

KOSOVO'S WARTIME VICTIMS: THE QUEST FOR JUSTICE

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Tuesday, April 30, 2019

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC

The committee met, pursuant to notice, at 10 a.m., in Room 2172, Rayburn House Office Building, Hon. Eliot Engel (chairman of the committee) presiding.

Chairman ENGEL [presiding]. Good morning, everyone. The committee will come to order.

Without objection, all members will have 5 days to submit statements, extraneous material, and questions for the record, subject to the length limitation in the rules.

Let me, first of all, welcome our witnesses.

This morning we will take a look back at the wars that ravaged the Balkans two decades ago and shine a light on how the victims in Kosovo are still seeking justice so many years down the road. In this committee, I find it often helpful to look back and consider what was happening on the global stage at different times in history, and there was a lot going on 20 years ago.

In 1999, as we geared up for the new millennium, the euro was established; three former Soviet Bloc countries, Hungary, Poland, and the Czech Republic, became NATO allies; Boris Yeltsin resigned as President of Russia, turning over the reins of power to Vladimir Putin. And there was perhaps no more precarious situation than in the Balkans. The Bosnian War had recently ended, and the Dayton Agreement, concluded only a few months earlier, was only then entering its earliest implementation phase.

But in Kosovo, things were much, much worse. After 10 years of crackdowns, violations of human rights, and severe ethnic discrimination, Slobodan Milosevic, the butcher of the Balkans, began a campaign to forcefully expel the ethnic Albanian population of Kosovo. In doing so, he displaced nearly 1 million people to countries around Kosovo, killed more than 11,000 ethnic Albanians, and initiated a policy leading to the rape of thousands of Kosovar women. Some 2,000 ethnic Serbs also lost their lives in the war.

I would like to specifically call attention to a 2017 report from the Belgrade-based Humanitarian Law Center, HLC, titled, "The Cover-up of Evidence of Crimes During the War in Kosovo: The Concealment of Bodies Operation." Now, according to HLC—this is what it said—"Since 2001, mass graves containing the bodies of 941 Kosovo Albanians, mainly civilians, killed outside combat situations in Kosovo during 1999, have been found in four locations in Serbia. The bodies found in mass graves belong not only to males,

but also to females and children as well. The cause of their deaths in most cases was a gunshot wound, mainly to the head, suggesting that the victims did not die in combat, but as a result of execution-style killings. The decision to conceal evidence of crimes committed was planned as early as March 1999 at the highest level of the government. No one has ever been held accountable before courts in Serbia for the large-scale operation of concealment of bodies of Kosovo Albanian victims in mass graves." I want to repeat that because it is really shocking. To this day, "No one"—20 years—"no one has ever been held accountable before courts in Serbia for the large-scale operation of concealment of bodies of Kosovo Albanian victims in mass graves."

I also want to highlight the work of Human Rights Watch in calling attention to the victims of Belgrade's policy of forcible rape of up to 20,000 Kosovar women—20,000. In their report, "Kosovo: Rape as a Weapon of 'Ethnic Cleansing,'" the Human Rights Watch laid out the case starkly. "The research found that rape and other forms of sexual violence were used in Kosovo in 1999 as weapons of war and instruments of systematic 'ethnic cleansing'. Rapes were not rare and isolated acts committed by individual Serbian or Yugoslav forces, but rather were used deliberately as an instrument to terrorize the civilian population, extort money from their families, and push people to flee their homes. Rape furthered the goal of forcing ethnic Albanians from Kosovo."

But, to this day, 20 years later, there has been little to no justice for the victims. Those who lost loved ones or who were sexually assaulted themselves have been offered virtually no avenues to confront the perpetrators. Yes, the U.S. mission in Kosovo examined the crimes, but they did nothing to secure justice for the victims.

EULEX considered several cases, but the effort was largely fruitless, leading to only a small number of convictions. The International Criminal Tribunal for the former Yugoslavia, the ICTY, indicted Milosevic, who later died in prison, but it has not achieved much else for the other Kosovars who suffered from his army's war crimes. Regardless of the fact that the vast majority of war crimes during the Kosovo War were committed by forces under Belgrade's command, the same number of Kosovar Albanians were indicted by the ICTY as Serbs, seven from each country.

No one thinks people who committed war crimes should get away with their actions, but nothing underscores the unbalanced international justice arising from the Kosovo War more than this false equivalency. The United States and our European allies could have pressed for justice for the victims of Milosevic's brutality, but, for the most part, we failed to take any substantive action. Even worse, in my opinion, the United States forced Kosovo to create a so-called "Special Court" to address allegations of violations by members of the Kosovo Liberation Army, the KLA. So, let's see what this means.

The Special Court addressed allegations of violations of the Albanian minority by members of the Kosovo Liberation Army, but did not do anything to the Serbs who committed such heinous acts of violence. Very, very unbalanced. No one is saying the KLA was somehow perfect and did not commit bad acts of its own, but let's be crystal clear. The vast majority of crimes—the vast majority—

war crimes and crimes against humanity, were committed by the Yugoslav and Serbian security forces. That is a fact. There is no other way to look at what happened.

No matter, said the United States and the EU, Kosovo needs a Special Court, and we proceeded to force it upon them. Regrettably, I went along with this, so the pressure could come off Pristina and the country could return to normal. All the while, did the State Department come down nearly as hard on Serbia, which committed the overwhelming bulk of the war crimes? Did we and our European allies demand that, in exchange for progress in EU ascension, Belgrade must address post-conflict justice? No, we did not. We dumped it all on Kosovo. Hence, Kosovo has a Special Court to investigate itself. Shameful and wrong, in my opinion.

But, my friends, there may be a silver lining. The law creating the Specialist Chambers allows the prosecutor to indict anyone who committed war crimes in Kosovo during the war. But, to this day, it seems the court is only pursuing Albanians. I would suggest that anyone involved with this court pay attention right now. This committee will be monitoring the court closely to see that it addresses the perpetrators of all crimes which can be prosecuted under its jurisdiction, not only ethnic Albanians.

In the bigger picture, I think the justice for the victims of the Kosovo War will never be achieved if we—and by “we,” I mean our State Department and the European Union—continue to sweep the whole thing under the rug. That is why this hearing is so important. It is critical that we hear firsthand from those who were brutalized at the hands of Belgrade in 1998 and 1999 and from those who are pressing for justice.

We have an outstanding panel of witnesses this morning. I look forward to introducing them and hearing their testimony.

But, first, I will yield to our ranking member, Mr. McCaul of Texas, for any opening remarks he might have.

Mr. MCCAUL. Thank you, Mr. Chairman.

Before we start this morning’s hearing, I want to address the developing situation in Venezuela. The chairman and I both got a briefing from Ambassador Bolton. I think things are moving very rapidly, hopefully, in the right direction. I continue to stand with the Venezuelan people and Interim President Juan Guaido, and urge Maduro to step down to allow peaceful transition in Venezuela and refrain from violence against his own people. The Venezuelan people need the support of the international community now more than ever, and I hope my colleagues here from both sides of the aisle can stand together in support of this cause for freedom and democracy.

Now to the subject of this hearing, the war in Kosovo was a terrifying conflict that brought tremendous suffering to the Balkans. Over the course of a year and a half, ethnic tensions and violence forced families from their homes, took the lives of innocent civilians, and left an untold number of people scarred for life.

Many of us remember the gruesome images shown across our TV screens or printed in the newspapers. Refugees were crammed into trains and sent off to camps. A spokesman for the United Nations Refugee Agency at the time said he was reminded of “the darkest

days at the end of World War II with refugees streaming in all directions.”

We learned of horrifying war crimes that included torture, rape, and a program of ethnic cleansing carried out by Serbian forces. And by the end, there were 13,000 people that were dead or missing and over 1.2 million people had been displaced. It was a full-blown humanitarian crisis.

This would be the last major conflict of the 20th century on a continent that is no stranger to war. And while an operation carried out by NATO helped bring the hostilities to a close in June 1999, the war never actually ended for many of its victims. The horrors have stayed with the people who were forced to endure them. Some survivors have yet to experience justice for the crimes that were committed against them. Although we have pledged to never forget what happened in Kosovo 20 years ago, there are people who feel as if they have already been forgotten.

Too many war criminals and perpetrators have yet to be punished for their evil actions. And while this is a sad reality, we can still take action and do something about this. This hearing will allow us to discuss what happened and review ways to seek the justice that needs to be served.

This morning we will hear directly from our witnesses who can share their stories about what happened to them and their family members. Their truths must continue to be told.

And I want to personally thank each of the witnesses here today, and all of us commend you for your strength, your courage, your commitments to peace.

Of note, I want to also welcome Ms. Goodman from my home State of Texas.

I am hopeful that your testimonies will shed light on these atrocities that were committed and inspire others who have yet to share their stories.

I would like to, finally, thank Chairman Engel for holding this important hearing, and I urge my colleagues to find ways in which we can work together to find the justice that has so far eluded the victims of this conflict.

And with that, I yield back.

Chairman ENGEL. Thank you, Mr. McCaul, for your statement and thank you for your involvement.

Let me, first, introduce the witnesses. I am pleased to again welcome these distinguished witnesses to the Foreign Affairs Committee.

First of all, we are honored by the presence of the former President of Kosovo, Atifete Jahjaga. President Jahjaga has played a critical role in raising the stature of the victims of Belgrade's policy of forcible rape of Kosovo's women. Her work has helped raise awareness of how victims of wartime rape for too long sat in shame and silence. She helped to de-stigmatize the wounds, so that people could discuss their pain and be compensated.

Among those who will share with us her tragedy today is Vafije Krasniqi-Goodman. Ms. Krasniqi-Goodman made history when she became one of the first victims of Belgrade's campaign of sexual assault to speak publicly about what happened to her. I am deeply thankful for her courage and willingness to describe her, regret-

tably, unsuccessful attempts to seek justice for the crimes she endured.

