

# The Hague Tribunal: The Political Economy of Sham Justice

Carla Del Ponte Addresses Goldman Sachs on Justice and Profits

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Global Research, November 20, 2005

20 November 2005

Region: [Europe](#)

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On October 6, 2005, Carla Del Ponte, prosecutor of the International Tribunal for the Former Yugoslavia (ICTY), gave a talk before an audience at Goldman Sachs in London that throws light on the role of the ICTY as well as the character and qualities of Ms. Del Ponte and her efforts. [1]

Speaking before this business audience, Ms. Del Ponte emphasized that the ICTY and other UN organizations are not profit-making bodies, but that they, and the ICTY specifically, facilitate profit-making for others. "Preventing wars or bringing justice doesn't fill the UN or anybody's bank accounts," she said. The private sector can't carry out these functions. But Ms. Del Ponte claims that such services not only save lives, reduce human suffering and destruction, they also help bring stability: "This is where the long-term profit of the UN's work resides. We are trying to create stable conditions so that safe investments can take place." This will make for "a reasonably prosperous democracyŠa factor of peace and stability in the world."

In trying to sell the ICTY to this business group as a partner or servant of neoliberalism, Del Ponte runs into the difficulty that the actual work of her organization has been highly destabilizing, did not "save lives" or diminish human suffering and destruction, and that it has left its main areas of intervention-Bosnia/Herzegovina, Serbia and Montenegro, and Kosovo- in a state of semi-permanent crisis and with conditions singularly unattractive to private investment (except for the drug and sex trades, which thrive in Kosovo). [2] On the other hand, insofar as the ICTY contributed to the real ends sought by Clinton, Blair, and other major NATO powers, which included helping NATO celebrate its 50th anniversary in 1999 and showing that NATO still had a role to play, as a U.S.-dominated organization; destroying an independent and socialist-inclined Yugoslavia and bringing its constituent parts into the NATO orbit of influence; and preparing the ground for further "humanitarian interventions," [3] the ICTY could be said to be an agent of the dominant Western powers and therefore of neoliberalism broadly viewed.

In her opening remarks, Del Ponte says that the ICTY is tasked with "bringing peace, security and justice," but shortly thereafter "peace" and "security" fade out and she asserts that "our primary objective is to bring justice." Justice ranks high, she says, because it "contributes to the reconciliation between peoples who have been torn apart by the wars of the nineties." Before I explain why this is a fallacy, especially with justice perceived in the one-sided and highly politicized fashion of Del Ponte, the ICTY and NATO, it should be recognized that there may be a conflict between pursuing "justice" and "peace." It is no coincidence that just as the work of the ICTY has been associated with chronic instability in

the ex-Yugoslavia, so also its work ran parallel with both outbursts of ferocious local warfare and closely linked Western wars of intervention in those areas, and certainly failed to contribute to “peace.” In fact, an excellent case can be made that the ICTY’s focus on “justice” was well suited to *avoiding* peace, and that its very design was to facilitate war, a dismantling of Yugoslavia, and a specific attack on Serbia.

This case is made compellingly by Michael Mandel in his *How America Gets Away With Murder: Illegal Wars, Collateral Damage and Crimes Against Humanity* (Pluto Press, 2004), where he points out that the formation of the ICTY was immediately preceded by a December 1992 speech by the U.S. State Department’s Lawrence Eagleberger, who named three top Serb leaders who needed to be brought to justice, and stated explicitly that “the international community must begin now to think about moving beyond the London [peace] agreement and contemplate more aggressive actions.” [4] Even before this, the United States had sabotaged the promising Lisbon agreement of February 1992 by encouraging Bosnian Muslim leader Alija Izetbegovic to withdraw and break the plan that the Bosnian Serbs, Croats, and (previously) Izetbegovic, had accepted. [5] Following Eagleburger’s talk, in February 1993, as Lord David Owen wrote bitterly, ““We have more or less got a peace settlement but we have a problem. We can’t get the Muslims on board. And that’s largely the fault of the Americans, because the Muslims won’t budge while they think that Washington may come in on their side,” so that in reality “the Clinton people block it.” [6] These crucial facts and informed judgments did not interfere in the least with the established view that it was Milosevic and the Bosnian Serbs, seeking a “Greater Serbia,” that made peace unattainable.

