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Testimony of Aryeh Neier
before the
Senate Foreign Relations Committee
on the
U.S. Role in the War in Bosnia-Hercegovina

February 18, 1993

Thank you for inviting me to testify before the Committee. My name is Aryeh Neier. I am Executive Director of Human Rights Watch, the parent organization of five regional Watch Committees that monitor human rights in their regions. One of those regional divisions is Helsinki Watch which has long worked to promote human rights in Yugoslavia and its successor states. I appear here for Human Rights Watch and its Helsinki Watch division. We are grateful to you for the attention that you and your staff have paid to human rights in former Yugoslavia and for this opportunity to testify.

In my testimony I will focus on recommendations for some measures that should be taken by the United States to promote human rights. I will do so in the context of the statement by Secretary of State Warren Christopher on February 10 setting forth the Clinton Administration's policies on the former Yugoslavia on the assumption that, broadly speaking, that statement set forth the parameters within which the United States is prepared to act. I

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would have preferred a somewhat different statement making it explicit that the United States supports the use of force to ensure the delivery of humanitarian assistance and making clear the humanitarian and human rights preconditions for continued negotiations. Moreover, we believe that the United States has a duty, as a party to the Genocide Convention to join with others in taking effective action to prevent and suppress genocide. At this time, however, it seems most useful to focus on what may be done by the United States under the Clinton/Christopher plan to alleviate the suffering that has been caused by human rights abuses and to end those abuses.

Before setting forth our specific proposals, I want to provide a few words of background about our own organization's work in the former Yugoslavia.

Human Rights Watch and its Helsinki Watch division have closely monitored the human rights situation in the former Yugoslavia for more than a decade. Over the course of that period, we have published numerous highly detailed reports documenting human rights abuses. Since the outbreak of armed conflict in Croatia in 1991 and in Bosnia-Herzegovina in 1992, we have stepped up our monitoring and have published reports on Serbian abuses against Croats in the war with Croatia; on Croatian abuses against Serbs in that war; on Kosovo; and a book length report last August on "War Crimes in Bosnia-Herzegovina." In early January, Helsinki Watch and the Women's Rights Project of Human Rights Watch conducted a mission to investigate the widespread practice of rape

in the conflict. In about two weeks, we will publish another book length report on war crimes in the Bosnian war documenting abuses region by region; every Bosnian municipality is covered in the report.

To collect the information that is contained in these reports, the Helsinki Watch division of Human Rights Watch currently maintains its own staff continuously in different parts of the former Yugoslavia. In addition, many other members of our staff and officers of our organization visit the former Yugoslavia frequently, often for extended periods, to take part in the collection of information. I myself have had the opportunity to visit twice since the beginning of the year; in January, when I went to Croatia and to Bosnia-Herzegovina's besieged capital, Sarajevo; and again this past week when I returned to Croatia.

In the course of my own visits, I met with officials of the Bosnian and Croatian governments, including the Deputy Prime Minister of Bosnia-Herzegovina Hakiija Turajlic. Four days after I had lunch with him in his office in Sarajevo, he was murdered point blank by Serbian soldiers as he sat in a United Nations vehicle that had been opened by U.N. soldiers for Serbian inspection. Others I met with included the Defense and Interior Ministers of Croatia to discuss the measures they are taking to punish their own forces for human rights abuses they have committed. Also, I met with military personnel; leaders of intergovernmental, governmental and non-governmental agencies responsible for humanitarian assistance; and I conducted interviews with many men and women who

had been forced out of their homes and communities, confined in detention camps, transported in closely-packed cattle cars, sent on forced marches, tortured and otherwise abused and who had been witnesses to some of the most horrifying abuses of human rights that I have encountered throughout a professional career that has been devoted to the protection of rights.

In making recommendations, I will cite particular passages of Secretary Christopher's statement and suggest what might be done to carry forward the policy he set forth.

Secretary Christopher stated:

[T]he President is taking steps to reduce the suffering and bloodshed as the negotiations proceed. He's calling on all parties to stop the shelling and other violence.

This is a crucial point. It is not enough that efforts should be made to end the suffering and bloodshed caused by this war of ethnic cleansing by means of negotiations; these must be ended, as the Secretary said, while the negotiations proceed. Indeed, we insist that they must be ended before the negotiations proceed further. We believe that the great mistake that has been in the negotiations up to now is that human rights and humanitarian commitments, and monitoring of compliance with those commitments did not precede all else. The failure to proceed in this way has allowed the Serbian forces to use the negotiations as a cover, forestalling a forceful international response.

