whatever their faith may be.

And they said they would look into it. And so it gave me a little hope.

But it struck me—and if any of you would want to comment on that—that there is a problem with police referrals. You know, what do they do when they apprehend a trafficker—hopefully, they prosecute, but when they find someone who has been trafficked?

And I was also struck in the conversations that we had with some of the scholars, the Muslim scholars, that many of the women in Bosnia—you know, while the borders are getting more sealed, it seems, in terms of coming in or moving, you know, into Serbia, for example, they're ending up in places like Malaysia.

And one man said that you can go to Malaysia—you can go to parts of Indonesia—and say I want Bosnian girl, and you—you know, they can produce, which begs the question from my point of view, is that real.

And I asked them a lot of questions about it, but I wonder if you have any insights on it as well. Are women being trafficked out of the country to places like that?

Also, you know, on the constitutional reform issue, you know, Dayton was a tourniquet. We all remember that it was done in a context of trying to stop a horrific bloodletting that was occurring in the Balkans. But at some point, obviously, the time comes where the baton for real lawmaking has to be passed to the lawmakers.

And you know, I know that the special representative would love to get out of the business as soon as possible.

But when a small minority can block any kind of legislation and then seem to play the Kosovo card—and correct me if you think I'm wrong on that—you know, if—whether or not the Serbs are working—or the Serbian—if Belgrade is working in a way to take pressure off of Bosnia because we need them to get a final recommendation or a final outcome in Kosovo.

So the interest of real lawmakers who want to make real laws—I mean, if we were blocked here in this Congress by—we see on the Senate side sometimes with holds on bills—which is antithetical, from my point of view, to lawmaking, if somebody just says your bill is on hold, and everybody respects it.

You know, it doesn't happen all that often, but it happens too frequently, but when a small block can stop legislation which would inure to the benefit, I think, of the people in Bosnia and in the entities, it just seems to be counterproductive.

So how do we break that logjam? And maybe if you already spoke about that, I'll read it in the record. But it seems to me that that—you know, they've got to matriculate into a real, functioning, robust democracy, and that means lawmakers need empowerment.

And I say that with great respect to the special rep, because I think, you know, you do a great job, you and your staff there. But it's a—you know, I know you're a deputy, but I just—so on those couple of questions.

Dr. GREGORIAN. Gentleman, I might start with the constitutional [re]form issue and just make a general comment on the trafficking issue.

On constitutional reform, you know, there was a package of amendments that were prepared over the period of a year or more of quiet discussions with parliamentarians.

These were eventually put forward in April 2006. I think you're well aware of it and the fact that the amendments were blocked.

They were principally designed to speed up decisionmaking processes, streamline them, for both the council of ministers and the parliament, by enhancing parliament, by growing it to a significant degree and giving it more power.

Unfortunately, those amendments failed for the reasons that are now fairly well known.

On October 19th, the High Representative, having heard frequent complaints from the chairman of the council of ministers as well as other political leaders of this current government that the council of ministers was not functioning effectively—he looked very carefully at the law on the council of ministers and decided that some changes were in order, particularly after a couple of very important bills were defeated by sort of a pocket veto or—I don't know how technically to describe it.

Basically, people would step out into the hallway during council meetings and change the quorum in the room both in terms of ethnicity and numbers. And so decisionmaking was being blocked in this way.

And the High Representative's view was that's not proper, that if you want to vote against something, you should vote no and explain to people why, for example, you stepped out in the hallway when the vote on the pharmaceuticals law that would have lowered the cost and improved the quality of drugs, especially for pensioners, was on the table.

This was not directed at anyone, but the people who had most recently, in fact, abused these procedures were Bosniak and Croat ministers. But the Republika Srpska politicians ordered their ministers to react very strongly to this in a way that I think you're now well aware of.

The other thing the High Representative did was present to the house of representatives some amendments to the rules of procedure of the house that would bring it back in line with the Dayton constitution, and all of these measures, in fact, basically have one intent other than to streamline and make more efficient functioning government, and that is show up for work.

If you oppose something, show up and vote against it. But you're not going to avoid making the decision. You're not going to block the process of parliament and the council of ministers by simply refusing to show up or deputizing your deputy to vote the way you've instructed him or her to do, the reaction I described in my remarks.

So even in the absence of constitutional reform, there are these procedural ways to enhance sufficiency that are in line with Dayton and perfectly legal and within the high representatives rights to do that.

That being said, I think as flawed or as limited as the Bosnian constitutional is, Annex 4 of Dayton, if there was political will, they could make the constitution work perfectly well, perfectly fine.

In much the same way that our own country in the 1790s had a big dispute over our own Constitution and what it really meant, that is the case here for the Bosnians.

The last government did pass defense reform, intelligence reform, tax reform, and so on and so forth. The constitution was not an impediment to them, so I don't know why it would continue to be so today.

And I hope no one believes that the reform of the constitution of BiH is a panacea. Changing the constitution won't change the political will and behavior of the politicians.

You could have a perfect constitution. I guarantee you they would find a way to block it if they wanted to. So it is necessary, but it is not sufficient to improve functioning of the government.

On the issue of trafficking, this is not something that OHR is specifically involved in, but we work on the institutional side of improving capacities. And my role in particular is to look at issues of organized crime, terrorism and war criminals.

There's a very unhealthy nexus between all of those things. And Sarajevo Canton, although it has a pretty good police chief, does have a serious organized crime problem, so I am not, in fact, surprised to hear that there are no referrals to shelters for trafficked persons.

Bosnia, generally speaking, in terms of what I understand, is a country of transit rather than destination or of supply. So I'm quite surprised, in fact, to hear that Bosnian nationals are showing up in East Asia. That's quite troubling, and I will certainly look into that.

But it is something—in terms of institutions, we are specifically looking at organized crime operations in Sarajevo and their links to senior politicians, which involve drug trafficking and support the war criminals and former foreign fighters and mujahideen. And as I mentioned, a very unhealthy nexus.

Amb. DAVIDSON. If I could maybe start with trafficking—but I think both—to me, both questions in a way oddly go together, because they're—after 3 years, there are sort of two amateurish theories I've developed.

One, is that a lot of these problems go back to rule of law problems that Professor Orentlicher's working on here, and the fact that people don't observe the laws they adopt—part of it's this nexus of organized crime and the authorities, which is still very pronounced there.

We do work on trafficking, and I think your points are very good. I think there are several problems. One is it's not taken as a serious problem by anybody that I can detect. It's never raised as an issue.

And I think although the professional communities do a lot of things for their various people, I don't think there's a tradition in the country of looking to the church or the mosque to do this kind of thing.

There is a state coordinator's office, as you know, and we actually have one employee that we pay for who's in there, but it's not really taken very seriously, and I think that's the heart of the problem.

I do understand, too, that actually trafficking has changed there, and I hope it's nothing to do with me, but in my time it's turned from a transit country into a source country now, so—I didn't know about Malaysia, but I'm not surprised.

People used to be able to point to me that, you know, if you drove up, say, to Banja Luka, there was always, as you crossed over—I won't say where, because I'll get in trouble, but people would point out to me these are famous bars where there used to be trafficked women. Now they've moved underground because people know about them.

So it's also, I think—the nature of the business has changed as pressures from organizations like ours have been brought to bear to crack down. It's gone underground, and this is another thing that's happened.

So it's not visible in the way it was to residents when they could drive by a discotheque or a bar and realize that's where women were trafficked. But at that point, they tended to be brought in from elsewhere, and now they're going onwards.

I think the—and I completely agree with what Dr. Gregorian said about the constitution. It's a matter of political will in the country, and you're, I believe, absolutely correct.

I'm, oddly, when I go back, going to be giving a presentation at a book presentation by a prominent local professor of political science, and so—thankfully, his book is in English, and I read it.

And he made the point—and the experts here will correct my number. But he said since 1946 every constitutional that Bosnia-Herzegovina had—and there were something like six of them in Yugoslavia and now—had this ethnic balance in it.

There may have just been Serbs and Croats at one point, and then in—was it 1974 when Tito recognized Bosniaks as Muslims. But everything's based on group identity here, and this, I think, is the hardest thing to break.

And I think one of the things that caused constitutional reform to flounder was that one group said it didn't go far enough and the other group said it went too far, taking away their ability to block things they didn't like.

And until you get a kind of a—as I said in my opening remarks, as kind of a common vision about how the country should operate, it's very hard for me to see how you're going to get beyond this.

To me, I sort of sometimes refer to it as default behavior. Everything goes back to Yugoslavia. Everything must rotate. You must have only things in terms of group rights. And you must be able to block things you don't like.

We were just discussing Croats a moment ago. I mean, they're very concerned that, as you've heard, they're getting overwhelmed in the federation because they're the smaller group, so having an ability to block things at a state level restores the balance.

But there's not much discussion of what, you know, an individual citizen or a lawmaker should do for the betterment of the country.

And I think even the council of ministers, as you look at it—we all think of it as a government of the—in fact, at the last Peace Implementation Council, they had the leaders of the six ruling parties of the coalition, but this is not a coalition government in the European sense.

These are essentially three people representing three ethnicities and six political parties that neatly break down, I think, into two of each.

And probably the best thing you could do, Congressman, is to come over with a bunch of people and say, "Look, this is how we do it. You don't have to do it this way, but, you know, we overcome these problems in a certain way."

We try to do a little bit of that by working with the parliament and shipping people around, but I'm just not sure there's the right kind of understanding that exists of exactly what's needed to break down some of these barriers that exist.

And I do agree that if the political will were there, you really wouldn't need to amend the constitution very much. It's a problem of people rather than words written on paper, I think.

Mr. SMITH. If any of you who would like to answer this, Serbia signed the agreement in Brussels—it was what, November 7th?

What is the perception of that? Every country, obviously, moves on its own track in terms of E.U. accession.

But you know, for a country which I believe clearly was the aggressor to be moving to the front of the queue when it comes to moving into and being integrated into the E.U.—you know, and Bosnia, especially, you know, has a more Muslim orientation to it, obviously, in terms of its population.

It runs the risk, I think, of looking like—you know, especially vis-a-vis Turkey and the problems that—and no one's been more of a critic of Turkey's human rights than I have.

I've held hearings on the tortured journalists. I chaired the hearing on the whole issue of the genocide that was committed against the Armenians in 1915 and thereafter.