A true retelling of the horrors of the Kosovo War would not be complete without Ilir Bytyqi. The murder and mass burial of his three brothers—all American citizens, by the way—the murder and burial by Serbian security forces, that represents, in my opinion, one of the worst crimes of the conflict.

Mr. Bytyqi, whom I know, thank you for sharing with the committee your family's experience.

Finally, I would like to welcome Paul Williams, a professor at the American University's Washington College of Law. My daughter is a proud graduate of that school. He has worked with issues affecting Kosovo for many years.

Our witnesses today, and so many others, still seek justice, and I look forward to Professor Williams describing what has happened with legal efforts in the past and what avenues still remain available.

I will now recognize our witnesses for 5 minutes, each to summarize their testimony. We will start with President Jahjaga.

**STATEMENT OF ATIFETE JAHJAGA, FORMER PRESIDENT,
REPUBLIC OF KOSOVO**

Ms. JAHJAGA. Honorable Mr. Chairman of the committee, honorable ranking member, honorable members of the Foreign Affairs Committee, ladies and gentlemen, as I speak here today, I carry the burden of hundreds of thousands of lives that have been shattered by the war in Kosovo. They want their stories to be heard, and they demand justice for the crimes perpetrated against them. It is not a burden to take lightly. We would like to use this occasion to share their stories and seek support for our ongoing quest for justice.

Around this time 20 years ago, NATO intervened in Kosovo to stop the ethnic cleansing of the Albanian population perpetrated by the Milosevic regime. We are forever grateful to the United States for its leadership in ending the war and opening a new chapter for Kosovo. Since then, we have been going through the tremendous task of dealing with grief and trauma, rebuilding our homes, building democratic institutions, and seeking justice, all at once.

Our dignity and humanity were stripped away 20 years ago. The Albanians in Kosovo, as the democratic majority, were the target of some of the most grievous human rights violations. The Serbian police and military under the Milosevic control carried out widespread and systematic human rights abuses. Other ethnic minorities were caught up in between, and although not the target, suffered similar crimes.

During an ethnic cleansing campaign, in less than 2 months, nearly 1 million Albanians were expelled from Kosovo. Inside Kosovo, in a crusade of killings, Serbian forces rounded up Albanian men and women of all ages in a door-to-door operation to summarily execute them. They perpetrated indiscriminate violence, separating families. They destroyed the social fabric of our community.

During the Kosovo War, there were more than 100 mass killings, 74 of which were recorded. Over 13,000 people were brutally mur-

dered in the war, according to the Humanitarian Law Center, including 1,230 children under 18 whose lives and dreams were instantly shattered, 80 percent of them Albanian. There are still over 1,600 missing. An estimated number of 20,000 women were raped, according to the Centers for Disease Control. Two-thirds of the homes and objects of historic value were burned to ashes.

The devastation of war made a return to normalcy difficult. The war did not only influence interethnic relations, it also broke communities. The use of rape as a tool of war was meant to make war everlasting.

I have met hundreds of women survivors of sexual violence. Their fearful experience is still vivid. They still suffer from physical injuries and severe PTSD. For many years, due to the stigma unjustly placed upon them, they were isolated, deprived of the life of opportunities, unable to even provide for themselves and their families.

As a result, the vast majority of them live in dire economic conditions and in need of support. Still, every single one of them told me that, in order to move forward, they need recognition and justice more than anything else.

While today very few cases have been prosecuted for this crime, there has been no conviction, not a single one. Ladies and gentlemen, the only way to help these women and men move past the horrors of the war is the justice. Kosovo has established a Special Court to ensure the mechanism of justice for any wrongdoing on our part. This has not been easy for us. It is beyond our comprehension that there have been more indictments issued for alleged crimes of the Kosovo Liberation Army than for the crimes of the Serbian forces committed in Kosovo, which were part of a plan, a blueprint drafted, orchestrated, and executed by the Milosevic regime.

The main perpetrators of the most horrific crimes are still moving freely in Serbia and elsewhere. Serbian authorities even deny that atrocities in Kosovo occurred and continue to use Kosovo as a propaganda for internal political gains.

The shadow of the war still lingers over Kosovo. It is present in the vivid memories and severe trauma of the survivors. It is present in the agony and desperation of the families of the missing people. It is present in the memory of the loved ones lost to the power lust of the brutal regime.

Having experienced the devastation of war, all we want is a future in peace. That is why we are committed to the dialog to normalize relations with Serbia. We have already made all of the comprehensible compromises in order to reach peace with Serbia. From the Rambouillet Peace Agreement in 1999 to the Ahtisaari Plan in 2007, Kosovo has made painful compromises. However, under no circumstances will the people of Kosovo ever allow their hard-fought-for independence, serenity, or territory integrity to be placed into question.

Justice for the crimes committed during the Kosovo War is long overdue, but it is not to be linked with a dialog with Serbia. Justice is not a matter of a negotiation. It is a legitimate right of everyone hurt by the war. This matter is bigger than politics and all of us. Justice is a precondition for the long-lasting peace. We owe it to

the loved ones whom we lost and the survivors still living with the open wounds. And above all, we owe it to our future generation for them not to go through what we did.

That is why today I call upon the esteemed Members of the U.S. Congress to take a stand for justice, to hold Serbia accountable for the crimes and ethnic cleansing in Kosovo.

I thank you for the honor.

[The prepared statement of Ms. Jahjaga follows:]

*Written Testimony of Atifete Jahjaga, Former President of the Republic of Kosovo
submitted before the U.S. House of Representatives Committee on Foreign Affairs
on
“Kosovo’s Wartime Victims: The Quest for Justice”
April 30th, 2019*

Honorable Mr. Chairman of the Committee,
Honorable Members of the Foreign Affairs Committee,
Ladies and gentlemen,

As I speak here today, I carry the burden of hundreds of thousands of lives that have been shattered by the war in Kosovo. They want their stories to be heard and demand justice for the crimes perpetrated against them. It is not a burden to take lightly. We would like to use this occasion to share parts of our painful history, and seek support for our ongoing quest for justice. More specifically, this hearing today offers us a chance to share with the U.S. lawmakers and the global audience how justice failed the victims of the Kosovo war and what measures should be taken in order to move forward.

Around this time, 20 years ago, NATO intervened in Kosovo to stop the ethnic cleansing of the Albanian population of Kosovo committed under the orders of the President of Serbia of that time, Slobodan Milosevic. We are forever grateful to the U.S. for its leadership in ending the war and opening a new chapter of history for Kosovo. Since then, we have been going through the tremendous task of dealing with grief and trauma, rebuilding our homes, building democratic institutions, and seeking justice - all at once.

In today’s context, as we seek to normalize relations with our neighboring country of Serbia, the former aggressor, and negotiate peace - we want to bring to the fore the issue of justice for the war crimes and crimes against humanity committed by the Serbian state apparatus consisting of military, police, and paramilitary forces. This is not only a key issue for the citizens of Kosovo. It is imperative for establishing a durable peace through a recognition of the truth, which is currently under attack from various efforts of the Serbian authorities to distort historical facts about the Balkan wars, change the narrative, and minimize the harm, devastation, and the ethnic cleansing campaign against the Albanian Kosovars during 1998-1999.

It is justice for the innocent lives that were taken, the survivors, as well as the families of the missing people, to share the truth about what happened in the Kosovo war with the committee members.

Our dignity and humanity were stripped away 20 years ago. As numerous international verification missions, human rights reports, witnesses and survivors have attested, the Kosovo Albanians, as the ethnic majority of Kosovo, were the target of some of the most grievous human rights

violations during the Kosovo War of 1998-1999. Milosevic wielded absolute control over the Serbian police, military and paramilitary forces, which carried out extensive and systematic human rights abuses. Other ethnic minorities got caught up in between, and although not a primary target, suffered similar abuses.

This war destroyed the lives of hundreds of thousands of civilians and forced nearly one million people to leave their homes. During the period 1998-2000, a total of 13,535¹ people were killed, including 1,230 children under the age of 18, and 1,647 are still missing. 80% of these victims were Albanian. An estimated number of 20,000 Albanian women and men experienced sexual violence, as a tactic of war.

In March and April of 1999, through an ethnic cleansing campaign, nearly one million refugees were expelled from the country. The overwhelming majority of Kosovo refugees were pushed by Serb forces to flee to the neighboring countries of Albania, Macedonia and Montenegro. This forced expulsion of about half of Kosovo's population was accompanied by a campaign of terror, abuse, torture, sexual violence, and killings. In the context of a joint criminal enterprise, as the International Criminal Tribunal for former Yugoslavia (ICTY) concluded, Serbian forces confiscated and destroyed personal identity documents as part of the plan of forcible displacement of Kosovo Albanians, with the purpose of making their return home much more difficult.²

First-hand stories of refugees are not only passed on from one generation to the other, but made headlines in the international media of the time. Serbian forces crammed Albanians from the capital Prishtina into trains, forcing them to leave - a scene that to many was reminiscent of scenes from the Holocaust during World War II. When three trains with about 5,000 refugees arrived in Billace, Macedonia, a witness shared her account:

“When the trains pulled in, people were pushed down the hill and crammed on to the train. Two old people died in the crush.”³

While hundreds of thousands of Kosovo Albanians were able to find refuge in neighboring countries, although in miserable conditions, tens of thousands experienced unspeakable crimes in Kosovo. Between 1998-1999 there were hundreds of mass killings, but only 74 of them were recorded. In a crusade of killings, Serbian forces rounded up Albanian men of all ages in door-to-door operations to summarily execute them. Indiscriminate violence was widespread. Families were separated. Innocent civilians were slaughtered. The social fabric of our communities was destroyed.