Secretary Christopher's reference to the shelling was on point. Again, it is the view of Human Rights Watch that it is wrong to conduct prolonged negotiations over constitutional and

territorial arrangements while the indiscriminate shelling of civilian communities in Sarajevo and the towns of eastern Bosnia continues throughout. In and of itself, such indiscriminate shelling is defined as a war crime under Additional Protocol I of the 1949 Geneva Conventions.¹

Another cause of great suffering that must be addressed before the negotiations proceed, and not merely as a goal to be achieved through negotiations, is the obstruction of the delivery of humanitarian assistance. At this moment, there is extensive press coverage of Serbian obstruction of a United Nations relief convoy to the Cerska/Kamenica area, a community that was entirely cut off by a blockade for nine months. It should be clear that these blockades are part of the strategy of ethnic cleansing, as the experience of the town of Cerska indicates. After bringing the residents of this community to the point of starvation, it was broadcast on Serbian television and radio that for "humanitarian reasons" the Serbian forces would allow people to leave the area and not attack them as they left. Between January 30 and February 5, some 4,000 to 4,500 did leave by foot. As a consequence of

¹ Article 85, Section 3 provides that "the following acts shall be regarded as grave breaches of this Protocol when committed wilfully, in violation of the relevant provisions of this Protocol, and causing death or serious injury to body or health:

(a) making the civilian population or individual civilians the object of attack;

(b) launching an indiscriminate attack affecting the civilian population or civilian objects in the knowledge that such attack will cause excessive loss of life, injury to civilians or damage to civilian objects...."

shelling, cold, exhaustion and enfeeblement due to long periods of malnutrition, an unknown number died on the journey to Tuzla where most of these persons forced out of Cerska/Kamenica have now gone.

Mr. Christopher stated that:

[President Clinton] has urged that humanitarian aid be allowed to flow to those in need. And we are considering further actions to promote greater delivery of this aid.

This is another crucial provision of the Clinton/Christopher plan. Again, the delivery of aid is required not only for humanitarian reasons but to deal with the central human rights issue of the conflict, ethnic cleansing, which takes place in parts of Bosnia-Herzegovina by means of sieges and blockades of the delivery of humanitarian assistance.

Ethnic cleansing measures -- summary executions, mistreatment in detention camps, deportations and forced transfers of people -- are, like indiscriminate shelling, explicitly designated as war crimes by the Geneva Conventions. Rape is also being used as an ethnic cleansing measure, terrorizing and displacing women and their families. While not explicitly mentioned as a war crime, rape is clearly covered by the Geneva Conventions' prohibition on torture or inhuman treatment and willful causing of great suffering or serious bodily injury.²

If the mediators were to reverse their agenda even at this

²Article 147 of the Fourth Geneva Convention of 1949 provides that "Grave breaches to which the preceding article relates shall be those involving any of the following acts wilful killing, torture or inhuman treatment....wilfully causing great suffering or serious injury to body or health, unlawful deportation or transfer or unlawful confinement of a protected person [i.e., a noncombatant]...."

late date and demand human rights and humanitarian commitments, and their enforcement, the process would at last serve a useful purpose. If such commitments and enforcement could not be obtained, the mediators should make clear publicly who is to blame. The international community could then determine its response which up to now has been shaped at every turn by the mediators' insistence that their negotiations should not be jeopardized.

In considering further actions to promote greater delivery of humanitarian aid, it seems evident that military protection for the delivery of this aid must be enhanced. It should be possible for those delivering the aid to insist on going through whatever obstacles are put in their path. To do so, sufficient force must be provided to guard both ground and air deliveries. It is not the province of Human Rights Watch to suggest whether the requisite military protection should be provided by strengthening United Nations forces, bringing in NATO or bringing in U.S. troops directly. Yet just as it was necessary to use military force to protect the delivery of humanitarian assistance in Somalia, so it is required in Bosnia.

In calling for such military protection for the delivery of humanitarian assistance, Human Rights Watch is not urging U.N. forces, NATO forces or U.S. forces to take on a combat role. The experience in Somalia suggests that this can be almost entirely avoided provided that the level of protection afforded to those delivering humanitarian assistance is sufficiently great to deter attacks. (Prior to the arrival of 24,000 U.S. troops in Somalia,

the few hundred U.N. troops there had been confined to their barracks because they were no match for the Somali warlords.) Inevitably, of course, ensuring security for protection forces would require a warning that those attacking humanitarian convoys or the troops protecting them would be subject to swift and sure reprisal. This is what has kept international forces from having to engage in extensive combat in Somalia. Similarly, the prospect of such reprisal is what has allowed a handful of poorly armed U.N. guards to keep Saddam Hussein's troops in Iraq from crossing into the internationally guaranteed security zone in Kurdistan. Also, of course, the Bush Administration's threat, by itself, that the U.S. would respond to any Serbian military action in Kosovo has been effective up to now without more. We are pleased that Secretary Christopher reaffirmed this threat.