Matter of fact, we had a Turkish Ambassador here and we had the Armenians. I was quite a referee. But I had read Ambassador Morgenthau's—our U.S. Ambassador—book and Ambassador's story and actually put a whole chapter in the record.

But having said that—and we should recognize the genocide—you know, Turkey may be taking a lesson or a takeaway from their point of view is, "Hmm, we're predominantly Muslim, where do we fit in Europe these days?"

And now Bosnia finds itself in that same situation. And you know, maybe it's perception, maybe it's reality, or a combination of both. But I'm concerned about it.

I mean, when we failed miserably on—and it's my opinion, it may not be anybody here's view—on the arms embargo and then failed to lift it—I mean, I was the prime sponsor of the arms embargo legislation to lift it.

I was in places like Vukovar when it fell, 2 weeks or 3 weeks before it fell. You know, they had cap guns versus what the Serbs had. And you all know it.

So my question is about the perception that they're being left behind and aggressors being rewarded. And if I were on the ground, I think I'd have that perception, rightly or wrongly.

And then when I can't get laws—and your point is well taken. At least they should show up to offer their blocking measures rather than doing it in absentia.

So how do we rectify that and assure them? You know, it's as if Serbia's being integrated into Europe, Bosnia remains a U.S. concern or whatever. Any thoughts on that, Professor or anyone?

Yes.

Dr. GREGORIAN. I wouldn't care, for I hope what will seem obvious reasons, not to comment directly on the issue of whether or not the E.U. was right or wrong to do this.

I think my understanding is they did this as a way to bolster real democratic forces inside of Serbia before the Kosovo Troika issues its report, a judgment call on their part.

However, the reaction in Bosnia based on the media summaries I've been reading is one of, I think, disappointment and perplexion, if that's a noun. I'm not sure.

Police reform is a condition for completing an SAA as long as almost 3.5 years, 4 years ago. Back then, there was no, I think, consideration that Bosnia would be behind Serbia. And the failure of Bosnian politicians to reach an agreement on police reform could not have been foreseen at that time.

But what it now demonstrates in, I think, rather stark terms is that from the Bosnian perspective—it's not my personal view—the Bosnian perspective would be Serbia's getting SAA for free, and Bosnia's still paying a price for failure to agree on something that, from their point of view, many of them think shouldn't have been a condition in the first place. That's police reform.

On the other side of this is the whole rule of law, justice and, I think, surreal aspect of the fact that genocidal murderers like Ratko Mladic and Radovan Karadzic are most likely at large somewhere in Serbia, or generally within reach of the authorities.

We understand that Ratko Mladic probably moved to Serbia in about 1998, which means he's been free in Serbia under Kostunica, a supposedly democratic leader, twice as long as he ever was under Milosevic, who was determined to be a dictator.

It was that government, in fact, that retired General Mladic in 2002, some 7 years after being indicted for genocide and crimes against humanity. And up until just about a year ago, he continued to be paid a pension in Belgrade.

All of these things to me are surreal. And Serbia, and particularly Kostunica, who frequently talks about the rule of law and international law with respect to Kosovo, doesn't seem to see the huge contradiction and hypocrisy of keeping hold of Mr. Mladic and Mr. Karadzic and perhaps the two others, Mr. Zupian (ph) and Goren Hajic (ph), who are required under U.N. Security Council resolutions under Chapter 7 to turn them over.

It's a requirement of Serbian law. It's a requirement of the Dayton peace accords and so on and so forth, not to mention the most recent ruling of the ICJ finding Serbia in violation of the Genocide Convention, which is—as the professor noted, is the first time in history that's ever happened.

So I fundamentally do not understand why that situation has been allowed to continue and how anyone with a straight face in the Serbian governing authority can say that they're working on it.

General Polemir (ph) was found in Belgrade in his apartment by Serbian authorities who kicked him across the border to make sure he'd be arrested there.

They absolutely can do this if they want to, and they have chosen not to. Their reasons are their own. I would love it if they could come before a committee like this and actually explain themselves. I somehow don't expect they will.

But I think given what I've described to you—I mean, I feel pretty emotional about it. You can imagine what the people in Bosnia-Herzegovina feel about it.

So they're scratching their heads, really, now and wondering why they're being left behind by Europe, in their perception, when Serbia's moving forward and they're harboring genocidal murderers.

Mr. SMITH. Professor?

Prof. ORENTLICHER. I mostly want to really underscore what Dr. Gregorian has just said, because it's such an important point that it's really worth emphasizing over and over again.

I think it's incomprehensible to Bosnians that they haven't reached the same stage when Serbia has, and they're harboring someone who's indicted for genocide.

And they haven't found—again, I know I'm repeating myself, but it's just incomprehensible.

Serbia has been found—for the first time in history a state has been judged in violation of the Genocide Convention because it is harboring Ratko Mladic.

And so I want to just go on to say that what happened yesterday was that the European Union initialed a stabilization and association agreement, and they said in their report about Serbia that they will not sign that until there is full cooperation with the ICTY.

Now, it was surprising to people that it even initialed the agreement, despite the flagrant refusal to surrender Ratko Mladic. We really have to hold feet to the fire. This is a time of opportunity.

There is a period where a lot is on the line there for Serbia. Signing is expected to happen in a few months.

This is a crucial period for the United States to be doing what you've been doing all along, really making it clear there's matters we haven't forgotten, we're not linking this to Kosovo or anything else, this has got to happen. And we can make it happen.

Mr. SMITH. Thank you.

Mr. Ambassador?

Amb. DAVIDSON. Just a brief addition, because I just wanted to say I agreed with the other part of the point that I think you were making, which is for whatever reasons, the effects on the stability or the cohesiveness of the state of Bosnia and Herzegovina probably aren't going to be good.

Already it's being pulled apart, but if—one of the things I think that happens is it exacerbates everybody's ethnic consciousness when you get these kinds of moves that seem to isolate Bosnia and Herzegovina.

And I don't think this is going to have a good effect on the Bosniak community, because—for exactly the reason you said.

They're the last one—this is a country that's surrounded by everybody else that are now, at least symbolically, moving into Europe—what have we done wrong?

And I think it's a bad signal, unfortunately. It's something that we all have to be cognizant of. And it worries me a bit, I think.

Mr. SMITH. I appreciate all your candor.

Let me just ask you two final questions. Would it be fair to say there is a Kosovo card being played? And again, do the Bosniaks

then get left behind because, you know, another issue is trumping them?

What are your thoughts on that?

Amb. DAVIDSON. It seems to be—I mean, I don't have any deep insights into what's going on in Belgrade, but the combination of statements that are being made and what I was able to observe by attending as an observer the last Peace Implementation Council, it certainly suggests that's the case.

And I don't know what—I leave it to my more astute political—politically astute colleagues here to say what effect it will have.

But I do think it's also worrisome, because these tendencies that come from the neighbors to pull the country apart, whether benign or not so benign, don't help at all.

And as I said, again, it has an effect on people who maybe don't have neighbors to go to as a place of refuge or sanctuary or political backing. So I think so, yes. I think it's not a good time.

Mr. SMITH. And on that, is the international community—we know Belgrade plays it. Are we playing it, Washington, the Europeans? You know, because that's such a high prize, or perceived to be one.

Amb. DAVIDSON. I'm going to leave that to Dr. Gregorian. Again, my impression is you've got Washington and the European Union very strongly here, and maybe others very strongly on the other side.

But I think that unity—from my impression, it's been pretty strong. It has to be maintained, because if we start to break down among ourselves, then I think the effects would become much worse.

Dr. GREGORIAN. First of all, I would say in terms of what official statements are coming out of Belgrade and Banja Luka, they have played the Kosovo card quite explicitly.

Prime Minister Kostunica of Serbia explicitly said Kosovo becomes independent, Republika Srpska has the right to become independent as well.

Legally, there is no link between these two issues at all. And Dayton does not foresee the possibility of secession. In fact, Dayton solved the problem of secession, or at least it was supposed to have, and at quite some cost, as you are well aware, perhaps better even than I am.

In terms of the international community, I don't think the international community is playing the Kosovo card. I think the hope was that there would be no problem in Bosnia so they could focus on Kosovo.

And up until about 18 months ago, that seemed like a perfectly valid position to take. Things were going very well in Bosnia. They have taken a marked turn for the worse.

And the picture I drew for you earlier about the possibility of people in Republika Srpska—leaders, politicians, officials—laying the groundwork for possible secession I think is very real, but I also hope I'm very wrong.

I would be delighted to come back here and eat my hat in front of you. But I also think we'll know very shortly whether or not I'm right. There will be a vote in the Security Council before the 21st of November on the extension of EUFOR.

Hopefully it will be extended as the peacekeeping force in Bosnia has always been done. Alternatively, it could be blocked, or an attempt could be made to insert a termination date for OHR in there.

But I think it's important to understand that OHR and its extraordinary powers, the so-called Bonn powers from the meeting in Bonn, Germany where those powers were articulated by the Peace Implementation Council—they are linked to each other.

The Bonn powers mean nothing if there's not ultimately a military backup to them. So if EUFOR were to go away or a peacekeeping force was no longer there, the Bonn powers would basically become meaningless.

And in fact, we're already seeing a substantial challenge to them by the Republika Srpska over these issues about showing up for work at the state level. These measures of the high representative don't touch Republika Srpska at all. So they're already basically calling us on this.

And I think between November 21st and leading up to December 10th, the report on the Kosovo Troika, if there is a move toward independence by Kosovo after that, I think you can expect to see actions in Republika Srpska moving toward independence.

From the point of view of the population there, it's very hard to explain to people why if Kosovo becomes independent Republika Srpska should not. It's very hard to explain that, unless you go into the legality of Dayton, how the war transpired, and what's in the agreement, and international law and all these sorts of things.

And the leaders are doing absolutely nothing to disabuse the people of that. The government of Republika Srpska has basically allowed NGOs which are talking about independence referendum to speak without any check whatsoever on what they're saying.

And the government is—members, to include Dodik, even addresses these crowds when they're chanting, "Referendum, referendum, referendum." There is no objective basis for the position that they have. Things are not bad in Bosnia except politically.

And if anyone's playing a Kosovo card, it's obviously Banja Luka and Belgrade, but we'll know in about—I can't do the math fast enough—13 days in the Security Council.