The role of the ICTY in this peace-sabotage business was to indict Serb leaders in order to demonize them and make them ineligible for any peace negotiating process—in Mandel’s words, the ICTY function was to help the Americans “justify their intention to go to war—by branding their proposed enemies as Nazis.” [7] As presiding judge Antonio Cassese said at the time regarding Bosnian Serb leader Radovan Karadzic, “Let us see who will sit down at the negotiating table now with a man accused of genocide.” [8] Later, in the 1998-1999 run-up to the NATO bombing war on Yugoslavia, the ICTY turned unrelenting attention to denouncing Serbs, and as Mandel points out, its work in this period “had nothing to do with trying and punishing criminals, and everything to do with lending crucial credibility to NATO’s cause.” [9] During the 78-day NATO bombing war, which began on March 24, 1999, the ICTY served as an aggressive public relations arm of NATO, most dramatically in indicting Milosevic in May 1999 just as NATO was drawing criticism for extending its bombing targets to Serbian civilian facilities. In short, the ICTY, serving as an arm of NATO, helped *prevent* peace settlements in the Bosnian conflict in the deadly years 1992-1994, and helped justify and sustain NATO’s 1999 assault on Yugoslavia.

This ICTY service was based on structural facts: the institution was created by the NATO powers, with the United States in the lead; it was funded heavily by these powers and closely allied NGOs (Soros’s Open Society Institute); it was staffed with NATO country personnel, often seconded to the ICTY, and its high officials were vetted by NATO-power leaders; and it depended on NATO for information and police service. But this meant that NATO itself would be exempt from “justice,” and that it would be difficult to bring to justice NATO clients, even if they committed crimes similar to or even worse than those committed by Serbs. Mandel points out that when he presented the ICTY prosecutor with a three volume dossier and complaint on NATO war crimes in May 1999, it took a year for the prosecutor to decide to reject this application, without ever having made a formal

investigation, whereas in the case of the alleged Racak massacre, attributable to the Serbs, the prosecutor declared this a war crime and rushed into action on the very same day, based solely on information supplied her by the U.S. representative in the scene, William Walker. [10] Of the leaders in the Balkan wars, Clinton, Blair, Izetbegovic and Tudjman have never been indicted by the ICTY, only Milosevic, although on the logic applied in the Milosevic prosecution, an equal or better case could be made for each of the exempted leaders. [11]

This highly politicized justice brought by the ICTY not only served war rather than peace, it cannot be regarded as justice at all. Justice that is not even-handed is deeply compromised. And if it is clearly serving a political end and meeting an external political agenda it is almost certain to be biased and fail to bring justice even in dealing with politically eligible targets. If it is politically corrupt it will do its work corruptly and bend its supposed judicial process to meeting those same political aims. This has been evident throughout the ICTY's operations-in the case of the numerous indictments that met a NATO political or PR need of the moment (e.g., the indictment of the Serb paramilitary leader Arkan in March 1999, just as the NATO bombing commenced; Milosevic in May 1999, just as NATO's bombing of civilian sites was creating a PR problem), its steady resort to publicity that compromised supposed judicial proceedings, and with endless illustrations of judicial malpractice in the ICTY proceedings themselves.

According to Michael Scharf, an ICTY supporter, over 90 percent of the evidence brought forward in the Milosevic trial was hearsay, [12] all freely admitted into the record by the judge, although almost none of it had any connection with proving orders or the sanction of war crimes by the man on trial (and all of which could be readily duplicated for Bosnian Muslim and Croat treatment of Serbs or U.S. bombing attacks on the Serbian civilian infrastructure). It did, however, set a tone in creating a moral environment of target demonization that served NATO political aims, even if it compromised the possibility of a fair trial.