Among the gravest orchestrated crimes against civilians were a series of massacres under “Operation Reka,” which were characterized by indiscriminate violence and mass executions. The operation was carried out in Gjakova in April 27 and 28, 1999. Serbian soldiers and police first entered the homes of over eight Albanian-inhabited villages of the Gjakova municipality, and forced the residents to leave.⁴ Several thousands of residents left at once in convoys of tractors, as

¹Humanitarian Law Center, Kosovo Memory Book 1998-2000. http://www.kosovomemorybook.org/?page_id=29&lang=de

²Humanitarian Law Center, “Dossier Operation Reka”, 2015. http://www.hlc-rdc.org/wp-content/uploads/2015/10/Dossier-Operation_Reka.pdf

³Marcus Turner, “War In The Balkans: Kosovo close to full ethnic cleansing”, 1999. <https://www.independent.co.uk/news/war-in-the-balkans-kosovo-close-to-full-ethnic-cleansing-1084510.html>

⁴Humanitarian Law Center, “Dossier Operation Reka”, 2015. http://www.hlc-rdc.org/wp-content/uploads/2015/10/Dossier-Operation_Reka.pdf

Serbian soldiers and police led them towards the city of Gjakova. At the checking point there, they robbed them of all the money and jewelry they could find, and then separated the men from the women, the children, and the elderly, who were forced to move in the direction of Albania. 350 Kosovo Albanian civilian men were killed in this operation, including 36 underage boys.⁵ There were no survivors in this mass killing. The Belgrade-based organization Humanitarian Law Center (HLC) has documented the whole operation, from the planning of the operation to the concealment of the bodies, and their dossier includes the names of all the men lost in this operation.

Concealment of the bodies was also orchestrated by the high-level authorities of the regime. The bodies of 350 men, who were brutally killed, were buried in mass graves in several locations in the municipality of Gjakova. Then, days after, those bodies were disinterred from the primary graves, put into refrigerated lorries, and transported to Serbia in several locations near Belgrade. 309 mortal remains of the 350 men killed in the operation were found in 2001 in a secret mass grave in Batajnica, a suburb of Belgrade.

The whole operation and the cover up were planned by high-level police and military of the Federal Republic of Yugoslavia (FRY), almost all of whom were “found guilty and convicted by the ICTY for the crimes committed in Operation Reka.”⁶

To date, Batajnica was the largest mass graves of Kosovo Albanian bodies, but not the only one. There are three other locations in Serbia where mortal remains of Kosovo Albanian civilian men, women, and children were found, and there’s reason to believe that there are still more that have not been disclosed to date. A total of 941 bodies of Kosovo Albanians, killed mainly in execution style with gunshots mostly in their head, have been found in four mass graves:⁷ 744 of them in Batajnica, and the rest in Petrovo Selo, Lake Perućac, and Rudnica. The first three were found in 2001, whereas the one in Rudnica in late 2013. Evidence indicates that the decision to conceal the bodies was given directly by former President of FRY, Slobodan Milosevic, in an effort to hide evidence of mass killings and ethnic cleansing of Kosovo Albanians. In the regime of the time, this process was called “clearing up the terrain” or “sanitization.”⁸

Yet, the scale of crimes against Kosovo Albanians was so immense that it was impossible to match with a cover-up scheme. The evidence of these crimes screamed through the bodies of the men, women, and children, which were even left in the open for weeks. It still screams through the injuries and physical damages of those who have been tortured and raped, and still have wounds and severe post traumatic stress disorder (PTSD). And it screams through the stories of survivors, who witnessed atrocities that still haunt them.

Besarta Jashari was only 10 when she witnessed the brutal massacre of her entire family of 56 members, including children, women, and elderly. On March 5, 1999, the Serbian police surrounded her family with heavy artillery and tanks, in an effort to kill Adem Jashari, Hamž

⁵ Humanitarian Law Center, “Dossier Operation Reka”, 2015. http://www.hlc-rdc.org/wp-content/uploads/2015/10/Dossier-Operation_Reka.pdf

⁶ Ibid. More information about the ICTY convictions for crimes committed in Operation Reka can be found in the appeal judgement of Djordjevic 2014 and Sainovic et al. 2014.

⁷ Humanitarian Law Center, “Dossier: The cover-up of evidence of crimes during the war in Kosovo: THE CONCEALMENT OF BODIES OPERATION”, 2017. http://www.hlc-rdc.org/wp-content/uploads/2017/01/Dosije_OPERACIJA_SKRIVANJA_TELA_eng.pdf

⁸ Ibid.

Jashari, and Shaban Jashari, who were leaders of Kosovo's armed resistance.⁹ After a three-day siege, everyone was killed, except for Besarta. She lived to tell the truth to us, and to the world. Among others, she shared her story with the late war correspondent for *The Times*, Marie Colvin, who then revealed it to the world. She described the moments after Besarta shook her three dead sisters (7, 8, and 10 years old), trying to wake them up:

“Besarta climbed through a hole in the wall and ran around the house, shouting: 'Anybody - is anybody still alive?' When nobody answered, she crawled back under the table. The pause in the shelling was all too brief. Besarta would spend the night and the next day alone, with her family dead all around her, as the Serbs' rockets came again and again, smashing into the whitewashed house with red-tiled roof that had once been home. A bright, happy pupil at school, Besarta was the sole survivor of an attack that can now be revealed as nothing less than a calculated, cold-blooded massacre.”¹⁰

Another cold-blooded massacre was committed in Reçak on January 15, 1999, where 45 Kosovo Albanians, including women and a child, were brutally killed. They were shot at close range, mostly in the head. Human Rights Watch reports showed that the Serbian special police forces and the Yugoslav Army had orders from high level government officials to “go in heavy” in Reçak and kill the village inhabitants.¹¹ A survivor from the Reçak Massacre told Human Rights Watch:

“My son H.B. was running on my left side, maybe two meters from me. He had his trousers in his hands, we did not have time to dress properly. He was warning me to move aside and suddenly he fell down. The bullet hit him in the neck. In front of me, my husband fell as well. He didn't move anymore.”¹²

In the immediate wake of the massacre, Ambassador William Walker, who then led the Kosovo Verification Mission, saw the crime scene.

“From what I personally saw, I do not hesitate to describe the event as a massacre, obviously a crime very much against humanity.”¹³

In Reçak, international monitors and journalists witnessed the atrocities, as well as the regime's efforts to change the narrative of what had happened there. Ambassador Walker reflects on what he saw the day after:

“We started up the hill again, and every 15 or 20 yards, there was another body, in all sorts of grotesque postures. All the ones that I saw were older men, and they were obviously peasants. There was no sign of uniforms or weapons. They were killed where they lay, the way the bullets were in their bodies, in their eyes, and in their tops of their heads, they had been killed where they lay. There was no way this could have been faked”...“Nothing I saw

⁹ Armend R. Bekaj, “The KLA and the Kosovo War”. https://www.berghes-foundation.org/fileadmin/redaktion/Publications/Papers/Transitions_Series/transitions8_kosovo.pdf

¹⁰ Marie Colvin, “The Massacre at Prekaz”, 1998. http://www.bosnia.org.uk/news/news_body.cfm?newsid=2842

¹¹ Human Rights Watch, “Human Rights Watch investigation finds: Yugoslav Forces Guilty of War Crimes in Racak, Kosovo”, 1999. <https://www.hrw.org/reports/1999/kosovo/0brmie6-07.htm>

¹² Human Rights Watch, “Yugoslav Government War Crimes in Racak”, 1998. <https://www.hrw.org/legacy/campaigns/kosovo98/racak.shtml>

¹³ Radio Free Europe/Radio Liberty, “They Screamed Until They Died - Remembering Kosovo's Racak Massacre”, 2019. Video accessed through <https://www.youtube.com/watch?v=kO4sV1e1awE>.

on the hill had anything in common with the government's first story, which was that there was a clash with uniformed, armed KLA, and that 15 had been killed. Everything I saw was consistent with what the villagers were telling me, less than 24 hours after it had happened, which was that the government had come in there and done this. The government was already putting out stories that uniforms had been taken off, and other clothes put on. The stories got more and more fanciful as the days progressed."¹⁴

The brutal images of Reçak were shared with the world, through international journalists that saw the aftermath of the massacre. This showed the world the truth of what had happened. But there were hundreds of cases of killings, torture, rape, and brutal force used against the civilians that never made headlines. In some cases, they were covered in the reports of international missions that interviewed refugees. A psychologist who interviewed women survivors of sexual violence shared the stories she collected in a report for the UNFPA:

"In Berlenitz, women told of soldiers separating the men from the others. Soldiers wearing masks encircled the young boys and women. The young boys had their throats slit one at a time, but only after their ears and sometimes their noses had been cut off. The torturers sharpened their knives in front of the women and terrorized children. They then cut open the stomachs of many pregnant women and skewered the fetus on their blades. One of the witnesses was 32 years old. She was spared because her pregnancy was not yet visible. She is currently in a clinic trying carry out her pregnancy in spite of severe contractions that began during the scene of the torture."¹⁵

And there are hundreds other experiences that were never heard. Not in the media. Not in the reports of local and international organizations. In most cases, these experiences are passed on from one generation to another to make sure that we never forget what happened. In some cases, predominantly with survivors of sexual violence, the experiences die with the survivors.