Mr. SMITH. You know, I do have two additional questions, and you've been very generous with your time, and I thank you for that.

Yesterday here on the Hill, at the request of Frank Wolf, Tony Hall, and I, Joe Pitts and Robert Aderholt, the leaders from the faith community in Jerusalem, including the patriarch, the leading rabbi in Jerusalem, the head Lutheran, the top cleric—and a large number of clerics from—several of the top Muslim leaders for the Palestinians have come to town to try—as part of an effort that Frank Wolf came up with that faith communities can lead the politicians and not the other way around.

And they all have constituencies as well. Congregations is probably a more apt word. And they really step up to the plate.

And I'll never forget, I went to Serbia on one of my trips when the war wasn't even in Bosnia yet and pleaded with them to use—he and Cardinal Kuharic in Zagreb—that maybe they could stop something that is unthinkable from happening.

And I'm wondering if there's an effort being made to get them—so we could back up. Yesterday's meeting was, I think, historic. They haven't really done this before.

And it may provide an opening to get the extremists to stand back because they don't get buy-in from, or at least acquiescence from, the rest of the community.

And it seems to me that—I mean, I've met with Reis Cerić. I think he's an outstanding man. He believes in peace. When he spoke at the 12th remembrance of Srebrenica, his words were not belligerent or in any way inflammatory. They were filled with reconciliation and accountability, but in a way that we all would agree with.

But while I was driving—and I just say this as a parenthetical—we went by a stand that was selling soda, and they had a picture of Mladic, a big picture of Mladic, right out in front. And it was like, "Woah." Twelve years later, these people, or whoever was running that stand, doesn't get it. We should be talking reconciliation.

And I'm wondering if any of you think there's a place to really make an all-out effort so that this situation does not deteriorate, particularly if—there's almost like a proxy where if Kosovo becomes, you know, a catalyst for something happening in Srpska and Bosnian.

You know, is there a way of getting the faith community more actively involved? Reis seemed interested, and he certainly is, I think, speaking peace.

Dr. GREGORIAN. First of all, I think there—there are and have been occasions when religious figures have played quite an important role on specific events.

I'm thinking here of the Mufti of Tuzla and his role in finding a resolution for burials of Bosniak victims from a mass grave in Bratunac in May of this year.

He played a very helpful role in controlling people's emotions and making sure that provocations from the other side were eventually overcome and the funeral was done in a dignified and responsible manner, to the satisfaction of everybody.

And even a rather controversial figure, Bishop Kacavenda, who is—his bishopric, I think, is actually seated in Tuzla but he resides in Bioni (ph) now.

He was quite helpful in resolving the issue of this infamous church that had been built on the front yard of Fata Orlovic, this Bosniak woman who had subsequently returned to near Bratunac and Srebrenica.

That is now being dealt with, again, because of his personal involvement, despite problems he's been associated with in the past.

On the other hand, the track record, unfortunately, for religious leaders' involvement in politics in Bosnia and Herzegovina over the past couple years has been quite problematic and uneven. On occasions, it's very helpful, and other times it's not. Or sometimes it's deliberately misread.

And I think of Reis Cerić who I know fairly well—he's made a couple of speeches abroad both here and, I think, in Vienna where he's made comments referring to Bosnian as the homeland of Bosnian Muslims, the Bosniaks.

To anyone in the United States, that doesn't sound particularly provocative, but the way it's hard, perhaps deliberately so by other people in Bosnia is, "Oh, you want to dominate Bosnia. If this is your homeland, that means we're not in it." That's the way it's heard.

And right or wrong, that's the way it gets played out in the press, and it elevates the temperatures in a situation where the temperatures are already hot enough.

Then we have also, I think, on all sides religious leaders feeling free to comment on constitutional matters. In Bosnia, I find that rather unhelpful, because it gets them into an area where it's not productive, because, as I mentioned, the constitutional discussion we've had up to date has been how to divide up Bosnia.

And I don't think we want religious leaders involved in discussions where they get associated with territorial division of Bosnia. In fact, they should be bringing people together.

And I would just close on this issue by saying there is, in fact, a forum for doing that. It's called the Interreligious Council.

And actually, all four major faith groups in Bosnia, including Judaism, are all represented in this body, and it meets on a fairly regular basis, and it does offer an opportunity to have an exchange of views.

And occasionally, they do produce some of these very specific, positive outcomes. But in a general sense, they have a very uneven track record in Bosnia and Herzegovina.

Mr. BOYS. Yes, just to add that I think Bosnia is quite unusual in having a single head of the Islamic faith. And I think that that has helped a lot in sort of providing a focus for the views of the Muslim population.

So I think that that can only be a helpful thing. And yes, I think from an ICMP point of view, we'd like to see—and we've invited the heads of the faiths to come to see what we do, and we've been disappointed not to have received them.

And this is true also of Bosnian politicians. We've had very, very few who have come to visit ICMP's facilities to see the aftereffects of war.

Mr. SMITH. And the final—yes.

Amb. DAVIDSON. Just to add something, since I've been there 3 years now, periodically and predating my arrival, there have been attempts to do what you've talked about, and this goes beyond the Interreligious Council.

They seem to work for a moment and then people fall back into whatever it is they're normally doing. To me, the problem is partly the identity—the close link between ethnicity and religion. It's a marker of identity, if I can put it that way.

And I think one thing I always have trouble with as an American—my understanding is just what Dr. Gregorian said. Things are heard there differently than I would hear them.

I mean, to me, what I'd like to see is a state of the individual and one person, one vote, and all that sort of thing.

There, if you calculate numerically or in groups, and the leader of the Islamic community says this is our homeland, it's exactly the effect the other two groups said, "Oh, there are more of them than

us. We'll get outvoted. We'll disappear. We'll become Muslims." Whatever.

People are very adept there of playing on the fears of their own constituents rather than the hopes, I think, and this is one of the problems.

It would seem to me to be better that the religious communities would step out of politics to the extent possible, because I think they're too much in it.

I recall coming back here for a thing the State Department did for the 10th anniversary of Dayton, and there was one of these religious leaders' round tables. Now, my memory is that Cardinal Puljic did not show up because he was upset with the Americans. I may have this wrong. My memory fails me quite often.

But it's just as people jump into constitutional debates, they tend to see themselves as—in defending their religious communities, defending the ethnic group, and that inevitably comes into politics.

Is there a way to do this so that they would be—you could separate the politics and the religious aspects, I think it would be wonderful. But that seems to be very difficult to do in Bosnia and Herzegovina.

I think it's one of the problems that's—or one of the aspects of life there in way people think that's impeding the kind of political progress we were talking about.

So I'm not sure we have—we have to be careful about how one would foster this.

Mr. SMITH. Well, I think, you know, above all, they should be speaking about nonviolence, that any change has to be done, you know, either at the ballot box, through votes, through negotiation, compromise.

And that voice, if it's heard, not periodically but consistently—and that was part of our conversation with the clerics from Jerusalem yesterday, that the role that they can play in tempering, you know, what is heard, not necessarily what is said all the time, but what is heard—and I think your points are very well taken on that.

I do have one final question to Mr. Boys, and that would be the typical reaction when someone does get closure—they find out that—the identity of their loved one—is it anger? Is it moving on? You know, what does happen when they finally find out, typically?

Mr. BOYS. I've spoken specifically to the one pathologist who is a genuine, I think, Bosnian hero. He's performed the final death certificates of every single victim from Srebrenica and has met with all the families and gone through all the details with them of what has been found.

The range of emotions is huge—initially, anger, relief, sorrow. It's a very powerful reaction. But in the longer term, there is definitely a sense of closure which is a powerful motivator, actually, for other members of these associations to continue to look for the missing.

And also, we've had a lot of people who, having found and buried their son, or husband, have continued the process for the sake of the others. They want them to achieve the same thing.

There's also a powerful cultural notion in this—and very specific, but it's not specific to the individual groups; it's common—which is

that assuming that someone's dead is seen as being extremely bad luck and rather disrespectful and in some ways curses them.

So for them to be able to finally put that person to rest is an immensely important factor in them being able to move on.

Mr. SMITH. Thank you so much.

[Whereupon, at 4:23 p.m., the hearing was adjourned.]

APPENDICES

PREPARED STATEMENT OF HON. ALCEE L. HASTINGS, CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Today's Helsinki Commission hearing focuses on the current situation in Bosnia, and what needs to be done to help that country move forward with the reforms necessary for European integration.

Of course, to the extent the Balkans is the focus of attention today, that focus is squarely on determining the status of Kosovo. That is, indeed, a major issue and, if handled incorrectly, could lead to further instability in the region.

We cannot, however, neglect what seems to be a growing political crisis in Bosnia. The international community, including the United States, has invested considerable time and resources in the 10 to 15 years—including troops, diplomatic personnel and financial assistance—to end the violence in Bosnia and rebuild a country devastated by conflict. It would be a serious error if this international effort were allowed to fail.

We also owe it to the people of Bosnia to encourage them to move forward. Yes, many of Bosnia's politicians can be blamed for the failure to achieve progress, but those politicians are in power at least in part because the wounds of the conflict have not been sufficiently healed. Persons indicted for terrible crimes continue to evade justice. Mass graves continue to be found. The remains of missing family members or loved ones continue to be identified.

It is difficult to exaggerate the true horror of the Bosnian conflict, with its many atrocities including the genocide at Srebrenica, and its impact on the people of the region. Yes, we want the people of Bosnia to look forward, and work toward achieving their country's integration in Europe. At the same time, it is too easy to tell them simply to forget the past, or to put it behind them. At best, they can only reckon with the past, and come to terms with what happened.

Having lived through the injustices of the segregated South here in the United States, I know how difficult it can be to move on when others refuse even to acknowledge the wrongs that were committed by them or in their name.

One defendant at the International Criminal Tribunal for the former Yugoslavia, during his sentencing hearing in which there was a plea agreement, is quoted as saying:

"In Bosnia, a neighbor means more than a relative. In Bosnia, having coffee with your neighbor is a ritual, and this is what we trampled on and forgot. We lost ourselves in hatred and brutality. And in this vortex of terrible misfortune and horror, the horror of Srebrenica happened. I will be happy if my testimony helps the families of the victims, if I can spare them having to testify again and relive the horrors and the pain during their testimony. It is my wish that my testimony should help prevent this ever happening again, not just in Bosnia, but anywhere in the world."