From a steady stream of cases, the absence of judicial equity may be illustrated by the fact that with William Walker on the stand for the prosecution, Judge Richard May never interrupted him once as he ranged far and wide, even covering his view of Milosevic's "general attitude"; and although the "Racak massacre" claim was the basis of 45 charges of murder against Milosevic, and Walker was a key driver of that claim, May gave the defendant a fixed time limit for questions and interrupted his questioning over 60 times in the process of preventing a serious cross-examination. Although allowing a stream of hearsay from prosecution witnesses, Judge May refused to permit Milosevic to enter into the record articles from *Le Monde* and *Figaro* that raised serious doubts about the Walker version of events at Racak. [13]

With General Wesley Clark testifying for the prosecution, the judge allowed the U.S. government to force a closed session and to redact the testimony before release, he permitted Clark to talk about anything he pleased, including ten minutes of self-adulation (without judicial interruption), and he was permitted to phone Bill Clinton to request a letter of support, contrary to the stated rule that no outside communication was permitted in the midst of testimony; whereas Milosevic was not permitted to ask questions challenging Clark's credibility or anything not directly responsive to Clark's verbal claims. [14] More recently, during the defense's presentation of its case, the ICTY judge allowed the prosecution to present a video of an alleged killing of six Bosnian Muslims back in 1995, although it had no bearing on the ongoing questioning of the defense witness and was

presented without prior notice to the defense, which was not permitted to question the video presentation. However, introduction of this video did serve to dramatize claims about the Srebrenica massacre at a time when that event was being given tenth anniversary memorial publicity by the Western establishment.

Del Ponte states authoritatively in her Goldman Sachs talk that 8,000 Bosnian Muslims were slaughtered at Srebrenica in the “only genocide” in Europe since World War II. The 8,000 figure was given by the Red Cross back in July 1995 based on crude and unverified estimates of 3,000 captured by the Bosnian Serbs plus 5,000 initially claimed to be “missing.” It was very soon recognized by the Red Cross and other observers that several thousand of the “missing” had escaped to Bosnian Muslim lines and to Yugoslavia itself, and that several thousand more were almost surely killed in fighting. But that 8,000 number withstood not only this needed correction, but also the fact that fewer than 3,000 bodies were found in the Srebrenica area, [15] with an unknown but probably large fraction killed in the savage July 1995 fighting or earlier. Belated claims of reburials lack plausibility, and run into the problem that although Madeleine Albright warned the Serbs that “We will be watching you,” no satellite photos have ever been displayed publicly showing digging, burying, or trucks moving bodies. In short, the stable figure of 8,000 rests on a propaganda need that has sustained a politically convenient myth-inflation, supported by the combination of NATO officials, the mainstream media, and the ICTY. [16]

Del Ponte’s claim in her Goldman Sachs speech that this was a case of “genocide” follows a pattern of ICTY findings and conclusion that don’t withstand the slightest scrutiny and even suffer from internal contradiction. ICTY judges repeatedly stated as an established fact that 7-8,000 Muslim men had been executed, while simultaneously acknowledging that the evidence only “suggested” that “a majority” of the 7-8,000 missing had not been killed in combat, [17] which yields a number substantially lower than 7-8,000, plus uncertainty. Can you have “genocide” in one small town? The judges suggested that pushing the Bosnian Muslim inhabitants out of the Srebrenica area while killing many males was itself genocide, and they essentially equated genocide with ethnic cleansing.

The Tribunal dealt with the awkward problem of the genocide-intent Serbs busing Bosnian Muslim women and children to safety by arguing that they did this for public relations reasons, but as Michael Mandel points out, failing to do some criminal act despite your desire—in this case entirely unproven and resting on an ideological/political premise of ICTY personnel—is called “not committing the crime.” [18] The Tribunal never asked why the genocidal Serbs failed to surround the town before its capture to prevent thousands of males from escaping to safety, or why the Bosnian Muslim soldiers were willing to leave their women and children as well as many wounded comrades to the mercies of the Serbs; and they failed to confront the fact that 10,000 mainly Muslim residents of Zvornik sought refugee from the civil war in Serbia itself, as prosecution witness Borisav Jovic testified.

It is notable that the ICTY has never called Operation Storm, the August 1995 Croatian ethnic cleansing of some 250,000 Krajina Serbs, “genocide,” although in that case many women and children were killed and the ethnic cleansing applied to a larger area and larger victim population than in Srebrenica. It was also preceded by an earlier series of Croatian army attacks, first on the Serbian villages of Medak, Citluk and Divoselo in the UN-protected Krajina region back in 1993, in which a hundred or more unarmed civilians were slaughtered, and then in the brutal ethnic cleansing trial run for Operation Storm with “Operation Flash” carried out in Western Slavonia in May 1995 with many hundreds killed.