Even with all the efforts to "clear up the terrain," destroy evidence, and change the narrative, the truth always finds a way of coming out. It was revealed through the testimonies of survivors and witnesses, international observers and journalists, and it was also revealed by some Serbian soldiers, who were a part of the Kosovo war. A few of the ones who have shared their experiences publicly seem to not be able to live with themselves after what they have seen or perpetrated. A Serbian officer in the former Yugoslav Army during the Kosovo war recollects horrific stories from that period:

"During one ethnic cleansing operation in a village in south-eastern Kosovo, we gave the villagers half an hour to leave their homes. They were standing in a long line along the road leading out of the settlement. A reservist nicknamed Crni (Black) went up to an old man who was holding a child aged around three or four. He grabbed the toddler from the man's arms and demanded a ransom of 20,000 German marks. The Albanian only had 5,000. Crni took the child by the hair, pulled out a knife and hacked off its head. 5,000 is

¹⁴PBS Frontline, "Ambassador William Walker Interview" <https://www.pbs.org/wgbh/pages/frontline/shows/kosovo/interviews/walker.html>

¹⁵United Nations Population Fund, "Assessment Report on Sexual Violence in Kosovo", 1999. <https://reliefweb.int/report/serbia/assessment-report-sexual-violence-kosovo>

only enough for the body,' he said and walked off past the other villagers, carrying the child's head by its hair. All of this took place in front of dozens of people. We were all in a state of shock: some soldiers vomited, while our young second lieutenant fainted at the terrible sight of the headless body writhing in the dust."¹⁶

The officer is still enraged that Crni was never tried as he should have, but was just declared insane and was let free.

Another officer shares a similar story.

"I watched with my own eyes as a reservist lined up around 30 Albanian women and children against a wall. I thought he just wanted to frighten them, but then he crouched down behind an anti-aircraft machine-gun and pulled the trigger. The half-inch bullets just tore their bodies apart. It looked like a scene from a cheap movie, but it really happened. I don't know how I will live with these memories, how I'll be able to raise my own children. I'm not willing to accept the collective guilt. I want to see those who committed these atrocities stand trial for their crimes."¹⁷

Just like this officer, we want to see those who committed these atrocities in trial. It is not our choice to make "monsters" out of an entire population. That is why we need justice, and that is why we need Serbian authorities to take responsibility for the atrocities committed during the Milosevic regime. This is the only way for the people of both Kosovo and Serbia to distinguish between those who committed crimes and those who did not. And when this difference is clearly established, we have a solid chance to move forward.

Now, I would like to bring to your attention a matter that is very close to my heart. One, for which unlike other atrocities, it took us years to be able to talk about - openly. One, where the victims and survivors are judged instead of being supported. That is the issue of sexual violence during the Kosovo war.

During the Kosovo War, rape was utilized as a weapon of war. As in many other conflicts where rape is used as a tool of war, the survivors face stigma for a crime unjustly committed against them. Rape was used to destroy the social fabric of our communities. By brutally violating the bodies of the women, the Serbian military, police, and paramilitary forces were attacking the men who were not accessible to them, and whom they could not kill and torture directly.¹⁸ Through rape, they aimed to emasculate Kosovo Albanian men by calling them out for being weak and incapable of "protecting" their women. In most cases, women survivors of sexual violence were spared their lives, though tremendously injured both physically and psychologically, and were told that they were allowed to live so that they could remember "who did that to them." Most survivors begged the rapists to kill them, after being completely stripped off of their dignity and humanity.

¹⁶ Global Voices Balkans, "Serb Officers Relive Killings", 2019. <https://tvrpr.net/global-voices/serb-officers-relive-killings>

¹⁷ Ibid.

¹⁸ United Nations Population Fund, "Assessment Report on Sexual Violence in Kosovo", 1999. <https://reliefweb.int/report/serbia/assessment-report-sexual-violence-kosovo>

Instead, in most cases, the Serbian forces removed their masks during the act of their crime demanding that the women look at their face so that they could remember them throughout their lives.

Prior to the war, Kosovo Albanian women were demonized by the state produced propaganda of the Milosevic regime and portrayed as worthless childbearing factories. This propaganda fueled the hysteria that the high birth rate among the Kosovo Albanians would further increase their demographic percentage in Kosovo, and thus lead to their takeover of the country.¹⁹ As such, rape was weaponized to significantly decrease the reproduction rate, by either causing permanent injuries due to which women could not bear children, or by marking them for life in an effort to make them unwanted by the society.

There is no exact number of survivors of sexual violence during the war. Most women did not report the rape due to feelings of shame and stigma. Some of them were murdered after the rape. Thus, the exact number of survivors will never be known. Based on a survey of women refugees conducted by the Center for Disease Control and Prevention in 1999, the estimate is that between August 1998 and August 1999, between 23,200 and 45,600 Kosovar Albanian women were raped.²⁰ The Center for Protection of Women and Children, a local NGO, estimate that at least 20,000 women and girls were raped. Some other reports have estimates ranges between 10,000 and 30,000 cases of survivors of sexual violence.²¹ While the overwhelming majority of victims of rape were women, there were also men that were raped, as a tactic of war. Given the different estimates, we take the estimate 20,000 women and men raped as a good approximation to the real number, based on the average of the available data.

As we can observe in other conflicts too, one of the ways that rape serves its role as a weapon of war is by unjustly putting the blame on the victim, rather than the perpetrator. The act of the rape is always surrounded by shame: the collective and individual shame of women for what they have gone through, as well as the collective shame of men for not being able to “protect” the women. Ultimately women carry their shame, as well as the price for the shame and emasculation that men feel, and as a result the stigma is unjustly placed upon them. It is no surprise that a vast majority of them did not report the crime against them, and that until now only two of them - Marte Tunaj and Vasfije Krasniqi Goodman- have openly shared their story.

In the aftermath of the Kosovo war, unfortunately, addressing the issue of the survivors of sexual violence was not regarded as a priority. Not by the international community who had executive

¹⁹ Human Rights Watch, “III. Gender-based violence against Kosovar Albanian Women”, 2000.

https://www.hrw.org/legacy/reports/2000/fiv/Kosov003-02.htm#P152_28499

²⁰Michelle Hynes, “Sexual Violence Against Refugee Women”, 2000.

https://www.researchgate.net/publication/12352633_Sexual_Violence_Against_Refugee_Women

²¹ Kosova Women’s Network, “Exploratory Research on The Extent of Gender-Based Violence in Kosova and Its Impact on Women’s

Reproductive Health”, 2008, <https://womensnetwork.org/wp-content/uploads/2018/10/20130120165614663.pdf>.

Serbeze Haxhijaj, “The Enduring Agony of Wartime Rape in Kosovo”, Balkan Insight, 2017.

<https://balkaninsight.com/2017/05/29/agonny-of-wartime-rape-victims-endures-in-kosovo-05-28-2017-1/>

powers over the territory of Kosovo, neither by the provisional government institutions of our country. In absence of attention from the central level, women activists began working directly with survivors, trying to provide emergency services. Yet, it took time for survivors to come to the local organizations offering help, and often even more time to open up to them. As years went by, many women committed suicide, and a number of them died of different diseases that were at least partially related to their experience. We will never be able to offer these survivors full recognition, reparation, or justice for their suffering, and failing them will forever be a burden in our conscience.

In spite of the challenging context, women activists were vocal, and kept fighting the silence and the social taboo of this horrendous war crime. In 2014, during my mandate as the President of the Republic of Kosovo, the National Council on the Survivors of Sexual Violence during the War in Kosovo was established by Presidential decree.²² The council brought together stakeholders to coordinate efforts to meet the needs of the survivors, from recognition of their status to reparation, access to justice, and fight to end stigma. In the same year, the Parliament amended the Law on the Status of War Veterans and Families of the Civilian Victims to include the survivors of sexual violence during the war. Based on this amendment, in 2015, the Government of Kosovo passed a regulation to establish a special commission that would facilitate the distribution of individual benefits. The Government Commission on Recognition and Verification of the Status of Sexual Violence Victims During the Kosovo Liberation War began its operations in 2018, and to date 1,026²³ women have applied for the legal recognition of their status.

Upon leaving office, I established the Jahjaga Foundation, which is focused on empowering youth and women of Kosovo to push for positive developments in our society and beyond. Empowering the survivors of sexual violence and supporting their plea for justice is one of the central issues that the Foundation has been working on. The Jahjaga Foundation continues to be a strong advocate for the survivors through continuous advocacy projects for the recognition of their status, ending stigma, and facilitating access to justice. Still, there is much more that must be done to meet many of the needs of the survivors, starting with economic empowerment. Due to the stigma unjustly placed upon them, the survivors were isolated, deprived of life opportunities, unable to even provide for themselves and their families. As a result, the vast majority of them live in dire economic conditions and in need of support.

Another very sensitive matter that is still to be publicly and institutionally addressed relates to children born out of rape, who at present must be have 20 years of age. There is a dearth of data or even estimates as to what the number of children born as a result of the rape is, as the vast

²² More information on the context in this matter can be found in the UN Women report "The conflict did not bring us flowers", 2016. http://www.unwomen.org/-/media/headers/attachments/sections/library/publications/2016/the-conflict-did-not-bring-us-flowers_eng.pdf?la=en&vs=5055

²³ Data provided by the Government Commission on Recognition and Verification of the Status of Sexual Violence Victims During the Kosovo Liberation War, April 2019.

majority of survivors in this situation kept this information hidden or unreported. A survivor who was impregnated after rape, shared her story two years ago.

“One woman who gave birth as a result of wartime rape said paramilitary units held her for two days in a private house in a village near Peja. ‘I didn’t even know I was pregnant. When a medical doctor told me about the pregnancy, I wanted to commit suicide. I was 17. They told me the pregnancy was in the sixth month and it was too late for an abortion,’ she said. In a short, difficult conversation at one of the centres providing support to victims of violence, she shared her story of the baby’s delivery. ‘A doctor and a psychologist arranged with an urologist to write a diagnosis, showing allegedly that my belly was growing because one of my kidneys wasn’t working,’ she said. A German NGO paid the rent for a flat where she could hide from her family until she gave birth. She said her son was a healthy baby: ‘He didn’t cry at all.’ But she only breast fed him once – and then gave him up. ‘I don’t know where he is. I didn’t want to know about him. I still don’t want to know,’ she replied briefly, declining to offer more details.”²⁴

Published in a local news portal, her story was a reminder of the many cases like her, and the collective failure to do them justice. This matter requires to be handled with great sensitivity, and we are still trying to figure out how to help the young men and women, and their families, without putting them at risk of prejudice, bullying, or any other potential harm.

