

ICJ

*Advanced
Specialized*



TOPIC: Bosnia and Herzegovina v. Serbia and Montenegro

CHAIRS: Kina Desai, Luisa Cervantes

LAIMUN XXIX

December 2-3

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Letter from the Secretaries-General

Dear Delegates,

On behalf of our entire staff, it is our pleasure to welcome you to Session XXIX of the Los Angeles Invitational Model United Nations (LAIMUN) conference. LAIMUN XXIX will take place on Saturday, December 2 and Sunday, December 3 of 2023 at the Mira Costa High School (MCHS) campus.

Our staff, composed of over 120 MCHS students, has been working tirelessly to make your debate experience the best it can be. You will find your dais members to be knowledgeable about the issues being debated and MUN procedure. We pride ourselves in hosting a conference that is educational and engaging, and we hope you take advantage of that as you prepare and debate.

At LAIMUN, we value thorough research and preparation. We ask that delegates write position papers following [these directions](#). The deadline to submit position papers to be considered for Committee and Research Awards is Friday, November 24 at 11:59 PM PT. The deadline to submit to be considered for Committee Awards is Thursday, November 30 at 11:59 PM PT.

We also encourage all delegates to read the [LAIMUN Rules of Procedure](#) for conference-specific information and as a reminder of points and motions that can be made during committee.

Feel free to reach out to our staff with any questions or concerns you may have. Delegates can find their chairs' contact information next to their committee profile and the Secretariat's email addresses on the staff page. Any member of the LAIMUN staff will be happy to assist you.

We look forward to seeing you in December!

Sincerely,

Akash Mishra and Lily Stern
Secretaries-General, LAIMUN XXIX
secretarygeneral@mchsmun.org



Introduction to the USG

Hi Delegates!

My name is Aidan Tacinelli and I am honored to welcome you to LAIMUN XXIX! In my fourth and final year of Model UN at Mira Costa, I am the Under Secretary-General of the Specialized Branch, and I cannot wait to see what everyone has prepared for debate.

In the Specialized Branch, we have selected extremely current and pressing topics that will require research and preparedness. Be sure to bring your creative solutions, accurate country policy, and active enthusiasm to each of your respective committees. All of our chairs are excited to see the level of debate brought about by delegates, and are ready to accommodate you in any way that they can.

With that being said, we want to create a safe space for everyone to share their ideas and form solutions as a community. Please do your part in being respectful to other delegates and your chairs. Every staff member is held to a high level of professionalism, which you can return by dressing appropriately and following LAIMUN's guidelines.

We do not tolerate plagiarism or pre-written resolutions in any aspect. If any delegate is found to have plagiarized on their position paper, resolutions, or even speeches, they will be disqualified from receiving committee awards.

Don't forget to submit your position papers, prepare your speaking, and print out any papers you may need.

I can't wait to see each committee's resolutions and the passion that comes along with them. If you have any questions, you can reach me at specialized@mchsmun.org! You can also look on the LAIMUN XXIX website to email any of your chairs or other members of our secretariat.

Best of luck,

Lily Stern and Akash Mishra
Secretaries-General

Aidan Tacinelli
Under-Secretary General

Introduction to the Dias

Hello Delegates!

My name is Kina Desai and I am so excited to be your co-chair for ICJ Advanced! I am a senior at Mira Costa High School and have been a part of the Costa MUN since my freshman year. I've been participating in Model UN since middle school and have been to numerous conferences. One of my favorite conferences I attended last year was BERMUN in Berlin, Germany. In fact, I was a judge on the ICJ committee in Berlin and really enjoyed the experience of simulating an international court. I'm looking forward to now being the chair of this exact committee and hearing all of the discussions on the evidence, witnesses, and resolutions.