There was no ICTY response to any of these major death-dealing operations, even though a UN dossier was submitted to the ICTY that described the 1993 crimes. [19]

The ICTY's extreme bias and politically-based double standard in treating Srebrenica and Krajina is dramatically evident in Del Ponte's discussion of the two cases before the Goldman Sachs audience. In the Srebrenica case, she transmits without question a corrupted interpretation of the word genocide and an inflated and unproven number of victims, and mentions no context, such as the fact that Srebrenica had been the base of Bosnian Muslim commander Naser Oric who had sallied forth from 1992 into 1995 in Serb massacre and destruction forays that left well over a thousand dead Serb civilians.

Her treatment of Operation Storm and the Krajina massacre makes an enlightening contrast and is worth quoting at length:

"Another typical case is Ante Gotovina. This Croatian general was indicted in 2001 for crimes committed against Serbs in 1995 [Operation Storm]. Over 100 were killed and a hundred thousand forced to leave their homes while their houses were looted or destroyed. These crimes were committed in the course of a military operation, undoubtedly legitimate as such, aimed at re-taking the part of Croatian territory which was occupied by Serb forces. The operation was a success, and Croats remember it as one of their finest hours. Gotovina was one of the commanders and, quite naturally, he is revered as a hero. The mere mention of the war crimes committed in the course of the operation was taboo for years. . The logic was: only enemy forces committed war crimes, defenders were innocent by definition. It is only recently that the government has acknowledged that, yes, crimes were committed, and those responsible for these crimes, including Gotovina, must be tried in The Hague."

This is straightforward apologetics for ethnic cleansing, with a number of omissions and serious misrepresentations of fact. She never mentions that Krajina had been a UN protected area, like Srebrenica, brazenly violated by the Croats in 1993; nor does she mention the May 1995 Operation Flash assault in which the Croats killed many hundreds of Serb civilians. She doesn't mention the fact that the UN continued to urge a negotiated settlement of the Krajina dispute, ignored by the Croats in the massive attack of August 1995. She says that these crimes "were committed in the course of a military operation," but so were the Srebrenica crimes, and in fact Srebrenica was defended (and abandoned) by a military force relatively stronger than the Krajina Serbs had maintained. Her statement that the Krajina operation was "legitimate" because it was "aimed at re-taking the part of Croatian territory which was occupied by Serb forces" gives this operation an apologetic context that involves serious lying-this was a carefully planned campaign, not mainly to remove "Serb forces"-relatively weak in Krajina and arguably there to defend a civilian population against Croatian army massacres such as occurred earlier at Medak and in Operation Flash-but to remove the Serb civilian population that had lived in that area for centuries. This was deliberate ethnic cleansing, but Del Ponte cannot admit the fact in this case. Can you imagine Del Ponte saying that the Serb attack on Srebrenica was to "remove Bosnian Muslim forces," or that the Serb operations in Kosovo in 1998 and 1999 were to "remove KLA forces"? Serb actions are invariably ethnic cleansing, Croatian actions of comparable or greater anti-civilian scope are merely "military operations," never ethnic cleansing, in accord with a clear political agenda.

Further misrepresentations are her statement that "over 100 were killed," and that "a hundred thousand" were "forced to leave their homes." Just as she swallowed the inflated



8,000 for Srebrenica, so here Del Ponte grossly underestimates the toll of the politically inconvenient victims. The Serb human rights organization Veritas estimated that 1,205 civilians were killed in Operation Storm; [20] and their list of victims included 368 women and children—the Croats didn't bus women and children to safety as did the genocidal Serbs at Srebrenica. Operation Storm may well have involved the killing of more Serb *civilians* than Bosnian Muslim civilians killed in the Srebrenica massacre: most of the Bosnian Muslim victims were fighters, not civilians (only one of 1,883 bodies in the graves around Srebrenica was identified as female). [21]

As to numbers expelled, even conventional studies give a figure of 200,000 or more for those driven out of Krajina. [22] Del Ponte strives to minimize these numbers because 250,000 civilians ethnically cleansed is hard to explain away as merely part of a "military operation" to deal with "Serb forces." In contrast with her usual dramatizing of Serbian violence, Del Ponte uses gentle language in describing Croatian actions: the 100,000 were "forced to leave their homes," not "deported," "driven out," or "ethnically cleansed" as she and her allies would describe comparable Serb actions. She provides no details on the impressively ruthless Croatian actions, such as: "UN troops watched horrified as Croat soldiers dragged the bodies of dead Serbs along the road outside the UN compound and then pumped them full of rounds from the AK-47s. They then crushed the bullet-ridden bodies under the tracks of a tank." [23]