These sentiments need repeating, perhaps thousands of times and not just by those who committed the crimes but by those who

at the time accepted or even supported what was being done in their name.

Our witnesses at today's hearing are unquestionably, if not uniquely, qualified to speak on these issues. Their biographies have been made available to the public and will be incorporated into the record, so I will not repeat them here.

I want to welcome Raffi Gregorian, the Principal Deputy High representative in Bosnia. Dr. Gregorian, we look forward to your comments at this critical time. I note that the State Department loaned Cliff Bond, the former U.S. Ambassador to Bosnia, to the Helsinki Commission as a senior advisor, and we loaned him back to help your office deal with issues relating to Srebrenica. I hope he is getting the support he needs for the valuable work he is doing. We miss his presence here but know he is needed there.

Next, I welcome Ambassador Douglas Davidson, Head of the OSCE Mission in Bosnia. Ambassador, in recent Commission hearings with the President of the OSCE Parliamentary Assembly and the OSCE Chairman-in-Office, there was great praise for the work of OSCE field missions. Your mission led the way in establishing a large presence on the ground, including outside the capital city, and providing substantial expertise in areas like elections. The Helsinki Commission is also a strong supporter of the missions, and we hope that they get the personnel and money they need to get the job done. We know this is a challenge today.

Adam Boys is the Chief Operating Officer for the International Commission for Missing Persons. Mr. Boys, helping people learn the fate of lost family members and loved ones must be one of the most emotionally draining activities to undertake in Bosnia, but I believe it can probably be the most rewarding as well. I congratulate you on the accomplishments of the ICMP and look forward to hearing how your work allows people to reckon with the past.

Finally, we have Diane Orentlicher of American University's Washington College of Law and the Open Society Justice Initiative, who is well known for her work on international law and human rights. How to provide a sense of justice is perhaps the most challenging of all tasks, especially in a place like Bosnia where the injustices were so great. And the challenge is not only to provide some satisfaction to the surviving victims, but also to deter prospective perpetrators of serious crimes that include genocide. It is a sad fact that these crimes were committed in a Europe which was finally whole and free with the conclusion of the Cold War, and equally sad that these crimes have also occurred elsewhere in the world since then, even today. I appreciate your advocacy of efforts which would make this world a much better place, and look forward to your views on the current situation in Bosnia.

PREPARED STATEMENT OF HON. BENJAMIN L. CARDIN, CO-CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Thank you, Mr. Chairman, for holding this very important hearing today. As you know, the conflict in Bosnia coincided with my early work on this Helsinki Commission. As we look at the situation in that county 10 to 15 years later, it is important to recall how genuinely horrific that conflict was. The atrocities committed during the Bosnian conflict truly represent the worst violations of the principles of the Helsinki Final Act since that document was signed in 1975.

The images of ethnic cleansing of villages and the shelling of Sarajevo may have faded from our own minds, but I am sure those events are still vivid today in the minds of the people of Bosnia, especially if they were the subjects and not the audience of the CNN reports. I firmly believe that we must ask the people of Bosnia to look forward, not back—to the future, not to the past. We cannot credibly do so, however, without acknowledging that their past is not so easily forgotten, nor so easily forgiven.

That is why justice is so important, and why I have strongly advocated—both here in the Congress but also through the OSCE Parliamentary Assembly—that all governments cooperate fully with the International Criminal Tribunal for the former Yugoslavia. Based on their different records of cooperation, my efforts have had to focus mostly on Serbia. We want to see Serbia succeed, but the hesitancy if not outright refusal by some in Belgrade to cooperate with the Tribunal by apprehending indicted persons has complicated Serbia's relations with the rest of Europe, and with the United States. It has also perpetuated an unhealthy, nationalist trend in Serbian politics that should not be accepted as a norm there any more than in any other European country. Finally, it is obvious that getting Ratko Mladic and Radovan Karadzic and the two other at-large indictees to The Hague is important for their surviving victims in Bosnia.

It is also important for Bosnian Serbs in particular to recognize the horrible acts that were committed in their name. Some of their leaders nevertheless have also been less than forthcoming in dealing with these issues.

The international community has a wider stake in this issue. If there was any silver lining to the Bosnian conflict, it was that the international community said for the first time since Nuremburg that the perpetrators as well as planners of war crimes, crimes against humanity and genocide would be brought to justice. We have since seen this become part of the international response to conflicts elsewhere. Accountability on the international level, however, is still a delicate and complicated issue, and we would be setting a very dangerous precedent for the United States or Europe to drop this as a priority before the trials of the remaining indictees are complete.

I hope today's hearing will look closely at this issue, and maybe suggest some possible policy recommendations for Europe and the United States. It will also be good to look at how the war crimes chamber in Bosnia is doing, or its counterparts in Serbia or Croatia. We may discuss additional efforts to help the people of Bosnia

move forward, including truth commissions. As we do, however, we should be sure the international community remains committed to the completion of the International Tribunal's work, however long it takes.

**PREPARED STATEMENT OF RAFFI GREGORIAN, PRINCIPAL
DEPUTY HIGH REPRESENTATIVE, OFFICE OF THE HIGH
REPRESENTATIVE, SARAJEVO**

Mr. Chairman, Members of the Committee, thank you for inviting me to today's hearing on outstanding issues in the post-conflict recovery of Bosnia and Herzegovina. This hearing occurs at a critical if not vital moment in the history of post-Dayton Bosnia. Its very survival could be determined in the next few months if not the next few weeks.

Although I am a member of the Department of State, I am here today in my capacity as the Principal Deputy High Representative, presenting the views of the Office of the High Representative (OHR). In June 2006, OHR's international oversight body, the Peace Implementation Council (PIC) Steering Board, agreed that, subject to a review of the situation in February 2007, OHR would be able to close in mid-2007 and hand-over to an enhanced EU mission.

Indeed, 18 months ago this seemed to be the right choice. Bosnia and Herzegovina (BiH) was moving from a stabilization phase to one of integration into Euro-Atlantic institutions. The only question seemed to be when, not if, BiH would get into NATO and the EU. Defense reforms passed in the autumn of 2005 had begun in earnest, with the former warring armies and entity defense ministries dissolving and a new NATO-compatible, multi-ethnic, single armed force taking shape. Value added-tax was introduced with less trouble and greater success than in any other European country, increasing government revenues and reducing the gray economy. GDP growth remained strong and inflation low. A number of fugitives from the ICTY had surrendered to authorities in BiH after mysteriously arriving from Serbia and other countries. The state and entity parliaments had accepted the EU's principles for police reform and adopted a political agreement drafted by Republika Srpska (RS) politicians that allowed BiH to begin negotiations with the EU on a Stabilization and Association Agreement (SAA). In January 2006 the BiH Council of Ministers (CoM) appointed a Police Reform Directorate (PRD) that began developing the required implementation plan. And lastly, the BiH House of Representatives began considering constitutional modifications intended to improve the efficiency of state-level institutions in dealing with the reforms required to join NATO and the EU.

But by the time the PIC took its initial decision there were already signs of serious trouble ahead. Having announced the intention to leave and hand over "ownership" to the local authorities, the worst instincts of local politicians emerged. The constitutional amendments were the first to suffer when the party of Haris Silajdzic withdrew from the agreement it signed with other parties in Washington in November 2005; a small number of defectors from the other parties to the agreement were thus able to block the amendments with just two votes.

Problems with police reform emerged at roughly the same time: the government of Milorad Dodik that took control of the RS in March 2006 immediately disputed a voting mechanism in the PRD and decided RS representatives would participate only as observers. Nevertheless, Serbs from state-level institutions—some of

them very close to Dodik—remained as full members and the PRD continued working.

There followed in short order Milorad Dodik's infamous suggestion that if Montenegro could become independent, as Kosovo might soon do as well, then RS citizens would be asking why couldn't they have a referendum on independence too? Dodik apparently liked the response he got from Serbs in the RS, and the international community, not taking Dodik seriously, basically let him get away with it. It was pre-election rhetoric from someone not thought to be an ardent nationalist, and he assured the then High Representative (HR) it would stop after the elections.

But it did not. On the Bosniak side, Haris Silajdzic, who had scuttled constitutional reform by convincing people that "entity-voting" in the parliament was a feature of the proposed amendments rather than a feature of Dayton, ran an election campaign on promising a "Bosnia without Entities" and the abolition of Republika Srpska as a "genocidal creation." Such rhetoric fed into the paranoia of RS politicians and served to reinforce the passive-aggressive rhetoric of Dodik.

Police reform remained hostage to the resurgence of nationalist electioneering. The PRD managed to produce only a concept paper by its December deadline, and political leaders refused to allow their members of the BiH CoM to even discuss the matter. Attempts by the international community since then to facilitate a complete agreement in line with previously accepted EU conditions have failed mostly because Milorad Dodik and Haris Silajdzic have been unwilling to agree, while their national rivals have been either unwilling or unable to break with them.

Their failure to agree has been attributable to two things. First, each saw police reform as a proxy for constitutional reform. Silajdzic refused to agree to anything that would recognize the existence or legitimacy of the RS, despite it being a feature of Dayton. For his part, Dodik did not want to "give up" the RS Police because he believed it would weaken his position in any future talks on a new constitution. Second, it now seems clear that neither man wanted to give up the control of police they currently exercise through their parties' participation in government. The fact that the two men eventually signed a meaningless agreement in contradiction with the EU's conditions and without seeking support from their coalition partners was more about avoiding blame for failure than it was about meeting the EU's conditions.

The end result is tragic. Despite the fact that SAA negotiations were successfully completed a year ago and all other EU conditions essentially met, BiH seems further than ever from the EU. The most influential politicians in BiH—Dodik and Silajdzic—prefer the isolation of BiH rather than having to meet the EU's conditions for integration. I say tragic because more than 70% of BiH's population wants to join the EU, but those same people expect the international community to make it happen rather than demand their leaders do the jobs for which they were elected.