Outside of school and Model UN, I am on a crew/rowing club team in Marina Del Rey. I am a varsity coxswain. My favorite race was coxing the Head of the Charles in Cambridge, Massachusetts (near Boston) last October. Additionally, I love basketball (both playing and watching). I also have a job as a clerk at a local law firm and spend a lot of my time volunteering for the Beach Cities Health District and working on their Youth Advisory Council.

I'm really excited for a lively committee with interesting deliberations looking at the evidence and each of the points of the case from different perspectives! If you have any questions, don't hesitate to reach out to us and I'd be happy to help and answer any questions. I look forward to meeting you all soon!

All the best – Kina Desai

Welcome delegates!

I am Luisa Cervantes, a junior at Mira Costa and I will be your co-chair for debate! I spend most of my time on the track at school where I practice various sprints such as the 100, 200 and 400. I am on the Varsity Track and Field team, which I look forward to everyday. Over the years, I have improved my times and running form however, this sport has never become easy. This sport helps me build good connections with coaches and teammates as well as builds my mental strength.

Apart from sports, I am very passionate about reducing my carbon footprint in the atmosphere. I am a part of the Grades of Green organization on campus and off campus that works to employ youths of communities to care for the environment and to make environmental protection common sense for future generations. Therefore, I enjoy debating to find solutions for creating a greener earth and being more sustainable. Apart from this, I am the founder of I-LOVE club (International Love of Various Ethnicities) which educates kids of my school on cultures from first hand-experience speakers. Considering I have lived in Mexico, Switzerland and England I value the different ways of life around the world and wish to pass it on to the rest of the school community. An important event I also created is International Day, which happens once a year where different people make booths sharing personal stories about their country and bring special foods.

This is my second year in the Advanced Model United Nations here at Costa, which has really enhanced my speaking abilities and knowledge about the outside world. I have participated in many local conferences and outside debates. I am more than thrilled to bring back the

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International Court of Justice committee and hear all the wonderful ideas you guys are going to bring in. I debated ICJ for the first time at NHSMUN where my topic was Azerbaijan V. Armenia. I loved this style of debate since it is extremely different from other types of MUN. Don't forget to have fun and bring in creative ideas!

All the best – Luisa Cervantes

Committee Description

The International Court of Justice was formed in June of 1945 in San Francisco, California, with its first case and legal proceedings occurring in 1947. The International Court of Justice was formed by Article VII of the United Nations Charter which states that “There are established as principal organs of the United Nations: a General Assembly, a Security Council, an Economic and Social Council, a Trusteeship Council, an International Court of Justice and a Secretariat.”¹ This led to the development and ratification of the Statute of the International Court of Justice, which established rules and procedures for the court and its purpose. The main priority of the ICJ is to act as an unbiased body to allow for the peaceful resolution of issues between States on the basis of International law, treaties, statutes, and UN resolutions. The writers of the Statute wrote rules concerning the court’s jurisdiction. With the main article being Article XXXVI, “2. The states parties... at any time declare that ... the jurisdiction of the Court in all legal disputes concerning: 1. the interpretation of a treaty; 2. any question of international law; 3. the existence of any fact which, if established, would constitute a breach of an international obligation; 4. the nature or extent of the reparation to be made for the breach of an international obligation.”² With these rules and its foundation, the ICJ has become the haven of peace and resolve for conflicts between nations. In ICJ, decisions are made based on facts and

¹Charter of the United Nations and Statute of the International Court of Justice. 1945. New York: *United Nations, Office of Public Information*.

² Charter of the United Nations and Statute of the International Court of Justice. 1945. New York: *United Nations, Office of Public Information*.

concrete evidence. Presented evidence is analyzed and conducted to be accurate or inaccurate, and evidence that is the most accurate will have the largest impact on the case decision. ICJ is an extremely vital component of the United Nations and has seen a total of 190 different cases, finding effective and lasting verdicts to almost all of them.³

³“Cases.” *INTERNATIONAL COURT OF JUSTICE*, <https://www.icj-cij.org/cases>. Accessed 14 Oct. 2023.