Most pregnancies that resulted due to rape were ended as early as possible. They were done in very poor conditions, and again due to stigma, the number of abortions cannot even be estimated. One of the organizations that works with survivors claims that 12 out of the 120 women they work with became pregnant after the rape. Out of the 12, 11 of them had abortions, and one of them had the child, and then abandoned the baby.²⁵ This is one organization alone.

We are still working hard to navigate this consequence of the war, that we inherited from the Milosevic regime, and provide support and reparations to the survivors. It is a daunting task, which is made harder when the perpetrators run free and the Serbian authorities deny their responsibility. It is a battle that we have to fight on many fronts, starting with medical support and psychosocial help, to fight against stigma, economic empowerment, support for children born as a result of rape, and access to justice. Survivors of sexual violence during the war in Kosovo have many needs. Having met hundreds of them, I have to share that every single one of them, told me that they need justice more than anything else, in order to move forward.

There have been some efforts towards justice for sexual violence,²⁶ but that is not merely enough. That is why we will continue to call for justice. But, we also have to remember that we are running

²⁴ Serbeze Haxhijaj, “The Enduring Agony of Wartime Rape in Kosovo”, Balkan Insight, 2017. <https://balkaninsight.com/2017/05/29/agony-of-wartime-rape-victims-endures-in-kosovo-05-28-2017-1/>

²⁵ *Ibid.*

²⁶ In the ICTY mega trial of six Serbian leaders of the Yugoslav security sector, only General Nebojsa Pavkovic, the commander of the Third Army, was found responsible for the sexual violence committed under his watch, a violence he knew and could foresee, but did not stop nor

out of time. Time is taking its toll on the survivors and remaining witnesses and they cannot wait forever to see justice being served. That is why we have to act now. Justice is long overdue.

Another matter that is long overdue is the return of the missing people, if they are alive, or their remains. To date, 1,647 people remain unaccounted for.²⁷ The issue of the missing people is still an open wound that makes countless families relieve the pains of the war. Twenty years after the war, there are numerous many of us who are still looking for our missing loved ones - parents, spouses, siblings, and children.

We have to do everything possible to shed light on the fate of the missing persons. Our citizens have the right to know what happened to their loved ones. They are not asking for revenge. They need answers and they need closure. And if they cannot get their loved ones back alive, they are at least entitled to have a grave they can visit, and after 20 years, be able to grieve.

We have tried to learn more about the fate of the missing people through a number of initiatives, but progress has been slow. All these endeavors, in which the institutions of our country, family members and the international community were involved, have unfortunately been met by the institutions of Serbia's unwillingness to cooperate. And cooperation with Serbia, which does not share data and does not open its archives, is essential to obtaining these answers. States who are truly committed to justice must abide by international norms and regulations, and must not hide the crimes. By hiding them, they become accomplice to the regime who committed them in the first place.

As years go by, the families of the missing people try different avenues to find their loved ones. They pressure Kosovo institutions, and share their stories for local and international media and missions, in an effort to pressure Serbia to disclose information about them. Naim Hadergjonaj shared his quest to find his two missing brothers for the International Committee of the Red Cross.

"Our hopes won't vanish until they - or something belonging to them - is found, dead or alive, we believe the truth will come out."²⁸

Halil Ujkani, 85 years old, is still looking for his three sons who went missing in Spring 1999.

"The Serbian military caught them on the evening of April 19 in the Serb-inhabited village of Dreth. An old Serb woman who was taking care of her cows said that she witnessed the moment when they were stopped by the military. There was no shooting or killings that day." ... "On April 22, my Serb neighbours in north Mitrovica saw my son and some other while Serbian military took them in a military truck... My neighbour Bogoljub Aleksic

punished (Milutinović et al. 2009). It took five more years and the Appeal Judgment against Nikola Šainović, former Deputy Prime Minister, Sreten Lukić, former head of the MUP (Ministry of the Interior) in Kosovo (Šainović et al. 2014), and Vlastimir Djordjević, former Assistant Minister of the Serbian MUP (Djordjević 2014), for the ICTY to recognize that judges had made "a legal error" by not finding them guilty of the same crime: sexual violence as a crime against humanity in the persecution of the Albanian population in Kosovo.

²⁷International Committee of the Red Cross. "Twenty years on, 1,647 people still missing in Kosovo," 2018.

²⁸International Committee of the Red Cross, "Kosovo: Families of missing persons are still looking for answers", 2016. <https://www.icrc.org/en/document/kosovo-families-missing-persons-are-still-looking-answers>

heard that they were taking them to Pozarevac [in Serbia].”...“I have searched for them both among the living and among the dead. Every day I imagine that I’m finding them.”²⁹

It is important for us to share with the Committee that the majority of the missing people of Kosovo are Kosovo Albanians. Among them there are also Serb, Roma, Bosniak, and other minority communities. Yet, they are all the same to us. They are all Kosovo citizens, and their families want them back - dead or alive. And we continue to keep looking for all of them, until we know of their fate, and their families finally get closure. And we will continue to seek justice for everything that happened to all. No exceptions.

Recognizing that justice is central for a strong democracy, well functioning of the country, as well as to reconciliation efforts with Serbia and our quest for long-lasting peace, Kosovo has established a Specialist Court for crimes allegedly committed in Kosovo by the Kosovo Liberation Army (KLA), to ensure a mechanism of justice for any wrongdoing. This has not been easy for us, since the main perpetrators of the widespread and systematic crimes committed against us are still moving freely in Serbia and elsewhere.

To date, there have been some, yet insufficient, efforts to provide justice for the war in Kosovo. One of them was through the International Criminal Tribunal for the former Yugoslavia at The Hague, established by the United Nations in 1993. The ICTY was launched with high expectations and the hope that it could show great progress in prosecuting individuals responsible for serious violations of the international humanitarian law that were committed in the territory of the former Yugoslavia since 1991. But the quest for justice was painfully slow and it did not result in a full or coherent exercise of retributive justice.

A glaring example was the prosecution of Milosevic. Milosevic was initially arrested and charged with abuse of power and corruption, and then transferred to The Hague to face charges of crimes against humanity, war crimes, and genocide before the ICTY. However, Milosevic died from natural causes before getting his verdict. His demise only added to the frustration of millions of people, in Kosovo, Bosnia and Croatia, that he could not be judged for the horrendous crimes of which he stood accused. The ICTY through a lengthy and highly complex trial failed to deliver Milosevic the verdict on charges of genocide, crimes against humanity, grave breaches of the Geneva Conventions, and violations of the laws and customs of war. Moreover, by having a broad scope of charges tied to only this figure, ICTY failed to indict and prosecute many of his fellow collaborators. Milosevic even got to defend himself in the process – to cross-examine witnesses, to further intimidate the women sitting across from him that were raped by the Serbian forces under his orders.

The ICTY has set important precedents in international law in many respects, but the ICTY failed to bring justice to many Kosovars who lost their loved ones in the conflict, and to create a record of the wide range of crimes/atrocities that were committed during the Kosovo War. This failure extended to UN-run courts in Kosovo, who despite broad competencies to investigate a crime scene – which Kosovo was in 1999 – did little to deliver justice for the crimes committed and thus also address the collective trauma that Kosovo suffers from.

²⁹Filip Rudic et al., “Missing Persons: Balkan Families Suffer as Search Goes”, 2018. <https://balkaninsight.com/2018/08/30/missing-persons-balkan-families-suffer-as-search-goes-on-08-29-2018/>

While there are still many cases pending in different courts, there have only been 64 final convictions for war crimes - over the lengthy course of 20 years. ICTY convicted eight Serbian leaders for war crimes and crimes against humanity in Kosovo. Two Albanians, KLA commanders, were convicted for war crimes in Kosovo. In Serbia, courts have convicted 15 Serbs and one Albanian for war crimes. In Kosovo, under the jurisdiction of United Nations Mission in Kosovo and the European Union Rule of Law (EULEX) mission in Kosovo, there have been 40 persons convicted for war crimes - 35 of whom are Albanians, four Serbians, and one Roma.³⁰ Thus, there are a total number of 64 persons convicted of war crimes in Kosovo, the majority of which are Albanians (38), whereas there are 25 Serbs and one Roma.

The number of trials for the crime of sexual violence are even smaller. At the ICTY it took a long time to at least establish that rape was not an isolated crime but was deployed in the campaign of ethnic cleansing with the intent of terrorizing people. In domestic courts, we are very far from justice. In the two trials for rape in the Serbian Special War Crimes Chamber, the charges were against former KLA members, one of whom was convicted.³¹ In Kosovo, so far, there have been only three cases of prosecutions for rape, which were acquitted after appeal.

It is beyond any comprehension that until now there have been more indictments issued for crimes allegedly committed by the KLA than for the planned and orchestrated crimes of Serbian forces committed in Kosovo. While all perpetrators of all types of crimes must be brought to justice, there is a difference we must recognize. In the Kosovo war, violence was orchestrated by the Serbian state. In the aftermath of the war, ethnic crimes were perpetrated by members of Albanian armed groups and individuals. We need to set the record straight: the ethnic cleansing, the war crimes, the rapes as tool of war, the execution of men in Croatia, Bosnia and in Kosovo were part of a plan, a blueprint drafted, orchestrated and executed by the state, by the government of Serbia – a deliberate plan to ethnically cleanse or kill another ethnicity to consolidate power.