Equally troubling is that the six parties in coalition at the state level are intent on moving forward on drafting a new constitution. Troubling because they blame Dayton-based structures for their inability to agree on police reform, even though those same struc-

tures did not prevent defense, intelligence, judicial, tax and other reforms adopted by the previous government. Nor do they recognize that failure to agree on police reform indicates they are probably not responsible enough to deal with something as serious as changing the BiH constitution, which is Annex 4 of Dayton. Their respective stances on constitutional reform are at great variance from each other, but all feature ideas on how to territorially divide up Bosnia. Sadly, most BiH politicians still see politics as a zero-sum game where the goal is to divide wealth amongst cronies rather than create wealth for the common good. They see politics as just an extension of the war by other means despite the fact that the public is interested in improving the economy and getting decent jobs.

Nowhere has the cynicism of politicians been more clearly evident than in the issues surrounding Srebrenica during the first half of this year. In late February, the International Court of Justice (ICJ) rendered its verdict in the 14 year-old case of BiH v. Serbia. The ICJ determined that Serbia violated the Genocide Convention by not doing enough to prevent genocide at Srebrenica in July 2005, and was in further violation of international law for refusing to hand over Ratko Mladic, known to be in Serbia for most of the past nine years.

The verdict was deeply disappointing and disturbing to many Bosniaks. After all, the role of Belgrade in directing, financing, and supporting the war in BiH has been well documented. Undaunted by the limited verdict, President Silajdzic nevertheless claimed that the ICJ verdict required the abolition of the RS. The reaction of RS officials—despite clear statements by the international community that the ICJ verdict did NOT mean the end of the RS—was one of contrived paranoia. Certainly the movement by Bosniak politicians to detach Srebrenica from the RS and make it an independent district did not help, nor did threats by Federation war veteran organizations to send 10,000 veterans to Srebrenica to provide security for returnees there. The physical security situation in Srebrenica may have been calm for years, but the ICJ verdict awoke a sense of psychological insecurity among Bosniak returnees there and politicians exploited this to the full.

Only by a concerted effort of OHR and US officials was this volatile situation calmed down before threatened secession or an exodus of Bosniak returnees materialized. Certainly the HR's timely and astute appointment of Amb. Cliff Bond as his special envoy for Srebrenica helped turn the tide, and let me extend the HR's thanks to this committee and Fred Turner for letting him take on this task. Success has been achieved in two ways. The first has been by working with local authorities to provide real support for sustainable returns by increasing employment, developing business, and improving infrastructure and social services. The second has been by prodding state and RS authorities to finally deal in a serious and systematic way with the many of the perpetrators of the genocide who are still walking around free today, some of them even in police uniforms. In both of these areas Mr. Dodik's government has been helpful, despite his defiant and politically destabilizing behavior in other areas.

Let me speak briefly about war crimes issues. BiH and RS authorities are cooperating with the ICTY, but I choose these words carefully. Neither the BiH nor the RS authorities demonstrate any initiative in this area. Almost every action against ICTY fugitives and their support networks occurs at the suggestion of the international community or in response to international actions. Investigations against persons on the so-called "Srebrenica list" had to be spurred by OHR, as has the hiring of additional investigators, amendments to the criminal code, the suspension of police officers suspected of participation in war crimes, and the freezing of assets of war criminal supporters. On a slightly more positive note, the War Crimes Chamber of the Court of BiH has been dealing satisfactorily with those cases transferred to it by the ICTY.

Nevertheless, the real problem lies in Serbia, where most if not all of the remaining fugitives remain within reach of Serbian authorities. The June arrest of Zdravko Tolimir in BiH by RS police after his transfer from Serbia shows that Belgrade can deliver fugitives when and how it wants to. The fact that at numerous former and current ICTY fugitives have spent time in Serbia and other countries further complicates efforts to bring such people to justice.

In sum, the situation in BiH today is grim. Dodik and Silajdzic have no real interest in agreeing on the EU's police reform conditions for an SAA, despite a mildly encouraging declaration in Mostar last month. The fact is that eventual EU membership is just not enough of an incentive for leaders who are playing for high stakes in the short-term. The idea that these same leaders will agree on a new constitution that will promote political tranquility and prosperity in BiH is at best an illusion.

And now there is a possibility that by the end of this year there will be no effective peacekeeping force to maintain a safe and secure environment in BiH. By November 21st the UN Security Council must vote to renew the mandate of the EU peacekeeping force (EUFOR) in BiH, but its extension can not be assumed and could be tied to efforts to end OHR, despite the fact that it is *sui generis* from Dayton, and not a creature of the UN. Such a turn of events would make it easier for Banja Luka and Belgrade to realize RS secession from BiH in the event Kosovo becomes independent.

The contrived and deliberate over-reaction of RS politicians to measures announced by the HR on October 19 are part of the prelude for the drama to occur between November 21st and the period following the Kosovo Troika's report to the UN on December 10th. RS government officials will continue to egg on RS NGOs calling for independence, will seek to prevent state institutions from functioning, and will continue with legislative actions meant to facilitate eventual independence. Indeed, as part of this separation strategy, Serbian Prime Minister Kostunica stated that the HR's measures "endangered" Serbs in BiH and explicitly linked the idea of RS secession with Kosovo independence. This is explosively loaded language, as Milosevic and his henchmen used such terms to justify what he did as self-defense for Serbs. Of course there is no objective basis for the use of such language. The security situation in BiH has been calm for some time now, but may not continue to be so as politicians continue to sow distrust in the minds of ordi-

nary people. Talk is rife now about how things are again like they were in 1991–92 and there have been reports that the RS Government is already preparing ballots for an independence referendum.

Failure to renew EUFOR's mandate or including OHR's termination in a UNSCR will play right into the hands of secessionists intent on abrogating Dayton and taking the region back to a very dark time. These people are betting on a weak response from the West, which they calculate is too busy with problems elsewhere. I hope you will agree that it would be monstrous to allow this to happen. Surely the International Community can ill-afford to have its successful post-conflict efforts in BiH over-turned into a humiliating defeat. Nor can it afford to allow images of people fleeing areas in which they are ethnic minorities, fearing the worst will happen again in the space of the same generation. Only robust and joined up action by the US and the EU can stop this madness from happening.

Thank you for your attention. I stand ready to answer any questions you may have.

PREPARED STATEMENT OF AMBASSADOR DOUGLAS DAVIDSON, HEAD OF MISSION, OSCE MISSION TO BOSNIA AND HERZEGOVINA, SARAJEVO

Thank you for offering me the opportunity to talk about the OSCE and its role in Bosnia and Herzegovina's recovery from conflict. For twelve years we in the OSCE have been one part of a larger effort to help Bosnia and Herzegovina become a modern, multi-ethnic democratic state. Our role in this effort is, I think, a distinct one. High politics we leave to the High Representative. Instead we try to help build democracy from the ground up.

In his book *Pericles of Athens and the Birth of Modern Democracy*, Donald Kagan observes that: "Although in our time democracy is taken for granted, it is in fact one of the rarest, most delicate and fragile flowers in the jungle of human experience—an examination of the few successful democracies in history shows that they need to meet three conditions if they are to flourish. The first is to have a set of good institutions; the second is to have a body of citizens who possess a good understanding of the principles of democracy, or who at least have developed a character consistent with the democratic way of life; the third is to have a high quality of leadership, at least at critical moments." If Professor Kagan is correct, we cannot yet describe Bosnia and Herzegovina as a successful democracy. It has not yet fully met the three conditions needed for democracy to flourish.

This is not for want of trying. In our part of the effort to help democracy flourish, we in the OSCE have striven to help create precisely such a set of good institutions. We have not only sought to strengthen the structures of government—executive, legislative, and judicial alike—we have also encouraged these structures to become more transparent in their work, more accountable to their constituents, and more cognizant of the underlying principles of democracy and human rights to which they have subscribed. The strengthening of the structures of government is, however, not enough in itself to create democracy. Openness and transparency and democracy, after all, do little good if citizens are unwilling or unable to take advantage of them—if they are unwilling or unable to participate actively in their own governance and thus to ensure that their elected and appointed representatives are held responsible for their decisions and actions. This requires a genuine and active civil society.

In Bosnia and Herzegovina such a civil society is still largely absent. A feeling of helplessness, of apathy and disengagement, appears to be pervasive among the citizenry. Political affiliations tend to conform to ethnic affiliations. People do not readily band together—especially across ethnic lines—to advance a common cause. We have sought to overcome this by seeking to nourish the growth of a body of citizens who possess a good understanding of the principles of democracy.

This has proven to be one of the hardest parts of our job. We have learned through experience that you cannot simply give people money to form a non-governmental organization and expect this to result in effective civil society. We have found that it makes more sense to seek out, assist, and support those who already wish to help one another. Under-represented groups of people in politics

and public life, particularly youth and women, need encouragement too. We are devoting especial attention to youth because we are concerned about the “brain-drain”—the continuing departure of the country’s brightest young people to western Europe and North America, a journey that about seventy percent of Bosnia and Herzegovina’s younger citizens say they would like to make. We want to encourage these young men and women to recognize that, if they stay in the country, they can make a difference. Without them, we fear, the country has no future.

The Dayton Agreement also assigned to the OSCE a role in promoting, protecting, and preserving human rights. The return of refugees and displaced people to their homes has long been one of our prime human rights concerns. The war in Bosnia and Herzegovina displaced roughly half of the pre-war population of four million people. The destruction to property was similarly sweeping. Today, however, most of the property lost in war is now once again in the hands of its original owners. This is a rare achievement in countries recovering from war.

The restoration of property did not happen automatically or without turmoil. It required a new property law and a plan to implement it. This realization arose in response to a phenomenon that had become obvious a few years after war’s end: despite the existence of Annex Seven of the Dayton Agreement, few people had actually returned to their pre-war homes. The Property Law Implementation Plan process—“PLIP,” for short—brought international oversight to bear over the administrative procedures by which pre-war owners or occupants reclaimed their property. It worked. By now, almost all of the claims submitted—and there were slightly more than two hundred thousand of them—have been resolved and most have resulted in the repossession of the properties in question.

The successful repossession of property does not, however, mean that all problems related to residence in a community disappear. The OSCE has therefore turned its attention from repossession itself to the other things necessary to make return to pre-war homes sustainable and successful. Here, too, the transformation of Bosnia and Herzegovina into a successful multi-ethnic or multi-confessional state is less than complete. Discrimination against and intimidation of minorities in communities throughout the country still too frequently occurs.