Topic: Bosnia and Herzegovina v. Serbia and Montenegro

I. Background

Following World War II, Yugoslavia included Bosnia and Herzegovina, Serbia, Croatia, Macedonia, Slovenia, and Montenegro. The different nations within Yugoslavia began to come together under increasing nationalistic sentiments, thus leading to the breakup of Yugoslavia. Slobodan Milosevic, a Serbian leader, began to instigate tensions between Serbians living in Bosnia and the surrounding Bosniaks– or Bosnian muslims– Croats, and Albanians in the 1980s. Many Serbs and Croats immigrated to Bosnia in addition to the already large majority of Bosniaks in the nation leading to the 1990 elections, leading to a government split between three parties that represented each of these three backgrounds. Tensions continued to build up politically between Bosniaks and Bosnian Serbs, such as when, in August 1991, the Serb Democratic Party stopped attending the presidency meetings as a boycott.

Shortly after the 1990 elections, Bosnia and Herzegovina declared independence from Yugoslavia in April of 1992.⁴ Prior to declaring its independence, Bosnia and Herzegovina had a population of about 4 million people. In 1991, about 44 percent of their population were Bosnian Muslims and about 31 percent were Serbs.⁵ Therefore, when Bosnia and Herzegovina declared

⁴“Bosnian Genocide.” History.Com, www.history.com/topics/1990s/bosnian-genocide. Accessed 13 June 2023.

⁵“Bosnia and Herzegovina, 1992–1995.” United States Holocaust Memorial Museum, www.ushmm.org/genocide-prevention/countries/bosnia-herzegovina/case-study/background/1992-1995. Accessed 13 June 2023.

its independence, the independent country would have a majority of Bosniaks, or Bosnian Muslims, which upset the Bosnian Serbs. In Serbia, there were many “Serb Autonomous Regions” that were declared in 1991, creating areas in Bosnia and Herzegovina for large groups of Serbian populations to reside. Many Serbian separatists long had the goal of creating a Serbian nation-state or “the Greater Serbia” in the Balkans. As a result, the Bosnian Serbs set in motion a military operation to “cleanse” Bosniaks, or Bosnian Muslims, from Bosnia and Herzegovina. These operations began to be referred to as “ethnic cleansing” and in the case of Bosnia and Herzegovina v. Serbia and Montenegro it is debated as to whether this was a genocide.

In April of 1992, the United States recognized Bosnia and Herzegovina’s independence, which subsequently led to Bosnian Serb paramilitary groups bombarding Sarajevo, the capital of Bosnia and Herzegovina. Furthermore, these Serbian paramilitary forces attacked towns with Bosniak majorities, which included the towns of Foca, Zvornik, and Visegrad in eastern Bosnia and Herzegovina. In a process called “ethnic cleansing” Bosniaks were forcibly removed from areas in eastern Bosnia. Ethnic cleansing differs from genocide in that the goal of ethnic cleansing is to remove a specific group from a specific geographical region, not actually destroy or harm the group. Serbs, through an offensive action by the Yugoslav army and Bosnian Serbs were able to take control of about two-thirds of Bosnia.⁶ The Bosnian forces, with the aid of the Croatian army, were largely unsuccessful in stopping the Bosnian Serb paramilitary forces, leaving almost 75% of Bosnia and Herzegovina in Bosnian Serbs’ control by the conclusion of

⁶ “Bosnian War.” Encyclopædia Britannica, 2 June 2023, www.britannica.com/event/Bosnian-War.