So for De Ponte this massive ethnic cleansing of civilians was reasonably seen by Croats as "one of their finest hours," because it was a military success, though some incidental "war crimes" were committed; whereas she would never suggest that the Bosnian Serb capture of the better defended Srebrenica was a creditable military success of which Serbs might properly be proud—any such success was unmentionable in the face of war crimes, and she berates the Serbs because one-third allegedly don't believe war crimes were committed at Srebrenica. She gives an apologetic context to Operation Storm to give it legitimacy; whereas she never mentions the Srebrenica background of Bosnian Muslim killings of Serbs that might suggest a vengeance motive and interfere with the ideological/political premise of pure unprovoked evil. The double standard, based in good part on misrepresentation of the facts, is gross.

Del Ponte notes that Croatian General Ante Gotovina was indicted in 2001 for war crimes in Operation Storm, but a number of questions arise: Why did it take six years after the event for Gotovina to be indicted, whereas Bosnian Serb General Mladic and President Karadzic were indicted within days of the Srebrenica massacre and before the facts of the case could be minimally verified? Why has NATO never sent military forces into Croatia to capture Gotovina as they have done on several occasions in Bosnia and Serbia seeking Mladic and Karadzic? Could this indictment have been connected to the seizure of Milosevic and the need to give the appearance of balance? Why was Croat President Tudjman not indicted for these war crimes, in parallel with Milosevic (who the ICTY has striven mightily and unsuccessfully to link to the Srebrenica massacre, whereas Tudjman's link to Operation Storm is clear)? Why were Clinton, Albright and Holbrooke not indicted for documentable approval and support for Operation Storm? [24]

The answers to these questions, and the key to Del Ponte's double standard and misrepresentations, clearly rest on the fact that the massive ethnic cleansing operation by the Croats in Krajina was carried out with U.S. approval and logistical support, whereas the Serbs were the targeted U.S. enemy. [25] Thus, just as NATO was exempt by virtue of the structure, control and purpose of the ICTY, so also are the leaders of client states, though a

few bones like Gotovina may be thrown (belatedly, and with lackadaisical enforcement) to provide a not very convincing aura of fairness.

A key theme in Del Ponte's speech was the importance of "justice" for bringing reconciliation to the area. The guilty must be brought to trial and punished; the victims and/or their heirs must feel that justice has been done to their victimizers in order to be reconciled and ready for peace. This principle is not applied in cases like Indonesia in East Timor, where a U.S. and British ally engaged in mass murder; and of course it would never even be thought of where the United States and its British ally committed aggression and killed large numbers of civilians, as in Iraq.

It has also not really been applied by the ICTY in its work in the ex-Yugoslavia, where the ICTY's selective "justice" has shown its true face as vengeance and a cover for political ends. Ethnic cleansing in Bosnia was by no means one-sided, and deaths by nationality were not far off from population proportionality; [26] the Serbs claim and have documented thousands of deaths at the hands of the Bosnian Muslims and their imported Mujahedeen cadres, and by the Croats, and they have their own group examining and trying to identify bodies at an estimated 73 mass graves. [27] This victimization has hardly been noticed by the Western media or ICTY — the distinguished Yugoslav forensic expert Dr. Zoran Stankovic observed back in 1996 that "the fact that his team had previously identified the bodies of 1,000 Bosnian Serbs in the [Srebrenica] region had not interested prosecutor Richard Goldstone." [28] Instead, there is a steady refrain about the Serbs tendency to whine, whereas Bosnian Muslim complaints are taken as those of true victims and are never designated whining. Thus the question never arises for Del Ponte and her allies (including the Western media)-if "justice" is required for "reconciliation," what is to reconcile the victims and heirs of the thousands of Serb victims of the ethnic cleansing wars, such as the thousand or more killed and 250,000 expelled from Croatian Krajina, if their claims are ignored? Won't they be even more embittered by a one-sided pursuit of justice?