We would like to emphasize one very significant matter, as we move forward. Kosovo does not have a problem with the Serbian people. Our issue is with those who perpetrated, supported or deny these crimes and who should be held accountable. Our fundamental issue is that there is still no justice for people who have been brutally massacred. For those who have experienced inhumane treatment and torture. For survivors of sexual violence who are still condemned to silence. For the missing people, whose families do not even have a grave where they can cry on. For the thousands of children orphaned by the war. For the countless number of children abandoned because they were born as a result of rape. For the bodies concealed into mass graves. The perpetrators of these crimes are moving freely in Serbia, and their impunity is our fundamental issue.

Some citizens of Serbia, on the other hand, have shown empathy and solidarity. Many Serbian civil society organizations recognize the human right violations committed by the Milosevic regime, and demand that their authorities be held accountable and take the necessary measures to bring the perpetrators to justice. Just last month, Serbian men and women from the Humanitarian Law Centre, the Youth Initiative for Human Rights, and the Women in Black marched in the streets

³⁰The complete data for final convictions for war crimes were provided via e-mail by the Humanitarian Law Center, on April, 2019.

³¹Amnesty International, "Wounds that burn our soul: Compensation for Kosovo's wartime rape survivors, but still no justice," 2017. <https://www.amnesty.org/download/Documents/EUR7075582017ENGLISH.PDF>

of Belgrade towards the Serbian Parliament, carrying a banner with the names of 744 Kosovo Albanians found buried in a mass grave in a police training center in Batajnica, Belgrade.³² At this event, Stasa Zajovic, founder of the civil society organization Women in Black, claimed that they “want to appeal to the citizens of Serbia to stop the silence about these crimes, to inspire compassion, empathy and solidarity.”³³ They understand that through solidarity, the recognition of the humanity of Kosovo Albanians, and build a more solid foundation for reconciliation between Kosovo and Serbia.

Moving forward, we would like to build on their support, and ask for your support in our quest for justice. We believe that there should be a similar structure to the Specialist Court that would prosecute all crimes committed in the Kosovo war. This action is, in fact, long overdue, and it is the only way for long-lasting peace. We have shared the true story of the war in Kosovo with you, hoping that you will continue to be in the right side of history, just like you were 20 years ago. One specific way that you could help us in our quest for justice is by factoring truth and justice for Kosovo crimes, as part of U.S. foreign policy towards Serbia, and work with your European allies to do the same.

Finally, I would like to emphasize that there is absolutely no justification for war. No circumstance can justify the use of violence and torture on civilians. This was a direct violation of international laws of war, particularly in an asymmetric war as the Kosovo war. Due to the territorial ambitions and power lusts of a brutal regime, neighbors became enemies overnight. What started with hateful rhetoric and deprivation of basic rights quickly escalated into widespread violence, killings and ethnic cleansing, which meant to deport an entire ethnic group. We are thankful that the war ended, and we are forever grateful to the U.S. for standing up for the values of freedom and liberty. We thank the U.S. for not tolerating the great injustice that was being done towards the ethnic Albanians and for being on the right side of history. We shall never forget this.

Having experienced war, we do not take peace for granted. Not a single day. But we cannot have sustainable peace without the Serbian authorities recognizing the responsibility of the Milosevic regime and its state apparatus in perpetrating crimes in Kosovo. This recognition is a crucial part in the process of ensuring justice. This would pave the way for reconciliation and would offer Serbia a chance to demonstrate that they are different from their predecessors. The contrary actions, which include attempts to change the narrative of the war, efforts to blur the line between the aggressor and the victims, minimize the suffering that took place, and boast revisionist ambitions to redraw borders, indicate no genuine interest for a shared future in peace. Unfortunately, from what we have seen so far, the current leadership in Serbia has been following the steps of the Milosevic regime. Last year, Serbian President, Aleksandar Vucic, held a speech in front of Kosovo Serbs in northern Mitrovica, where he glorified Slobodan Milosevic, by calling him a “great leader” with the “best intentions.”³⁴ He said this in the same place where Milosevic made his infamous speech that many attribute as exacerbating ethnic tensions in Kosovo and

³² Radio Free Europe/ Radio Liberty, “Serbian Activists Commemorate Kosovar-Albanian War Victims”, 2019. <https://www.rferl.org/a/serbia-belgrade-march-to-commemorate-kosovo-victims/29843705.html>

³³ Radio Free Europe/ Radio Liberty, “Serbian Activists Commemorate Kosovar-Albanian War Victims”, 2019. <https://www.rferl.org/a/serbia-belgrade-march-to-commemorate-kosovo-victims/29843705.html>

³⁴ Radio Free Europe/ Radio Liberty, “Vucic's 'Great' Milosevic Remark Evokes Ghost Of 'Greater Serbia'”, 2018. <https://www.rferl.org/a/vucic-s-great-milosevic-evokes-ghost-of-greater-serbia-/29486327.html>

precipitating war. We do not need this kind of hate speech. We were all witness of what it could do. Which is why we should always be cautious in what we say - words do have consequences.

We have been through a lot pain and suffering, and we want to end it here. Once and for all. We want justice, and we need justice in order to be able to turn a new page. As Kosovo we are committed to build a future of sustainable peace for our country, and the region, and we wish to see our neighboring country of Serbia demonstrate the same resolve.

Thank you.

Annex I. Major Mass Killings in Kosovo

Between 1998-1999 there were hundreds of mass killings. The 74 gravest were recorded by the Humanitarian Law Center, and include:

Nr.	Date	Location
1	February 28, 1998	Likoshan , Municipality of Glllogoc and Qirez , Municipality of Skenderaj
2	March 5,6 and 7, 1998	Prekaz i Poshtëm , Municipality of Skenderaj
3	May 25, 1998	Lubeniq , Municipality of Peja.
4	May 31, 1998	Poklek i Ri , Municipality of Glllogoc
5	July 18, 19, 20 and 21, 1998	Rahovec
6	August 2, 1998	Shtutica , Municipality of Glllogoc
7	August 26, 1998	Grejçeqc , Municipality of Suhareka
8	August 27, 1998	Senik , Municipality of Malisheva
9	September 11, 1998	Rezalla , Municipality of Skenderaj
10	September 24, 1998	Dubove , Municipality of Vushtrri
11	September 26, 1998	Obri e Eperme , Municipality of Glllogoc
12	January 15, 1999	Racak , Municipality of Shtime
13	January 29, 1999	Rogova , Municipality of Gjakova
14	March 20, 1999	Neighborhood II and III in Skenderaj
15	March 24, 1999	Kotlina , Municipality of Kacanik
16	March 25, 1999	Brestoc , Municipality of Rahovec
17	March 25, 1999	Goden , Municipality of Gjakova
18	March 25, 1999	Ternje , Municipality of Suhareka
19	March 25, 1999	Bellacerka , Municipality of Rahovec
20	March 26, 1999	Krusha e Vogel , Municipality of Prizren
21	March 26, 1999	Krusha e Madhe , Municipality of Rahovec
22	March 26, 1999	City of Fushe Kosova

23	March 26, 1999	City of Suhareka
24	March 26, 1999	Celina , Municipality of Rahovec
25	March 26, 1999	Padalishta , Municipality of Skenderaj
26	March 27, 1999	Duzhnje , Municipality of Gjakova
27	March 27, 1999	Samadrexha , Municipality of Suhareka
28	March 27, 1999	Dardania Neighborhood in the city of Peja
29	March 27, 1999	Mamusha
30	March 27, 1999	City of Gjakova
31	March 27, 1999	Krushevc , Municipality of Obiliq
32	March 28, 1999	Izbica , Municipality of Skenderaj
33	March 28, 1999	City of Podujeva
34	March 28, 1999	Samadrexha , Municipality of Suhareka
35	March 29, 1999	Beleg , Municipality of Decan
36	March 30, 1999	Polac , Municipality of Skenderaj
37	March 31, 1999	Pastasella , Municipality of Rahovec
38	March 31, 1999	Joviq , Municipality of Malisheva
39	April 1, 1999	Lubeniq , Municipality of Peja
40	April 1, 1999	City of Gjakova
41	April 1, 1999	City of Fushe Kosova
42	April 2, 1999	City of Gjakova
43	April 2, 1999	Nagave , Municipality of Rahovec
44	April 2, 1999	Marina , Municipality of Skenderaj
45	April 4, 1999	Kralan , Municipality of Gjakova
46	April 5, 1999	Rezalla , Municipality of Skenderaj
47	April 6, 1999	Reznik , Municipality of Vushtri
48	April 7, 1999	Lubeniq , Municipality of Peja
49	April 9, 1999	City of Kacanik

50	April 12, 1999	Lubizhda e Hasit , Municipality of Prizren
51	April 13, 1999	Studnica , Municipality of Istog
52	April 13, 1999	Kaliqan , Municipality of Istog
53	April 14, 1999	Carallukë , Municipality of Malisheva
54	April 15, 1999	Silovi , Municipality of Lipjan
55	April 17, 1999	Cikatova e Vjeter , Municipality of Glllogoc
56	April 17, 1999	Poklek i Vjeter , Municipality of Glllogoc
57	April 18, 1999	Koliq , Municipality of Prishtina
58	April 18, 1999	Ribar i Vogel , Municipality of Lipjan
59	April 21, 1999	Nakarada , Municipality of Fushe Kosova
60	April 26, 1999	Mazrek , Municipality of Prizren
61	April 27, 1999	Meje , Municipality of Gjakova
62	April 27, 1999	Korenice , Municipality of Gjakova
63	April 30, 1999	Shtutica , Municipality of Glllogoc
64	April 30, 1999	Verbovc , Municipality of Glllogoc
65	May 1, 1999	Cikatove e Vjeter , Municipality of Glllogoc
66	May 1, 1999	Nabergjan , Municipality of Peja
67	May 2, 1999	Studime e Eperme , Municipality of Vushtrri
68	May 7, 1999	City of Gjakova
69	May 8, 1999	Staradran , Municipality of Istog
70	May 10, 1999	City of Gjakova
71	May 14, 1999	Qyshk, Pavlan and Zahaq , Municipality of Peja
72	May 22, 1999	City of Vushtrri
73	May 22, 1999	Dubrava Prison , Municipality of Istog
74	June 6, 1999	Neighborhood tre soliterat , City of Mitrovica

Chairman ENGEL. Thank you, President Jahjaga.
Dr. Williams?