1993. This left many of the Bosniaks living in smaller towns and many of the Bosnian Croats fleeing from Bosnia.

The separation of Bosniaks by the Bosnian Serbs continued and, in 1995, Serbian paramilitary forces removed women and girls that were Bosniaks from Srebrenica to separate out the Bosnian Muslims. While there were many instances of rape and sexual assault against the women and girls that were transported on buses out of Srebrenica, the men and boys left were killed there or forcibly taken to sites where mass killings occurred. At Srebrenica, it is estimated that about 7,000 to over 8,000 Bosniaks were killed.⁷ Srebrenica was located about 100 km away from Serbia and this mass killing of over 7,000 to 8,000 Bosniaks is known as genocide against the Bosniaks. The international community began to take increasing notice of the atrocities taking place in Bosnia and Herzegovina, especially with civilian deaths increasing and the capture of Zepa in July of 1995 by the Bosnian Serbs. In August of 1995, the North Atlantic Treaty Organization (NATO) sided with and aided the Bosnian and Croatian military forces. NATO's support included bombing Bosnian Serbs' positions and offensive areas for three weeks.

During the Bosnian genocide, the Serb forces attacked areas with a Serbian majority. These attacks also included attacking and burning Bosniak cultural institutions, archives, and books. Making the global community recognize there was a problem, Serbian concentration camps became publicly known starting in 1992, demonstrating that a genocide was taking place in Bosnia and Herzegovina. An example of these camps was Omarska, which crammed thousands of Bosniak men in horrid conditions and led many to their demise. There were many

⁷ "Bosnian Genocide." History.Com, www.history.com/topics/1990s/bosnian-genocide. Accessed 13 June 2023.

beatings in the Serb concentration camps like Omarska, with Serbs often using clubs and bats to cause deaths and injury to Bosniaks.⁸ In Srebrenica in 1995, Bosnian Serb forces that were supported by the Serbian government forced the removal of peacekeepers from the area and moved forward with ethnic cleansing and the killing of Bosniaks. Many Bosniak families were separated or displaced from their homes. Within six days, approximately over 8,370 men and boys were killed, either by being shot or beheaded before being buried in mass graves.⁹

One area of debate over this situation in Bosnia and Herzegovina from 1992 to 1995 is whether this was a Civil War within Bosnia or a one-sided military campaign with Serbia and Montenegro at fault for the harm, death, and genocide caused in Bosnia and Herzegovina.. Some argue the situation was purely a Bosnian Civil War, others believe the Bosniaks are at fault, and some believe that Serbia and Montenegro was the instigator and to blame. The genocide of the Bosnian people, also referred to as the Bosnian Civil War, ended in 1995 when NATO intervened and Croatia planned an offensive in Bosnia and Herzegovina. To end the conflict, on December 14, 1995, the Dayton Accords were signed. The Dayton Accords divided Bosnia and Herzegovina into two separate states named the Bosnian Serb Republic and the Federation of Bosnia and Herzegovina, which would be home to Croats and Bosniaks. Another result was that over 2 million people from Bosnia were displaced during the conflict and, by the end of 1995, were considered refugees.

II. United Nations Involvement

⁸ “Concentration Camps - the Horrors of a Camp Called Omarska | the World’s Most Wanted Man | Frontline.” PBS, www.pbs.org/wgbh/pages/frontline/shows/karadzic/atrocities/omarska.html. Accessed 13 June 2023.

⁹ “The Bosnian Genocide.” Musée de l’Holocauste Montréal, 31 Mar. 2020, museeholocauste.ca/en/resources-training/the-bosnian-genocide/.

The Bosnian War (1992-1995), which occurred during the dissolution of the former Yugoslavia, is referred to as the war between Bosnia and Serbia.¹⁰ Initially, the UN resisted intervention in this issue and instead supplied humanitarian aid through the UNHCR at the early stages.¹¹ Aid was needed for the war-torn and malnourished population. Later on, as the conflict intensified, the United Nations ultimately played an important role in attempting to end the conflict and reduce its impact on civilians. As well as this, the United Nations took a big step forward in asserting military peacekeeping force in the regional conflict. This was an unprecedented action done by the UN, as it extended its reach to unfamiliar places in order to intervene. During the Yugoslav Wars, the United Nations Protection Force (UNPROFOR) was the first United Nations peacekeeping force in Bosnia & Herzegovina and Croatia. This protection force was mandated to work on four phases that were specifically defined.