Apart from this double standard on the need for justice as a means for producing reconciliation, the claim that ICTY justice will serve that end is fraudulent anyway. Rather than producing reconciliation the steady focus on Srebrenica victims and killers has made for more intense hatred and nationalism on the part of those supposedly obtaining justice, just as the Kosovo war and its violence exacerbated hatred and tensions there and showed that Clinton's claimed objective of a tolerant multi-ethnic Kosovo was a fraud. In Kosovo, this one-sided propaganda and NATO control has unleashed serious and unrelenting anti-Serb (along with anti-Roma, anti-Turk, anti-dissident-Albanian) violence, helped along by the willingness of the NATO authorities to look the other way as their allies — the purported victims — take their revenge and pursue their long-standing aim of ethnic purification.

In Bosnia, a British foreign office proposal to use the tenth anniversary commemoration of the Srebrenica massacre for a "statesmanlike initiative" of public reconciliation among the different groups reportedly received short shrift from Bosnian representatives on all sides. [29] David Chandler points out that "the international community's focus on the war has given succor to the most reactionary and backward political forces in Bosnia," and that "those most socially excluded from Bosnian life have been able to dictate the political agenda and oppose the politics of reconciliation, because their social weight has been artificially reinforced by the international dominance over the politics of this tiny state. Without political, social and economic dependency on external actors that are legitimized by the idea of Bosnian victimhood, it is unlikely that the war would have remained so central in Bosnian life." [30]

In both Bosnia and Serbia, not to mention Kosovo where they are still under assault after a major bout of ethnic cleansing, the Serbs have been under steady attack, humiliated, and their leaders and military personnel punished, while those who stand accused of crimes among the Bosnian Muslims, Croats, and NATO powers, with minor exceptions suffer no investigation or penalties and may even be portrayed as dispensers of justice. The record strongly suggests that the objectives of the retribution-pushers are not justice and reconciliation – in addition to straightforward vengeance, they are to unify and strengthen the position of the Bosnian Muslims, to crush the Republica Srpska, and possibly even eliminate it as an independent entity in Bosnia, to keep Serbia disorganized, weak and dependent on the West, to provide the basis for the formal removal of Kosovo from Serbia, and to continue to put the U.S. and NATO attack and dismantlement of Yugoslavia in a favorable light. The last objective requires diverting attention from the Clinton/Bosnian Muslim role in giving al Qaeda a foothold in the Balkans, Izetbegovic's close alliance with Osama bin Laden, his Islamic Declaration declaring hostility to a multi-ethnic state, the importation of 4,000 Mujahadeen to fight a holy war in Bosnia, with active Clinton administration aid, and the KLA-al Qaeda connection. [31]

In sum, the ICTY was created by the NATO powers, not to bring either peace or justice to Yugoslavia, but to serve the U.S. and NATO aims there, which called for the dismantlement of Yugoslavia, the crushing of Serbia, and the conversion of the new mini-states of the ex-Yugoslavia into NATO-power dependencies. As the Serbs were the main obstacle to this program, they had to be demonized, their leaders driven from office and incarcerated, and their people humiliated and punished. This called for an ICTY focus on "justice" (selective) that helped demonize and provided the justification for undermining peace settlements and making war. The ICTY has performed this service effectively, with the help of a gullible and patriotic Western media and intellectual class. The trial of Milosevic and continued pursuit of Mladic and Karadzic are the final efforts of the ICTY: the latter to justify continued pressure on the Serbs in Bosnia and Serbia and Montenegro, the former to prove that the NATO wars were based on justice, and both to put "humanitarian intervention" by the imperial powers in a good light. Carla Del Ponte and the ICTY have been useful instruments of these ends.

## Notes

1. <http://www.un.org/icty/pressreal/2005/speech/cdp-goldmansachs-050610-e.htm>  
Address at Goldman Sachs, London," Carla Del Ponte, International Criminal Tribunal for the Former Yugoslavia, October 6, 2005.
2. Katarina Kratovac, "Five years after Milosevic, Serbs still await a better life," (A.P.), *Philadelphia Inquirer*, Oct. 5, 2005; Ian Traynor, "Nato force 'feeds Kosovo sex trade'," *Guardian*, May 7, 2004; Thomas Gambill on mafia takeover of Kosovo, <http://www.newsmax.com/archives/articles/2005/9/27/101219.shtml>
3. On these objectives, see Diana Johnstone, *Fools' Crusade: Yugoslavia, NATO and Western Delusions* (Monthly Review Press: 2002), Introduction.
4. Quoted in Mandel, *How America Gets Away With Murder*, p. 125.
5. See Johnstone, p. 45.