**STATEMENT OF PAUL WILLIAMS, PROFESSOR, WASHINGTON
COLLEGE OF LAW, AMERICAN UNIVERSITY**

Dr. WILLIAMS. Good morning. Good morning, Chairman Engel, Ranking Member McCaul, and members of the committee. It is an honor to testify before you this morning. It is also a privilege and an honor to share this platform with the other individuals who will be testifying before the committee.

It is clear from their written testimony that the Kosovo Albanian victims of the conflict in Kosovo suffer from an accountability gap. During the course of the Yugoslav wars, armed forces associated with the Serbian regime carried out genocide, mass murder, torture, mass rape, mass deportation, as a means to achieve Serbia's military and political objectives. This campaign of terror and destruction was designed and implemented at the highest levels of the Serbian regime. It required tens of thousands of individuals willing to perpetrate such crimes, and it left hundreds of thousands of victims in its wake.

Every victim of an atrocity is entitled to justice, and every perpetrator should be held accountable for their actions. It is equally important, however, not to embrace the mantra all sides are responsible, which can create a false sense of moral equivalence among the parties.

During the Kosovo conflict, the forces associated with the Serbian regime were responsible for the vast majority, upwards of 80 percent, of the atrocities. They displaced nearly 1.4 million people—that is 90 percent of the Kosovo population—killed over 11,000 civilians, and raped over 20,000 women.

Yet, the United Nations Yugoslavia Tribunal indicted an almost equal number of alleged Serbian regime perpetrators and alleged Kosovo Liberation Army perpetrators. None of the indictments of the alleged Serbian perpetrators included charges of rape or sexual violence as a standalone atrocity. In total, the U.N. Yugoslav Tribunal only convicted six Serbian regime perpetrators for the atrocities in the Kosovo conflict.

The domestic hybrid mechanisms created by the U.N. mission in Kosovo, and subsequently, by the European Union rule-of-law mission, disproportionately indicted Kosovo Albanians by a factor of 10 to 1, and only convicted four Serbian regime perpetrators, again, with no charges of rape as a standalone atrocity crime.

In 2015, the international community exerted substantial diplomatic pressure on the government of Kosovo to create the Kosovo Specialist Chambers and the Specialist Prosecutor's Office. The general diplomatic characterization of the court is that it is designed to solely prosecute ethnic Albanians who served in the Kosovo Liberation Army. If this characterization is correct, then the court essentially grants de facto amnesty to perpetrators who committed atrocities on behalf of the Serbian regime, and it closes off effective justice for hundreds of thousands of victims in Kosovo. No other international or hybrid criminal tribunal has been ethnically based or has denied justice to such a substantial number of victims.

The accountability gap created by the actions of the international community and the United States derives from the 20-years-old approach of the European Union to the conflict in the former Yugoslavia: accommodation and appeasement of the Serbian regime. This approach requires maintaining a perception of moral equivalence among all the parties to the conflict. However, false moral equivalence, the creation of ethnic-based courts, the denial of access to justice for victims, and the fostering of ethnic injustice undermines the legitimacy of accountability mechanisms and their ability to promote reconciliation, which is essential to create a durable peace.

The myopic focus of the international sponsors of the Specialist Chambers is disappointing for two reasons. First, as detailed in my written statement, the statute adopted by the Parliament of Kosovo does not actually preclude the prosecution of all individuals responsible for crimes committed in Kosovo, and thus, could serve as a vehicle for justice for every atrocity victim, regardless of ethnicity.

Second, the statute provides for state-of-the-art victim representation and witness protection, which are key to the successful prosecution of the conflict-related sexual violence. The court has the potential to be an ideal mechanism to bring justice for the 20,000 victims of rape in Kosovo.

In conclusion, to accomplish the restoration of the integrity of the Specialist Chambers, the United States should work with the government of Kosovo to affirm and, if necessary, clarify that the mandate of the court covers all crimes committed in the territory of Kosovo and is not limited to prosecuting members of a specific ethnic group of alleged perpetrators.

If necessary, the United States can work with Kosovo to amend the statute to make this mandate unambiguously clear. The United States should also work with the government of Kosovo to encourage the Specialist Prosecutor's Office, a part of the judicial system of Kosovo, to prioritize the investigation and prosecution of rape and other conflict-related sexual violence.

Thank you for the opportunity to speak this morning.
[The prepared statement of Mr. Williams follows:]

**ENDING IMPUNITY IN KOSOVO: CLOSING THE
ACCOUNTABILITY GAP FOR CRIMES COMMITTED
DURING THE KOSOVO CONFLICT**

Testimony of Dr. Paul R. Williams
Rebecca I. Grazier Professor of Law and International Relations
American University
President and Co-Founder, Public International Law and Policy Group

House Committee on Foreign Affairs

“Kosovo’s Wartime Victims: The Quest for Justice”

April 30, 2019

**ENDING IMPUNITY IN KOSOVO: CLOSING THE ACCOUNTABILITY GAP
FOR CRIMES COMMITTED DURING THE KOSOVO CONFLICT**

Good morning Chairman Eliot Engel, Ranking Member Michael McCaul, and members of the Committee. It is an honor to testify before you today. In particular, it is an honor to be invited here by Chairman Engel given his long-standing commitment to peace and justice in Kosovo. It is also a privilege to share this platform with the other individuals testifying before the committee, each of whom have poignant, direct, and personal experiences and insight relating to the quest for justice for Kosovo's wartime victims.

I have been asked by Chairman Engel to discuss the international legal violations committed during the Kosovo War of 1999. In particular, I have been asked to speak from the perspective of an international lawyer with experience in designing accountability mechanisms. I will address the remedies which have been made available to victims and potential claimants, including families of those murdered and victims of rape and conflict-related sexual violence, whose cases derive from the Kosovo conflict. I have been asked to assess the degree to which these mechanisms have effectively served the purpose of justice, accountability and reconciliation for the people of Kosovo. Specifically, I have been asked to share my thoughts on the future role of the Kosovo Specialist Chambers as a viable mechanism to afford justice to the hundreds of thousands of victims of that conflict.

This testimony will identify what I call an "accountability gap" in Kosovo, and it will seek to explain some of the reasons behind this gap. I will first detail a brief history of the conflict in Kosovo and discuss the mechanisms that have been created for accountability so far—namely, the Yugoslav Tribunal, the UN Mission in Kosovo's Regulation 64 Panels, the European Union Rule of Law Mission in Kosovo's assistance to domestic courts, the Serbian War Crimes Chamber, and the more recent Specialist Chambers and Specialist Prosecutor's Office. I will then assess how and why access to justice, with particular attention to conflict-related sexual violence, has to date been beyond the reach of a significant number of victims in Kosovo. Lastly, I will articulate a number of steps we can take to begin closing this accountability gap.

To contextualize my contribution to today's hearing, I should mention my previous work on accountability in the former Yugoslavia as well as in other post-conflict regions, including Syria, Uganda, Côte d'Ivoire, and Libya. I was an Attorney Advisor in the U.S. Department of State's Office of European and Canadian Affairs during the State Department's initial development of an American response to the conflict in the former Yugoslavia. In this position, I played a role in the formulation of the UN Security Council Resolution that authorized the Yugoslav Tribunal. I also served as an advisor to the Kosovo Albanian delegation at the Rambouillet, Paris, and Vienna Conferences, and I provided assistance to the development of the Kosovo constitution.

I have provided legal assistance to more than two dozen parties involved in peace negotiations, the drafting of post-conflict constitutions, and the creation of transitional justice mechanisms, including those designed to prosecute war criminals. Notably, I advised the Ugandan government on the development of a domestic war crimes chamber within the state's High Court, the Libyan Transitional National Council on the creation of transitional justice

mechanisms, the Government of Côte d'Ivoire on mechanisms for the investigation and prosecution of atrocity crimes, and the Syrian opposition on the proposal for a hybrid tribunal to prosecute those responsible for crimes against humanity in Syria.

HISTORY OF THE KOSOVO CONFLICT

The war in Kosovo has its origins in the dissolution of the former Yugoslavia. Located in the heart of the Balkans, Kosovo became a Serbian province after the First Balkan War. Then, when Serbia was incorporated into Yugoslavia following World War II, Kosovo's status shifted to a Socialist Autonomous Province within Serbia.¹ In 1991, the dissolution of Yugoslavia began as Slovenia and Croatia declared independence and the national army of Yugoslavia responded to these declarations with violence, which led to armed conflict in Slovenia, Croatia, and subsequently in Bosnia.²

During the conflicts in Croatia and Bosnia, widespread mass violence and atrocity crimes occurred, including genocide,³ rape camps,⁴ torture, mass killings, and mass detentions. The genocide at Srebrenica carried out by Bosnian Serb forces with the assistance of forces from Serbia proper prompted NATO airstrikes that continued for one month until the parties met to negotiate peace in Dayton, Ohio in November of 1995. The resulting Dayton Peace Accords brought an end to the conflict in Bosnia, but left unresolved the crisis brewing in Kosovo.⁵

Kosovo Albanians had sought separation from Serbia and full republic status within Yugoslavia for years before Yugoslavia's dissolution.⁶ In response, Serbian leader Slobodan Milošević called for the restoration of full Serbian sovereignty over Kosovo. Milošević became increasingly oppressive towards the Albanian majority, and he sought a new constitution that would revoke Kosovo's semi-autonomous status and allow full Serbian control over the territory. The People's Movement of Kosovo (*Lëvizja Popullore e Kosovës*) organized non-violent political resistance advocating for Kosovo self-determination. Then, in 1996, the Kosovo Liberation Army ("KLA") began mobilizing in armed protest.⁷ Serbia responded to the KLA

¹ CIA, *The World Factbook: Kosovo* (Feb. 2011); Michael Waller, editor, *KOSOVO: THE POLITICS OF DELUSION* viii (2001).