A culture of impunity also impedes return. It exists in matters large and small. Despite the nearly unanimous passage four years ago by the Parliamentary Assembly of Bosnia and Herzegovina of a law regulating primary and secondary education and despite commitments made by the government of the Bosnia and Herzegovina to the Council of Europe upon joining that organization to end such practices, schools remain divided by ethnicity. Despite the adoption of new criminal procedure codes and the creation of a war crimes chamber in the Court of Bosnia and Herzegovina, war criminals still walk free and even continue to work in public institutions, including the police. The rule of law—that is, good laws fairly enforced—is too often lacking. This, too, hinders the development of democracy.

Obstacles both hidden and overt block the fair and effective prosecution of war crimes cases. Ethnic bias in local courts still prevents justice from taking its proper course. In addition, the countries of this region all have constitutional or legal provisions against extradition. These provisions permit those suspected or even convicted of crimes, not least of war crimes, in Bosnia and Herzegovina to flee across borders and, thanks to dual citizenship, to avoid incarceration. The OSCE has for several years attempted to promote greater regional cooperation in war crimes prosecution as a means to end this particular kind of impunity and to bring criminals to justice. These attempts have foundered on the unwillingness of the governments involved to transfer proceedings or to change their laws or constitutional restrictions on extradition. We can only hope that similar initiatives launched more recently by the United States of America and the High Representative of Bosnia and Herzegovina meet with more success.

Education presents another large barrier to the advancement of the country. The classroom can, if misused, be a most efficient means of perpetuating prejudices. Bosnia and Herzegovina essentially has three school systems—one for each constituent people. They contribute to the growing divide in the country. Students emerge from them having little knowledge of the other nationalities and national minorities with which they share their state. Their schools may also reinforce beliefs about the particular uniqueness and superiority of one's own group over the others in the country. Ideally, of course, each state should seek to educate its citizens so that they become tolerant and reasoning adults prepared for their duties as citizens of a democracy. Bosnia and Herzegovina has committed to educating its future citizens in this way by virtue of the international covenants it has signed, the international pledges it has made, and the international organizations it has joined. But the reality of education in Bosnia and Herzegovina is, sadly, somewhat different.

The Rand Corporation concluded a recent study of nation-building with a chapter called "lessons learned." Among other things, it said this: "Democratization is the core objective of nation-building . . . what distinguishes Germany, Japan, Bosnia, and Kosovo on the one hand from Somalia, Haiti, and Afghanistan on the other are not their levels of economic development, western culture, or national homogeneity. Rather, what distinguishes these two groups is the levels of effort the international community has put into their democratic transformation. Successful nation-building . . . needs time and resources."

That, I think, is certainly true in the case of Bosnia and Herzegovina. It is also true, I think, that the democratic transformation of Bosnia and Herzegovina has not yet run its course. To become a truly successful democracy, it will most likely require more time and more resources. Whether the international community still has sufficient appetite to devote more time and more resources to this country is a question I cannot answer. I can only say I hope it does.

PREPARED STATEMENT OF DIANE ORENTLICHER, PROFESSOR AND CO-DIRECTOR, CENTER FOR HUMAN RIGHTS AND HUMANITARIAN LAW, WASHINGTON COLLEGE OF LAW, AMERICAN UNIVERSITY, WASHINGTON, DC

Chairman and distinguished members of this Commission, thank you for inviting me to testify about the importance of justice to the social reconstruction of Bosnia and Herzegovina. More than any other government body, this Commission has consistently kept sight of the important and challenging issues confronting the Balkans. While others have lost focus despite the need for sustained engagement, you never have.

My testimony reflects research that I am currently undertaking on behalf of the Open Society Justice Initiative, which has taken me to Bosnia and Herzegovina as well as Serbia twice in the past year. This research examines the impact of the International Criminal Tribunal for the former Yugoslavia, or ICTY, in the region that is directly affected by its work.

I will make four principal points. First, the work of the ICTY is deeply important to Bosnians, for whom the hellish conflict that ended in 1995 is all too fresh and for whom criminal accountability is an essential element of their recovery.

Second, while some of the ICTY's prosecutions have already brought an important measure of justice, Bosnians are profoundly disappointed in what the ICTY has so far failed to accomplish. Above all, the fact that the two men who personify their suffering—Ratko Mladić and Radovan Karadžić—are still at large more than twelve years after they were first charged with genocide is an almost incomprehensible failure of justice. For this, Bosnians blame not only the ICTY but the international community, which Bosnians see as aiding and abetting these two fugitives' impunity.

Third, one of the most tangible contributions of the ICTY has been its role in spurring the establishment of a domestic War Crimes Chamber in Bosnia, which is bringing justice home. But far more work remains to be done.

Fourth, in Bosnia as in other countries in the former Yugoslavia, the positive impact of the ICTY would be significantly greater if the Tribunal were able to devote more resources to "outreach", that is, to communicating effectively with Bosnian society.

THE IMPORTANCE OF JUSTICE

Justice is important to victims of all three major ethnic communities in Bosnia, but since the overwhelming majority of victims are Bosniaks, and also because the attitudes of Bosnian Serb and Croat victims toward the ICTY are comparatively complex, my observations will focus on Bosniaks' need for justice.

While the Bosniaks I have interviewed this year expressed many disappointments in the achievements of the ICTY, including disappointment in what many consider grossly inadequate sentences, virtually everyone emphasized how important the Tribunal's work is to them and to their country. I was able to get a particularly vivid sense of this last November: I was in Sarajevo when the ICTY Appeals Chamber raised to life in prison the sentence of Stanislav Galić, whom an ICTY Trial Chamber had sentenced to 20 years in

prison for his leadership role in the siege of Sarajevo. Sarajevans were deeply gratified by this decision, which in their view honored their suffering and restored a moral balance that had been frightfully put awry.

Bosniaks felt a similar sense of vindication by the ICTY's determination in an earlier case that what happened at Srebrenica was a genocide. As one Bosniak woman put it (and as many said in similar terms), the ICTY's "finding that what happened at Srebrenica was genocide is the most important achievement and without the ICTY this would not be possible." (She said this before the International Court of Justice (ICJ) reached the same conclusion in its February 2007 judgment, but I do not believe she would modify her views in light of that judgment. After all, the ICJ judgment relied heavily on the ICTY's findings—and other aspects of its judgment are a profound disappointment to Bosniaks.)

Some of my interlocutors told me that the ICTY's recognition of rape as international crime has helped many rape victims in Bosnia. As one woman put it, "ICTY judgments created a new kind of awareness that women had been used as a means of war. They became visible, personalized, and recognized as one kind of victim. This enabled them to become more active," for example in exercising their rights to obtain civil benefits.

When I asked victims if the work of the ICTY was important to them, those I interviewed invariably said yes. When I followed up by asking them to explain why it was important, they found my question almost incomprehensible and assumed that I did not understand what they had experienced. What else could explain my question?

I had one such exchange with a man in Prijedor who was 17 years old when he was detained in the infamous concentration camp at Omarska. While he survived this horrific ordeal, his 15-year-old brother and father were killed, along with dozens of other members of his extended family. When I asked him to explain why he believed, as he had told me, that it is important to punish those who commit crimes, he looked at me as though I had asked a thoroughly nonsensical question and patiently explained, "what I went through, whoever was in my shoes would like to see some justice being done."

The reasons why Bosniaks have placed hope in the ICTY are notably different than the reasons why progressive Serbians support the Tribunal, but its work is deeply important to them as well. During my interviews this past year, Serbian supporters of the ICTY expressed various reasons why they support the Tribunal, including the debt that Serbian society owes victims of atrocious crimes. But the most pervasive reason was framed in terms of Serbians' hope that the legal truth established in The Hague would help dispel many of their fellow citizens' continuing denial when it comes to Serbia's role in the atrocities that raged across the former Yugoslavia in the 1990s. In their view, Serbia cannot move forward as a stable and mature democracy unless its society accepts this truth and the responsibility that comes with it.

As my previous observations suggest, for Bosniaks the justice of the ICTY is more personal. Yet in both Serbia and Bosnia, many of my interlocutors expressed a common belief that justice is a nec-

essary foundation for long-term reconciliation. Speaking of the ethnic atrocities committed during the 1990s conflicts, one Bosnian woman made the point this way, “If you just push it under the carpet, it will grow and it will be a real problem” in future inter-ethnic relations.

FAILURE TO ARREST RADOVAN KARADŽIĆ AND RATKO MLADIĆ

While the contributions that the ICTY has already made are important, they risk being overwhelmed by one monumental failure: the fact that Ratko Mladić and Radovan Karadžić, the two men who personify Bosniaks’ suffering, remain at large more than twelve years after they were first indicted on genocide charges. One of the people whom I interviewed in Sarajevo summed up what I heard from many Bosniaks: In her view, the ICTY has done “so many good things but they’re in the shadow of Karadžić and Mladić.” Because these two suspects have eluded justice for so long, she said, “many ordinary people [in Bosnia] can’t see the good things the ICTY has done.”

In February 2007, the International Court of Justice ruled that Serbia’s continuing failure to apprehend Ratko Mladić and transfer him to The Hague is an ongoing violation of the 1948 Genocide Convention. This was the first time since the Convention’s adoption nearly half a century ago that a State has been legally judged to be in breach of the treaty. In the wake of this judgment, the international community should have redoubled its efforts to ensure that Mladić is apprehended. This has not happened.

The international community has failed effectively to exercise its leverage to ensure the arrest of Mladić, who is known to have been sheltered in Serbia and is believed still to be there, and Karadžić, who is believed to be somewhere in the former Yugoslavia, possibly Serbia. As has often been noted, political pressure, particularly from the United States and the European Union, has been essential to Serbian cooperation with the ICTY. As a result of that pressure, Serbia has surrendered almost 40 suspects to the ICTY since 2000. Yet at crucial times, the international community has failed to maintain that pressure, and this has enabled Mladić and Karadžić to elude arrest.

Yesterday the European Union (EU) took a preliminary step toward Serbian membership in the EU by initialing a Stabilization and Association Agreement (SAA) with Serbia. This action followed an informal assessment by the ICTY Chief Prosecutor, Carla del Ponte, to the effect that, while Serbia still has not extended full cooperation to the Tribunal, it has made sufficient progress in its cooperation to merit initialing the agreement.