Another aspect of humanitarian assistance that the United States should deal with urgently is to ensure that assistance reaches the surviving non-Serbian minority in Serbian controlled areas where a great deal of ethnic cleansing has already taken place. It is extremely difficult for the United Nations High Commissioner for Refugees and the International Committee of the Red Cross, which operate in these areas, to see to it that fair distribution takes place. Even without resort to further killings, rapes and confinements of civilians in detention centers, the authorities in these areas are able to continue ethnic cleansing simply by keeping food and medical care from reaching minorities. A significant international presence is required. The

International Committee of the Red Cross has publicly called for an increased role for United Nations Protection Forces to protect minorities in these areas in their places of residence. This would require their forces to be strengthened, with warnings of severe reprisals if they are attacked. Here too, it is beyond our own scope and competence to say whether the forces should be U.N., NATO or U.S. troops. At a minimum, however, we call on the United States to ensure the deployment of troops to promote the greater delivery of aid in accordance with the Clinton/Christopher plan.

At this time, there is almost no information available about what is required in the way of force to ensure delivery of relief to Bosnia's besieged communities. Before U.S. involvement in protecting the relief effort can be considered, the Pentagon should assess precisely the requirements for ensuring an effective relief effort, including the rules of engagement, the numbers of troops, the equipment, weapons and materiel. The more detailed the study, the more useful it would be. The document should describe in detail the precise security needs of every stage of the relief effort throughout Bosnia (including the numbers of troops needed to open specific corridors, guard individual warehouses, accompany each convoy, protect distribution at individual sites, traverse Serbian lines at various points, and protect humanitarian workers at specific locations).

Such a study would serve several purposes. First, it would inform officials within the Congress and the executive branch as they consider the question of humanitarian intervention and clarify

what the actual implications would be with respect to troop commitment, risk and rules of engagement. Second, it would assist the United Nations by identifying the areas where additional support is most needed, and encourage other governments to offer forces to meet specific needs. Third, the public release of those portions of such a document that could be made public would put the Serbian authorities on notice that the United States is serious about protecting an effective relief effort. We would appreciate this Committee's requesting such a study from the Department of Defense and the intelligence community at the earliest possible opportunity.

Mr. Christopher also stated:

The President is also seeking the creation of a war crimes tribunal at the United Nations to bring justice and to deter further atrocities.

Since last August, when the Chairman of the Senate Foreign Relations Committee, Senator Pell, and Human Rights Watch independently called for the establishment of such a tribunal, the proposal has gained considerable momentum. We ask that the United States should introduce a specific resolution for the creation of such a tribunal in the U.N. Security Council or the General Assembly and should press for its adoption as an urgent matter. In addition, we call on the Department of State to draft a proposed charter for such a tribunal.

Another step that the United States could take that would be of great importance would be to devote extensive resources to the collection of evidence for such a tribunal and to make this widely

known. U.S. surveillance technology could be employed, for example, to document the indiscriminate nature of the shelling of Sarajevo and the towns of eastern Bosnia and the U.S. should undertake to collect the names of all the officers responsible for this shelling. Similarly, it is crucial to collect evidence on responsibility for ethnic cleansing by means of the blockade of humanitarian aid and by the killings, rapes, torture, detention of civilians and forced expulsions. These are all war crimes.

To date much of the hard evidence of war crimes has been collected by a handful of non-governmental organizations, especially the Helsinki Watch division of Human Rights Watch and by Physicians for Human Rights. We will persist in these efforts and have been turning over the evidence we collect to the War Crimes Commission established last October by the United Nations Security Council. In our view, this effort has been greatly enhanced because the United States has undertaken its own systematic effort to collect evidence. Also, we believe that disseminating widely the information that this is being done, and making it clear that the names of those responsible for specific crimes are being collected, would have a deterrent impact on those committing these crimes. Up to now, they may have persuaded themselves that an amnesty would be part of a negotiated settlement or that most of the guilty will be protected because the evidence to associate them with specific crimes will be lacking. (Dr. Radovan Karadzic, the Bosnian Serb leader cited by former Secretary of State Eagleburger as someone who should be tried for war crimes, has made light of

this in press interviews.) If these are factors in their thinking, a well-publicized, aggressive effort by the United States to collect evidence of war crimes, and insistence that such crimes may not be forgiven as part of a negotiated settlement, would disabuse them of such thoughts.

Finally, we note Mr. Christopher's statement that:

[T]he President has taken steps to make clear to all concerned that the United States is prepared to do its share to help implement and enforce an agreement that is acceptable to all parties.

The United States looms larger in world affairs than ever before. Accordingly, our government's willingness to do its share is essential. At the same time, we trust that, in accordance with the remainder of Mr. Christopher's remarks, the United States will do its share before an agreement and not only after one is reached. Many grave human rights issues will arise after an agreement, which we do not address at this time. For now our concern is that urgent human rights matters must be attended to in advance of an agreement.

Thank you very much for listening to our views.