The first phase was known as aiding the Sarajevo region, located in the Dinaric Alps. On June 8, 1992, Resolution 758 was adopted which authorized UN intervention.¹² This resolution directly stated that all parties were demanded to ensure the security of humanitarian workers and the distribution of supplies to the Sarajevo airport. This resolution mainly focused on assuring the airport was maintained secure at all times since it remained Bosnia and Herzegovina's most abundant international airport. Its main focus was protecting groups of vehicles traveling together, known as convoys. During the civil war, these convoys were at risk of being captured

¹⁰ "US Intervention in the Balkans: The 1990s Yugoslav Wars Explained." TheCollector, 29 May 2023, www.thecollector.com/1990s-yugoslav-wars-explained/#.

¹¹ "Bosnian Genocide." History.Com, www.history.com/topics/1990s/bosnian-genocide#srebrenica-massacre. Accessed 13 June 2023.

¹² "Resolution 758 (1992) /." United Nations, digitallibrary.un.org/record/143774?ln=en. Accessed 13 June 2023.

and used by only one side, instead of where they were intended to aid. With UNPROFOR stepping in, aid convoys that contained important medicine and highly nutritious food could get through clogged roads.

Phase two mandated UNPROFOR to protect incoming humanitarian aid to Bosnian regions. Their intervention was authorized by the United Nations Security Council resolution 776, finalized with 12 votes and 3 abstentions from Zimbabwe, China, and India.¹³ The Protection Force mandated by resolution 776 was to safeguard humanitarian organizations such as the International Red Cross Committee and the UN High Commissioner for Refugee. Under the resolution, if armed individuals tried to stop the Force from carrying out its mandate, it would also be allowed to employ self-defense. Other organizations such as the World Health Organization, World Food Programme, UNICEF, as well as a number of other non-governmental organizations (NGOs), are among the other organizations that are of importance. These groups give refugees, internally displaced people, and even people who are at home in besieged regions food, medicine, supplies, and shelter.

The protection of “safe areas”, outlined in phase three aimed to declare protected areas free of weapon use and conflicts. Under the United Nations Resolution 819, passed by fifteen votes, Srebrenica was determined a safe area.¹⁴ Additionally, this resolution urged that Yugoslavia would refrain from providing Bosnian Serb forces with necessary supplies, like guns and military hardware. Following this, Boutros Boutros-Ghal, the Secretary General, was sent to

¹³ “UNPROFOR.” United Nations, peacekeeping.un.org/mission/past/unprof_b.htm. Accessed 13 June 2023.

¹⁴ *Peacekeeping in Operation: A Conflict Study of Bosnia - Cornell University*, scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=1373&context=cilj. Accessed 14 June 2023.

strengthen the protection forces in Srebrenica and the surrounding territories in exchange for full cooperation from the parties and other stakeholders. Later, one hundred forty-seven peacekeepers were stationed there to ensure General Ratko Mladic of the Bosnian Serbs that the town wouldn't be used as a base to assault his troops.¹⁵ With regards to humanitarian aid, areas of Bosnia and Herzegovina were ordered to have humanitarian supplies sent in, and failure to do so would result in violating international humanitarian law. The final part of this phase was conducted under Article 819 which demanded injured personnel to be transferred to safe areas in a timely manner, with the help of UN staff.

In phase four, exclusive zones that contained destructive weapons were established and put under surveillance by UNPROFOR. Neither side was permitted to possess a weapon in these zones, making them safer than before. These zones continued expanding, so the job of keeping weapons out of reach was difficult and required UNPROFOR to increase the number of troops sent to the area. These new zones, and the policing of them, did not alter the stated mandate of UNPROFOR.