6. Quoted in Mandel, p. 67.
7. Quoted in *ibid.*, p. 126.
8. Quoted in Johnstone, p. 95.
9. Quoted in Mandel, p. 132; for compelling details, Mandel, pp. 132-146.
10. *Ibid.*, pp. 80, 135.
11. Only in the case of Serbs has the ICTY adopted the notion of “command responsibility” extending to the highest officials.
12. Michael Scharf, “Accounting for atrocities conference,” Bard College, Oct. 5-6, 1998: <<http://www.bard.edu/hrp/atrocities/index.htm>>[www.bard.edu/hrp/atrocities/index.htm](http://www.bard.edu/hrp/atrocities/index.htm); cited in Kirsten Sellars, *The Rise and Rise of Human Rights* (Sutton Publishing: 2002), p. 187.
13. The judge’s handling of the Walker testimony and cross-examination are discussed in detail in Mandel, pp. 168-173..
14. *Ibid.*, pp. 174-5.
15. In his testimony at the Milosevic trial on Jan, 26, 2004, ICTY investigator Dean Manning testified that 2,570 bodies had been found in total, with only 70 identified. “Milosevic Trial Transcript,” Jan. 26, 2004, pp. 31428-31437.
16. See Edward Herman, <http://www.zmag.org/content/showarticle.cfm?SectionID=74&ItemID=8244> “Politics of the Srebrenica Massacre,” ZNet, July 7, 2005.
17. See Mandel, pp. 155-6.
18. Michael Mandel, “The ICTY Calls It ‘Genocide’.” in Edward Herman et al., *Srebrenica: The Politics of War Crimes*, forthcoming.
19. “The UN dossiers, with their voluminous evidence, have been given to the Crimes Investigators (of the ICTY) on October 6, 1993. Since then there has been nothing but silence.” Cedric Thornberry, “Saving the War Crimesa Tribunal: Bosnia Herzegovina,” *Foreign Policy*, September 1996.
20. See “Croatian Serb Exodus Commemorated,” Agence France Press, Aug. 4, 2004; Veritas at [www.veritas.org.yu](http://www.veritas.org.yu)“<http://www.veritas.org.yu>>[www.veritas.org.yu](http://www.veritas.org.yu).
21. These numbers are given in privately circulated tabulation of the characteristics of these remains by Dr. Zoran Stankovic, a longtime UN forensic specialist who worked extensively on the Srebrenica case.
22. Burg and Shoup give “several hundred thousands” as their estimate; Lord David Owen, 150,000.
23. Tim Ripley, *Operation Deliberate Force* (Center for Defence and Security Studies: 1999), p. 192.

24. See footnote 11.

25. On that support, see Raymond Bonner, "War Crimes Panel Finds Croat Troops 'Cleansed' the Serbs," *New York Times*, March 21, 1999.

26. See Ewa Tabeau and Jakub Bijak, "Casualties of the 1990s War in Bosnia-Herzegovina: A Critique of Previous Estimates and the Latest Results" (Sept. 23, 2004), Demographic Unit, Office of the Prosecutor, ICTY, Paper Presented at The IUSSP Seminar on the Demography of Conflict and Violence Jevnaker, Norway, 8 to 11 November 2003.

27. Slavisa Sabljic, "The Trade in Bodies in Bosnia-Herzegovina": <http://www.serbianna.com/press/010.html> Joan Phillips, "Victims and Villains in Bosnia's War," *Southern Slav Journal*, Spring-Summer 1992.

28. "Relations with Rest Of Former Yugoslavia: Yugoslav forensic expert says no proof about Srebrenica mass grave," BBC Summary of World Broadcasts, July 15, 1996.

29. David Chandler, "Srebrenica" <http://www.spiked-online.com/Articles/0000000CAC9B.htm> > Srebrenica: Prolonging the Wounds of War," *Spiked Online*, July 20, 2005

30. Ibid.

31. See Johnstone, pp. 51-64.

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