In a public assessment three weeks ago, Ms. del Ponte was less sanguine: Acknowledging that Serbian cooperation was better than it had been one year ago—a notably low bar of achievement—she found that while there had been some activity in the Serbian government’s “efforts to locate fugitives and identify networks protecting them” in recent months, “these actions were slow, irresolute and unsystematic.” In particular, “[t]he fact that Ratko Mladić is still at large after all the promises and declarations that have been made over the years clearly demonstrates that fact.” She concluded,

"I am absolutely convinced that Serbia's Government possesses the resources and the means to locate and arrest the fugitives."

Having initialed the SAA, it is manifestly important that the EU require Serbia to secure Mladić's transfer to The Hague before it signs an SAA with Serbia. Similarly, if we obtain intelligence indicating that Karadžić is in Serbia, his surrender, too, must be secured.

The United States must do its part, as well, to ensure that the shameful sheltering of Mladić and Karadžić at long last ends. We owe it to Bosnia as well as to Serbia to find effective ways to make clear that our relationship with Serbia will not be the kind of relationship that two mature democracies enjoy with each other until Serbia stops shielding a man who has twice been indicted for masterminding genocide.

Earlier this year, the United States certified that Serbia had met congressional preconditions, one of which is cooperating with the ICTY, for disbursing U.S. economic aid appropriated for Serbia. This certification followed Serbia's role in securing the arrests of two fugitives from the ICTY, which represented a welcome resumption of cooperation by the newly-formed government in Belgrade after a protracted period of non-cooperation. While this cooperation deserved recognition, the relevant certification law specifically mentioned the surrender and transfer of Ratko Mladić as an example of the type of cooperation expected from Serbia.

A similar law was recently approved in the House and is now in conference. Although United States aid to Serbia is no longer substantial, the certification process required by U.S. law provides an important opportunity to convey to Serbia the importance we attach to its apprehension of Mladić.

Many Bosniaks would feel deeply betrayed if the ICTY were to close its doors while Mladić and Karadžić continued to bask in the impunity of Serbian complicity. And there is no doubt that they would blame the United States as well as the EU for squandering the influence they can bring to bear to ensure that, however long delayed, justice is not forever denied them.

DOMESTIC WAR CRIMES PROSECUTIONS

One of the most tangible contributions the ICTY has made in Bosnia (as well as Serbia) is to stimulate the creation of a national War Crimes Chamber and to help ensure that it meets international standards of fair process. A major impetus for the establishment of the Chamber was the impending end of the ICTY's work, which is supposed to complete all of its proceedings by 2010. To ensure that it could do so, the ICTY needed to be able to refer many of its pending cases to national courts. Since the majority of ICTY cases not yet prosecuted but under investigation or indictment emanated from Bosnia, the Tribunal wanted to ensure that Bosnia in particular could handle referrals. And so, as part of its completion strategy, the ICTY helped establish a domestic court in Bosnia to which it could confidently refer cases that the Tribunal would be unable to complete itself.

The ICTY's efforts to put its completion strategy in place coincided with a comprehensive reform of the Bosnian criminal system by the Office of the High Representative (OHR). The two institu-

tions collaborated in designing a national war crimes chamber for Bosnia, and in early 2005 the OHR established the War Crimes Chamber (WCC) as part of a new State Court of Bosnia and Herzegovina. The United States and the Organization for Security and Cooperation in Europe have played important and constructive roles in preparing the Chamber to operate effectively.

Until the WCC began to operate, the record of Bosnian courts in prosecuting war crimes committed during the 1990s conflicts was abysmal. Although many thousands of people were victims of atrocities during the 1990s conflict, only 54 domestic war crimes cases are known to have reached the trial stage in Bosnian courts before 2004.

This picture has changed dramatically as a result of the WCC's work. Now, credible war crimes prosecutions are taking place in the country where the overwhelming majority of victims reside. While the ICTY does not deserve all of the credit for this development, it is hard to imagine the WCC operating today without the ICTY paving the way. In the words of a Bosnian journalist whom I interviewed during one of my visits to Bosnia during the past year, "If there had been no Hague Tribunal, it's a big question when or whether domestic bodies would start processing war crimes cases."

The process of devolving ICTY cases to national war crimes prosecutors in the Balkans has had wider benefits in terms of regional cooperation. In the words of an attorney in the OSCE Belgrade mission, "Co-operation among the prosecutors in the region is generally steadily progressing in war crimes matters. They meet each other frequently and they exchange evidence and information in concrete cases. . . ." This is not to say that war crimes-related cooperation with the region is what it should be, but it has improved significantly. While several developments, including the ICTY's recent verdict in the Vukovar Three case, have revived tensions among the region's major ethnic groups, the national war crimes prosecutors, according to the OSCE mission in Belgrade, "were those who were calming the tensions down, often publicly commending each other's work."

The establishment and operation of the WCC is a milestone, and the Chamber has benefited in myriad ways from the infusion of expertise as well as evidence provided by ICTY staff and other institutions. Yet it faces several major challenges. Among them, the Chief Prosecutor has not yet adopted a national strategy for prosecutions. Without one, his office has often been reactive rather than strategic in its selection of cases.

In addition, the Bosnian War Crimes Chamber suffered a major setback in May, when Radovan Stanković escaped from prison after being convicted by the WCC of serious war crimes, including responsibility for supervising a notorious rape came in Foca and personally raping three women there. Stanković's case was the first one transferred from the ICTY to the Bosnian War Crimes Chamber and his conviction was the Chamber's first. The ICTY is understandably concerned about Stanković's flight from justice, noting that the failure to apprehend him "has undermined the reputation of the judicial and other institutions in [Bosnia and Herzegovina]"

Six months after his escape, Stanković is thought to be hiding in Serbia or Montenegro. What is more certain than his exact whereabouts, according to press accounts, is that “there is almost no cooperation with Serbia concerning the search for Stanković.” Once again, there is a direct line between thwarted justice for Bosnian victims and Serbian obstruction.

Finally, while donors have understandably focused on the WCC, which plays the leading role in Bosnia’s war crimes prosecutions, they have not yet provided adequate support to entity-level courts. Yet just as the ICTY can prosecute only a relatively small fraction of war crimes committed in Bosnia, the WCC can prosecute only the most serious cases that have not been prosecuted by the Hague tribunal. If the ICTY is to succeed in paving the way for what must be a sustainable process of providing justice to victims of ghastly crimes, international actors must play their part to ensure this happens. More specifically, the United States and other donors need to ensure that a coordinated approach is in place for prosecuting outstanding war crimes cases and that all of the courts that will play a role in this process are able to conduct fair trials.

OUTREACH

As has so often been noted, the ICTY’s geographic and cultural distance significantly affects the ability of Bosnians to engage with the Tribunal. But its location in The Hague would not be so problematic in this respect if its work were better understood throughout Bosnia. Unfortunately, however, the ICTY’s judgments have been interpreted by local politicians who politicize its verdicts as well as by nationalist media. As an astute observer in Republika Srpska noted, for much of the ICTY’s history the only reflections in Bosnia of what was happening in The Hague “were the ones that could pass through the manipulation of the media and political bosses here in Bosnia and Herzegovina.”

While this failure lies squarely on the shoulders of political leaders, the ICTY can do more to counter manipulation of its work. But it needs donor support to make this possible.

Within the limited budget available for outreach activities in Bosnia, the ICTY has in recent years participated in some remarkable programs in towns that were once the scene of horrific crimes. Organized in collaboration with local partners, these programs have provided an opportunity to bypass the distortions of local politicians and media and explain directly to local residents what crimes have been judged to have been committed in their midst—and why.

An extraordinary Bosnian Serb, Branko Todorović, has played a leading role in organizing these programs. Last November, when I visited Todorović in Banja Luka, he described for me the transformative impact of these programs. Other Serbs whose knowledge of the ICTY had long been filtered by local political leaders and ethnic media were, in Todorović’s words, finally “able to see the factual truth, not the political truth,” and they grasped that “the truths are horrible.” This revelation was, he said, “very, very powerful.” These outreach programs provided local Serbs with an opportunity “to say that what happened is horrible and I want to be different.”

Todorović illustrated the value of these programs by describing breakthrough moments in various ICTY outreach programs. Let me share with you two examples. First, the representatives of the ICTY at a program in Brčko were able to dispel a pernicious rumor that had long festered and grown within the Muslim community of Brčko. The rumor was that Serbs had burned the bodies of Muslim victims in ovens normally used to cremate animals. One participant in the ICTY outreach program asked ICTY representatives why they had not investigated this allegation, and an ICTY police investigator was able to explain that in fact they had investigated reports of this episode. He explained in detail how the investigators were able definitely to establish that Serbs had not in fact burned Muslim victims, as had long been rumored. Todorović thought that, if this expert had not been able persuasively to set this rumor to rest, “it would always cause hate” in Brčko. Instead, “the book on that was closed.”

Todorović also told me about a man at an ICTY outreach program in Prijedor who had lost many family members as a result of Serb atrocities during the 1990s conflict. At the end of the outreach program, this man said that that day had been one of the most important in his life since the dearest members of his family had been killed fourteen years earlier. In Todorović’s words, “it meant so much that his neighbors, Serbs, were present and therefore admitted that the crime was committed. It was a contribution to the reconciliation after the war.”

These examples provide a small glimpse into the kind of impact that the ICTY’s justice could have if the Tribunal had a greater outreach capacity. Yet outreach has always been an extra-budgetary and under-funded program. This is shortsighted: When a court delivers justice from afar, its verdicts do not speak for themselves. Too often, their meaning has been deformed by nationalist leaders.

CONCLUSION

Chairmen, most people outside of Bosnia and Herzegovina cannot begin to fathom the importance of justice to survivors of Bosnia’s passage through hell. But this Commission has understood, and has insisted that our country not lose sight of the important challenges we still confront. Above all, as the ICTY approaches the end of its mandate, it is critically important to ensure that its contributions are not undermined and overwhelmed by its failure to try the two men who, for Bosnians, are the faces of their collective nightmare—Ratko Mladić and Radovan Karadžić.

**PREPARED STATEMENT OF ADAM BOYS, CHIEF OPERATING
OFFICER, INTERNATIONAL COMMISSION ON MISSING PER-
SONS, SARAJEVO**

1. The first Chairman of ICMP—Cyrus Vance—observed that “peace is a psychological as well as a physical state and helping the grieving is essential to achieving full peace.”