The United Nations's substantial involvement in the disastrous conflict led to unfamiliar circumstances and many instances of ineffectiveness. Through this conflict the UN was brought into new territory and granted a new role in extending the reach of its intervention in a regional conflict. In this conflict, it was difficult to determine whether it was a Civil War inside a sovereign country or an actual act of civilian genocide. Due to this, the UN extended its

¹⁵ "UN World Court Acquits Serbia of Genocide in Bosnia; Finds It Guilty of Inaction | UN News." United Nations, news.un.org/en/story/2007/02/210142. Accessed 13 June 2023.

involvement further than ever before with high backing of Bosnia and Herzegovina, and desire to hold Serbia and Montenegro accountable.

III. Topics to Consider

A. Convention on the Prevention and Punishment of the Crime of Genocide

Following the Second World War, the *Convention on the Prevention and Punishment of the Crime and Genocide* (also known as the Genocide Convention) was enacted¹⁶. In 1946, the UN acknowledged, under international law, that genocide was a crime, and later genocide was recognized as its own form of crime in this Convention. On December 9th, 1948 the Convention was officially adopted to further prevent such atrocities that were committed in WW2. The adoption of this Convention was a significant turning point in the growth of international criminal law and human rights. An important area of applying this Convention to the case is the definition of genocide. Towards the beginning of the Convention, it mentions that genocide is capable of occurring in times of war as well as at times of peace.¹⁷ Under Article II, the definition of genocide contains two components, which are physical and mental. The mental component is defined as “a crime committed with the intent to destroy a national, ethnic, racial or religious group, in whole or in part.” The physical component includes but is not confined to “forcefully injuring, killing or harming groups of people.” However, identifying the intent is the most intricate part which consists of paying attention to every detail. For example, in the Bosnian

¹⁶“United Nations Office on Genocide Prevention and the Responsibility to Protect.” United Nations, [www.un.org/en/genocideprevention/genocide-convention.shtml#:~:text=Importantly%2C%20the%20Convention%20establishes%20on,individuals%20\(Article%20IV\)](http://www.un.org/en/genocideprevention/genocide-convention.shtml#:~:text=Importantly%2C%20the%20Convention%20establishes%20on,individuals%20(Article%20IV).). Accessed 13 June 2023.

¹⁷ The Convention on the Prevention and Punishment of the Crime Of ..., www.un.org/en/genocideprevention/documents/Genocide%20Convention-FactSheet-ENG.pdf. Accessed 14 June 2023.

conflict, many crimes were committed that led to the killings of many different groups of people. For this case, it is important to discover the intents and targets of the crimes committed.

On the other hand, this Convention also has many areas of weakness. One weakness is its inability to bring criminals and offenders to justice.¹⁸ There have been several instances where the international community has failed to convict despite the Genocide Convention's requirement that governments prevent and punish. Numerous reasons have been offered for this lack of success, but no framework for explaining why the Genocide Convention has been unable to prevent and punish genocide when it happens has yet been developed. In this case, exploring what the Convention has achieved in its original statement of preventing more atrocities is an important area to consider. The areas for interpretation on the Convention raise the question of whether a party was actually in violation of the convention and, if so, to what extent they were.

B. Serbian Paramilitary and Serbian Government Involvement

Paramilitary forces significantly affected this conflict in a relatively short period of time. Although the Bosnian-Serb military was aided by socialist Yugoslav military, ethnic Serb irregulars, or (paramilitaries, from both Bosnia and Serbia were responsible for some of the most violent destruction.¹⁹ During the early stages of the Bosnian War, ethnic Serbian paramilitaries violently removed Bosnian Muslims and Croats from their homes. They also employed traditional tactics of death— such as murder, torture, and rape. Paramilitaries were also associated

¹⁸ Georgia State University ScholarWorks @ Georgia State University - GSU, scholarworks.gsu.edu/cgi/viewcontent.cgi?article=1016&context=political_science_theses. Accessed 14 June 2023.