2. Families of the missing are among those most affected by trauma and fear. Not only have they lost family members, but they are often refugees or displaced persons as well. Consequently, they easily fall prey to nationalist political manipulation. Breaking that link is critical to the successful implementation of any post war agreement.

3. The International Community’s first High Representative in Bosnia—Carl Bildt—describing post conflict societies; said that, moving forward depends on overcoming the fears of the past. The recent conflicts in former Yugoslavia vividly illustrate the perils that result from failures to address the past.

4. In the build up to the recent conflicts, opportunistic nationalists exploited post Second World War efforts to conceal previous inter-ethnic and political atrocities. They grossly exaggerated or grossly understated the numbers of dead and inferred the existence of hidden mass graves to stir up ethnic hatred, fear and distrust. Concealed mass graves may consequently be seen as “political land-mines” that threaten the stability of societies for generations to come.

5. There have been more recent attempts to abuse the issue of missing persons for political gain. Extreme examples include the Government of the Republika Srpska, initially denying that 8,000 men and boys were missing from the fall of Srebrenica in July 1995, and the Milosevic regime seeking to hide evidence regarding the disappearance of over 800 persons from Kosovo who were transported and buried near the Serbian capital of Belgrade. In both cases, the governments tried to conceal the fact that atrocities were committed.

6. With no binding international legal instruments to address the human rights aspects of missing persons from armed conflicts and crimes against humanity, the regions of the former Yugoslavia were hard pressed to address the reality of over 40,000 persons missing at the end of hostilities.

7. To assist in finding a solution President Clinton announced the creation of ICMP. In his words the primary tasks of ICMP were:

8. [To] secure the full co-operation of the parties to the Dayton Peace Agreement in locating and identifying the missing from the four year conflict and to assist them in doing so . . . to support and enhance the work of [other organizations in their efforts] . . . [to] encourage public involvement in its activities and . . . to contribute to the development of appropriate expressions of commemoration and tribute to the missing.

9. Overcoming political inertia on the ground was a high priority for international and local policy makers in the aftermath of the war. Recognizing that uncertainty over the fate of the missing was an obstacle to reconciliation and peace-building in the region, Cyrus Vance invited eminent representatives of the international

community to act as ICMP Commissioners, while governments of the region nominated representatives to participate in decision-making and to secure local political commitment.

10. Then ICMP started to develop a three-pronged approach to the problem. Working directly with governments, using forensic sciences, and supporting civil society actors, ICMP has achieved results in a way that has ensured sustainability and encouraged local ownership of the process.

11. By embedding our efforts within the domestic structures of the locations in which we work, ICMP has acquired a unique expertise in guiding post-conflict states through the difficult task of accounting for the past. In so doing, states not only meet their human rights obligations, they also build institutional capacity that promotes long-term public confidence in state prosecutors, the police, forensic investigators, judicial systems and in parliamentary systems. Indeed, pursuing answers to questions about gross violations will assist the governments of post-war states to win back the public trust by ensuring fair treatment for victims and ensuring that the perpetrators of atrocities cannot escape justice.

12. In Bosnia and Herzegovina the state government has, with the assistance of ICMP and the International Committee of the Red Cross, drafted and adopted unique enabling legislation, such as the Law on Missing Persons. It has also established the Missing Persons Institute, an institution responsible for pursuing cases of missing persons regardless of national identity. Civil society initiatives have encouraged the development of cross-boundary networking between associations of family members that exert pressure on governments to release information on the whereabouts of mass graves. These groups have also lobbied for and received the same rights and social benefits as those of families of veterans or fallen soldiers. And, these networks of associations have also facilitated the collection of blood samples from survivors to assist in the DNA-led identification process.

13. ICMP considers family members to be integral to the satisfactory resolution of missing persons cases. By consulting them and by creating a mechanism for them to directly engage with governments, they are fully included in a transparent process where responsibilities are defined and accountability clear.

14. ICMP's forensic teams have pioneered novel, rapid and cost-effective techniques for identifying sets of mortal remains that have been intentionally disturbed. Initially, forensic experts had deemed progress on such complex issues unlikely, since in the process of moving and re-concealing victims, many mortal remains had been dislocated and spread across numerous hidden graves.

15. Early inability to make positive identifications granted war criminals a measure of protection Uncertainty as to the identity of those in the graves enabled the denial of atrocities. Indeed, one Serbian government minister reported that many of those buried in a mass grave in Belgrade were Serbs when in fact all 800 were Kosovo Albanian. And, Milosevic's wife is reported to have said that all those buried there were Serbs murdered during Nazi occupation.

16. ICMP's advances in identification techniques directly undermine these attempts to deny mass atrocities. They bring to light ir-

refutable evidence that links specific individuals to particular crimes. Through the identification process, then, evidence is uncovered and victims' humanity is restored. ICMP's success in developing these new DNA matching techniques has made it a leader in advancing forensic technologies and is a prime example of science in the service of truth and justice. To the 2nd of November 2007 these efforts in the former Yugoslavia have resulted in 12,744 DNA-based identifications (including 10,659 for Bosnia and Herzegovina) bringing long-awaited answers to damaged communities.

17. Initially, it seemed likely that there would be a very limited number of identifications relating to the fall of Srebrenica in 1995. Attempts had been made to conceal mass graves by digging them up and reburying remains in multiple locations. By combining intensive anthropological analysis with selective DNA testing of mortal remains from highly commingled sites identifications are possible though the cost is relatively high. At one fifth of the total number of missing from the former Yugoslavia, work related to Srebrenica accounts for more than 50% of ICMP's work because of the complexity of these graves.

18. In October 2007, having completed a series of secondary but linked mass graves ICMP produced a record 799 matching reports in one month. By early November 2007, six years to the month since the first DNA match, ICMP had produced DNA identification for a total of 5,000 different individuals from the fall of Srebrenica. In addition, because of a very high—99.2%-chance of an exhumed bone finding a match in the database of blood and bone samples, we can say with certainty that the total number of missing from the fall of Srebrenica is 8,000 men and boys.

19. Using DNA for identifications has become a matter of course in many parts of the world. At the technical level it often represents the only reliable means of identification. At the political level, DNA offers the significant benefit of scientific accuracy in identifications, thereby pre-empting an often potential exploitation and manipulation of the missing persons issue.

20. However, these sophisticated technical methods rely upon the political will of governments to deal with the issue of missing persons. Governments should be responsible for trying to address the concerns raised by human rights violations committed by a previous regime. They should investigate and publicly disclose reliable facts about the missing. In addition, victims should be able to assert their legal rights for truth and justice in determining the fate of missing persons, as well as for related social and economic rights. Finally, for the sake of society and future peace in the region, states must comply with international judicial mechanisms such as the ICTY.

21. The ICMP is entering the final phase of its work in the former Yugoslavia. Hopefully the gains made can be solidified into durable and sustainable solutions. ICMP has already begun applying its model to states beyond the Balkans. ICMP is currently working with Iraq and Colombia regarding ways in which support can be provided to investigations into unresolved cases.

22. Sadly, this issue is a global one. In the OSCE states there are serious concerns regarding missing persons in the regions of

Nagorno-Karabakh, Chechnya, Abkhazia as well as in the countries of the former Yugoslavia and on Cyprus. In the rest of the world—Sudan, Rwanda, Cambodia, Algeria, Nepal, the Philippines, Chile, Guatemala, Congo, Kashmir, East Timor—the list goes on. And it is not only in the area of post conflict assistance. Responses to natural disasters and terrorist attacks also require the sort of technical capacities that ICMP has developed.

23. ICMP has been able to contribute in areas beyond the Western Balkans. Experts were sent to New York after the terrorist attacks to provide advice on the development of matching software and samples were sent from Louisiana for processing in ICMP's labs after Hurricane Katrina.

24. ICMP, in close cooperation with INTERPOL and with the national police forces of affected countries, has assisted in the identification of 902 victims of the Asian Tsunami in Thailand and in the Maldives. INTERPOL and ICMP will soon sign an agreement on cooperation in future Disaster Victim Identification.

25. The United States and ICMP's other donors have enabled the development of a unique capacity which has worldwide application. ICMP's work, particularly in Bosnia and Herzegovina, has established a centre of excellence in the field of human identification. In a country where positive news is rare this is something to be celebrated.

26. The work involved is labor-intensive, politically sensitive, and complex. It requires a diverse range of scientific, diplomatic, and bureaucratic resources needed for the effective resolution of cases and to ensure the rights of families. ICMP is unique in its ability to meet all of these needs in a comprehensive, coordinated approach.

27. The war that was ended by Dayton Peace Agreement, the Kosovo conflict and the crisis in Macedonia have left deep scars in Western Balkan societies that have only begun to heal. Refugee displacement is a continuing regional problem that is underpinned by mutual mistrust, political manipulation and the anguish of those most affected by the recent conflicts. The continuing problem of large numbers of missing persons in particular aggravates the situation in the region, especially in Bosnia and Herzegovina and in Kosovo.

28. ICMP works with family members whose lives have been torn apart. For many of them the concept of reconciliation is hard to accept. However, they do demand the truth and they have reached across ethnic barriers to families in similar situations. United and determined, family associations of the missing meet at conferences organized by ICMP and to which high level government representatives are invited and attend. They closely question officials and issue joint declarations demanding of governments that they meet their obligations.

29. Family associations across the former Yugoslavia invite each other to attend commemorations of their missing relatives. Six years ago they could barely manage to sit in the same room together.

30. Governments in the region must be recognized for their efforts. The Government of Serbia has worked hard to resolve the fate of missing Kosovo Albanians, Bosnians and Croatians that

went missing or ended up in Serbia. The Government of the Republika Srpska, in its revised report on Srebrenica, formally accepted ICMP's numbers of missing. And, both Bosnian entities as well as Brcko District have cooperated to establish the Missing Persons Institute as a State level institution that has not been imposed by the International Community.

31. It is difficult and perhaps too early to fully quantify the effects of this process on post war reconciliation. However, it is clear from many examples around the world as well as in the former Yugoslavia that not addressing the issue, not determining the truth of what happened, will allow the uncertainty to leave deep bitterness that will fuel future conflict.

32. Revisionism and the intentional misuse of emotional factors linked to identity and victim-hood are the stock in trade of nationalists and indeed terrorists. Painstaking efforts to establish the truth, to restore identity and to seek redress will ultimately prevent the manipulation of history which is the rallying point for new conflict and new horrors.



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