¹⁹ Ron, J. (2000). Territoriality and plausible deniability: Serbian paramilitaries in the Bosnian war. In *Death Squads in Global Perspective* (pp. 287–312). Palgrave Macmillan US.

with the ethnic cleansing that occurred along the Serbian border with eastern Bosnia and Herzegovina.²⁰ In certain areas there was a direct correlation between allegations of death and the number of distinct paramilitary groups, according to a report from the UN. In the former Yugoslavia, ethnic Serb paramilitary actions were documented in sixty-seven different towns, with the vast majority occurring in Bosnia, and fifty-five distinct ethnic Serb paramilitary organizations. The Yugoslav military, which remained in Bosnia until May 14, 1992, provided the paramilitary with weaponry and support services but avoided getting too involved directly. Later on, July 11, 1995 was a key event for the involvement of the Serbian government. Led by Bosnian Serb military officer Ratko Mladic, Bosnian Serb forces were assisted by Milosevic's Serbian government and ordered the withdrawal of peacekeepers.²¹ This act of carrying out groups of Bosniaks to designated territory can be seen as an attempt to suppress. This decision would bring up many issues dealing with human rights, and therefore, it is debated whether the Serbian government had significant involvement or if it was merely the paramilitary groups that should be held accountable.

C. Bilateral agreements

Due to the high levels of conflict that have emerged in this war, a number of agreements have been made that may be helpful while the court's decision is being developed and discussed. In specific, the Dayton Agreement and Resolution 819 are two major resolutions that embody the

²⁰ (N.d.). Cdlb.org. Retrieved June 16, 2023, from <https://publishing.cdlib.org/ucpressebooks/view?docId=kt2k401947&chunk.id=ss2.08&toc.depth=1&toc.id=ch03&brand=ucpress>

²¹ Rohde, D. (2017, November 26). Why did ratko mladic commit genocide against Bosnia's Muslims? *New Yorker* (New York, N.Y.: 1925). <https://www.newyorker.com/news/news-desk/why-did-ratko-mladic-commit-genocide-against-bosnias-muslims>

conflict of 1992-1995. "The General Framework Agreement for Peace in Bosnia and Herzegovina" negotiated in Dayton on November 21 was not simply meant to put an end to the constant killings but rather repair divisions caused by ethnicity. Yet, after twenty years, the nation is still divided into a Serb portion, "the Republika Srpska, and a Federation of Bosniaks and Croats." ²²Officially, they are all citizens of the same country, but Serb officials regularly strive to question the nation's authority by advocating for a split. Considering this information, the court must decide which measures led to this agreement, and which sides are responsible for the divisions caused. Resolution 918 is one of the biggest obstacles to the Court's jurisdiction, which must also be decided. Most importantly, this resolution "demands that all parties and others concerned treat Srebrenica and its surroundings as a safe area". ²³ This resolution was also set on "reaffirming its call on the parties and others concerned to observe immediately the cease-fire throughout the Republic of Bosnia and Herzegovina." This case explores Serbia's actions and whether this resolution requires that Serbia had a responsibility to prevent the genocide and to what extent Serbia was responsible.

IV. Case Study: Croatia v. Serbia – International Court of Justice

In July of 1999, Croatia filed proceedings against the Federal Republic of Yugoslavia—which had its name changed, in 2003, to Serbia and Montenegro²⁴. In this filing,

²² Borger, J. (2015, November 10). Bosnia's bitter, flawed peace deal, 20 years on. *The Guardian*. <https://www.theguardian.com/global/2015/nov/10/bosnia-bitter-flawed-peace-deal-dayton-agreement-20-years-on>

²³ United Nations High Commissioner for Refugees. (2002). *Refworld: Information on refugees and human rights*. United Nations.

²⁴ "Yugoslavia and Successor States: Bosnia and Herzegovina, Croatia, Montenegro, North Macedonia, Serbia, Slovenia." United Nations, www.un.org/en/about-us/member-states/yugoslavia#:~:text=On%20February%202003%2C%20following,changed%20to%20Serbia%20and%20Montenegro. Accessed 14 June 2023.

Croatia alleged that the Federal Republic of Yugoslavia, or Serbia, violated the Convention on the Prevention and Punishment of the Crime of Genocide from 1991 to 1995. Specifically, Croatia argued that genocide was committed in its town of Vukovar and others by Serbia in 1991 and onward. In response to this, Serbia made a counterclaim that over 200,000 Serbians were expelled or forcibly removed from Croatia.²⁵ To start, the ICJ looked at whether genocide had been committed in Croatia and confirmed this fact. The ICJ then looked into if there was an intentional element to the genocide committed in Croatia. Without intention to commit genocide able to be proved, Croatia's entire claim was rejected by the ICJ. Next, the ICJ analyzed the counter-claim that Serbia filed against Croatia. The ICJ decided that intent to commit genocide was also lacking, like in Croatia's situation, thus rejecting the entire claim made by Serbia as well.

The Convention on the Prevention and Punishment of the Crime of Genocide, which was the international doctrine that was up for debate in this ICJ case, states that there are two elements that make up genocide. One of elements is the physical aspect of a genocide committed called "*actus reus*" and the second element for genocide is "the intent to destroy" and whether the genocide was deliberate. The intentionality of committing the genocide is what differentiates genocide under the convention from other crimes and murders. The ICJ, through its investigation, found that the attacks that killed many Croatians were the product of widespread violent attacks to civilians, thus were not intentionally targeting a specific nation, ethnicity, racial group, or religious group. Although intent for genocide could not be proved for either party by

²⁵ "Un Court Dismisses Croatia and Serbia Genocide Claims." BBC News, 3 Feb. 2015, www.bbc.com/news/world-europe-31104973.

the ICJ, the ICJ did acknowledge that there were many crimes committed from 1991 to 1995, which was the time period in question.

Although the ICJ found neither country, Serbia nor Croatia, liable of committing genocide, the ICJ did recognize that both states had, with intention, forced minority ethnic groups out of Serbian or Croatian controlled areas. The conclusion reached in the ICJ genocide case between Croatia and Serbia was the dismissal of the case. In a vote of 15-2, the ICJ's judgment rejected Croatia's assertions and, in a vote of 17-0, the ICJ rejected Serbia's counter assertions. The unanimous ruling against Serbia's claim implies that the delegated judge against Serbia ruled against Serbia's claim.²⁶ Moreover, Serbia raised a second "jurisdictional objection," which was also rejected by the ICJ in a vote of 11-6. Despite rejecting Croatia's and Serbia's claims, the ICJ called for both states to continue cooperating in order to offer reparations to victims of the situation as well as to resolve the issue of missing persons from the conflict. Additionally, both Croatian and Serbian leaders conclude that this case will close an important chapter in both states' history and help to move on to a more peaceful, cooperative future.

V. Guiding Questions

1. Do the actions taken against Bosniaks in Bosnia and Herzegovina violate the Convention on the Prevention and Punishment of the Crime of Genocide and should it be considered genocide?
2. Was it the responsibility of the Serbian government to take measures to stop or prevent the killing or genocide in Bosnia and Herzegovina?

²⁶ Escritt, Thomas. "U.N.'s Highest Court Absolves Croatia, Serbia of Genocide." Reuters, 3 Feb. 2015, www.reuters.com/article/cnews-us-serbia-croatia-ruling-idCAKBN0L70YB20150203.

3. Who funded, supported, and aided the Serbian paramilitary forces?
4. Should the situation in Bosnia and Herzegovina from 1992 to 1995 be considered a Civil War between two sides, or was it a one-sided attack and genocide?
5. Who is to blame for encouraging and inciting the ethnic cleansing and genocide of Bosniaks?
6. Which specific situations and encounters can be looked into for reliable evidence on finding a modernized verdict to this case?

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