² Susan L. Woodward, *Costly Disinterest: Missed Opportunities for Preventive Diplomacy in Croatia and Bosnia and Herzegovina, 1985-1991*, in *OPPORTUNITIES MISSED, OPPORTUNITIES SEIZED: PREVENTIVE DIPLOMACY IN THE POST-COLD WAR WORLD* 137 (ed. Bruce Jentleson, 2000), available at <http://www.wilsoncenter.org/subsites/ccpdc/pubs/opp/4.pdf>; Noel Malcolm, *BOSNIA: A SHORT HISTORY*, (NYU PRESS, 1994).

³ *Prosecutor v. Radislav Krstić*, Case No. IT-98-33-T, Judgement (Aug. 2, 2001); *Prosecutor v. Erdemović*, Case No. IT-96-22-T, Sentencing Judgement (Mar. 5, 1998); *Prosecutor v. Dragan Obrenović*, Case No. IT-02-60-2-S, (Dec. 10, 2003).

⁴ *Prosecutor v. Kunarac et al.*, Case No. IT-96-23-T & IT-96-23/1-, Judgement (Feb. 22, 2001).

⁵ Ivo H. Daalder, *Decision to Intervene: How the War in Bosnia Ended*, BROOKINGS, (December 1, 1998), available at <https://www.brookings.edu/articles/decision-to-intervene-how-the-war-in-bosnia-ended/>.

⁶ CIA, *The World Factbook: Kosovo* (Feb. 2011); Michael Waller, editor, *KOSOVO: THE POLITICS OF DELUSION* viii (2001); Noel Malcolm, *KOSOVO: A SHORT HISTORY* (Perennial/Harper Collins, 1991).

⁷ CIA, *The World Factbook: Kosovo* (Feb. 2011).

insurgency with an even harsher repression campaign, with violence peaking in 1998.⁸ Serbian forces destroyed homes and mosques, and engaged in mass looting, rape, and murder.⁹

The vast majority of international crimes perpetrated during the conflict in Kosovo were committed by the Serb army, police, and paramilitary who waged a systematic and targeted campaign of violent terror against ethnic Albanians.¹⁰ According to Human Rights Watch, Serb forces had three main motives for acting violently against the Kosovo Albanians: expediting the "cleansing" process through intimidation and fear, targeting of individuals suspected of fighting with or assisting the KLA, and killing for revenge.¹¹ The atrocity crimes carried out in Kosovo were extensive, including kidnapping, enforced disappearances, expulsions, rape, murder, and forced displacement.¹² In particular, rape and sexual violence were used as methods of ethnic cleansing with the systematic threat and instigation of violence terrorizing Kosovo Albanian villagers into fleeing their homes.¹³ In total, the Serb army, paramilitary forces, and police forcibly displaced nearly 90% the Kosovo population.¹⁴ A report by the Organization of Security and Co-operation in Europe estimated that around 850,000 Kosovar Albanians were forcibly expelled from Kosovo and about 590,000 were internally displaced by the conflict.¹⁵

In an attempt to resolve the conflict in Kosovo, the parties to the conflict met for peace negotiations in Rambouillet, France and then in Paris, France. The delegation representing Kosovar Albanians signed the Rambouillet Accords alongside the American and British delegations in Paris.¹⁶ Serbia, however, did not sign the Accords.

Then, Serb security forces killed 45 Kosovo Albanians in the village of Račak, in an incident known as the Račak Massacre.¹⁷ In response to these killings, Yugoslav Tribunal prosecutor Judge Louise Arbour sought access to Račak to investigate the massacre. Milošević

⁸ CIA, *The World Factbook: Kosovo* (Feb. 2011).

⁹ International Crisis Group, *Kosovo Conflict History* (2010), available at <http://www.crisisgroup.org/en/key-issues/research-resources/conflict-histories/kosovo.aspx>.

¹⁰ *Under Orders: War Crimes in Kosovo*, HUMAN RIGHTS WATCH, (October 26, 2001), available at <https://www.hrw.org/report/2001/10/26/under-orders-war-crimes-kosovo>.

¹¹ *Under Orders: War Crimes in Kosovo*, HUMAN RIGHTS WATCH, (October 26, 2001), available at <https://www.hrw.org/report/2001/10/26/under-orders-war-crimes-kosovo>.

¹² UNHCR Evaluation and Policy Analysis Unit, *The Kosovo refugee crisis: an independent evaluation of UNHCR's emergency preparedness and response*, UNHCR EVALUATION AND POLICY ANALYSIS UNIT (Feb. 2000) available at <https://www.unhcr.org/en-lk/excom/standcom/3ae68d19c/kosovo-refugee-crisis-independent-evaluation-unhcr-emergency-preparedness.html>.

¹³ *Under Orders: War Crimes in Kosovo*, HUMAN RIGHTS WATCH, (October 26, 2001), available at <https://www.hrw.org/report/2001/10/26/under-orders-war-crimes-kosovo>.

¹⁴ *Human Rights in Kosovo: As Seen, As Told. Volume 1, October 1998 - June 1999*, ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE (Nov. 5, 1999), 167, available at <https://www.osce.org/odihr/17772>

¹⁵ *Human Rights in Kosovo: As Seen, As Told. Volume 1, October 1998 - June 1999*, ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE (Nov. 5, 1999), 167, available at <https://www.osce.org/odihr/17772>

¹⁶ Interim Agreement for Peace and Self-Government In Kosovo ("Rambouillet Accords") (1999), available at http://www.usip.org/library/pa/kosovo/kosovo_rambtoc.html.

¹⁷ *A Kosovo Chronology*, FRONTLINE, available at <https://www.pbs.org/wgbh/pages/frontline/shows/kosovo/etc/cron.html>.

and Serbian forces under his control would not to allow Judge Arbour to enter Kosovo.¹⁸ This massacre would play a key role in NATO's decision to undertake a humanitarian intervention.¹⁹

In March 1999, NATO began a 78-day air campaign against Serb forces in Kosovo after efforts to negotiate an end to the violence collapsed.²⁰ NATO's intervention led to Serbia's agreement to cease all military activity in Kosovo. To facilitate the withdrawal of Serbian forces from Kosovo, NATO and the Serbian government agreed on the removal of Serb military units and the deployment of an international security force ("KFOR").²¹ The United Nations Security Council then passed Resolution 1244 on June 10, 1999, which established the UN Interim Administration Mission in Kosovo ("UNMIK") as a temporary government until Kosovo's own institutions had developed and demonstrated the capacity to self-govern.²² Among its various powers, UNMIK possessed the authority to administer justice in Kosovo, including the ability to investigate and prosecute serious crimes committed during the war.

Kosovo declared independence on February 17, 2008.²³ The declaration was rejected by Serbia, which claimed ongoing sovereignty over Kosovo, but has since received the recognition of over 100 states,²⁴ including the United States, 23 of the 28 European Union member states, and a number of regional powers, such as Turkey.²⁵

PRIOR MECHANISMS FOR PURSUING ACCOUNTABILITY IN KOSOVO

While there have been a number of attempts to secure accountability for war crimes that were committed in Kosovo, there have been repeated shortcomings. Below, I will detail the limited impact of the Yugoslav Tribunal, the minimal role of UNMIK's brief effort to prosecute those responsible for war crimes, and the restricted jurisdiction that prevented European Union Rule of Law Mission in Kosovo ("EULEX") from trying many cases. The inability of these mechanisms to hold a significant number of perpetrators accountable has created an accountability gap for the crimes committed in Kosovo.

¹⁸ *A Kosovo Chronology*, FRONTLINE, available at <https://www.pbs.org/wgbh/pages/frontline/shows/kosovo/etc/cron.html>.

¹⁹ *Under Orders: War Crimes in Kosovo*, HUMAN RIGHTS WATCH, (October 26, 2001), available at <https://www.hrw.org/report/2001/10/26/under-orders-war-crimes-kosovo>.

²⁰ NATO, *The Evolution of NATO's Role in Kosovo* (Nov. 2010), available at http://www.nato.int/cps/en/natolive/topics_48818.htm.

²¹ Secretary-General, *Letter dated 15 June 1999 from the Secretary-General addressed to the President of the Security Council*, annex, U.N. Doc. S/1999/682 (June 15, 1999).

²² Secretary-General, *Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo*, para. 1, U.N. Doc. S/1999/779 (July 12, 1999).

²³ U.S. Department of State, *Summary of the Comprehensive Proposal for the Kosovo Status Settlement* (January 2009).

²⁴ U.S. Department of State, *U.S. Relations With Kosovo* (October 10, 2018), available at <https://www.state.gov/r/pa/ci/bgn/100931.htm>.

²⁵ *Kosovo Thanks You*, available at <https://www.kosovothankyou.com/>.

The Yugoslav Tribunal

The primary judicial mechanism used to hold those responsible accountable for war crimes was the Yugoslav Tribunal. The Tribunal grew out of the UN Security Council's *Commission of Experts to Investigate War Crimes in the Former Yugoslavia*. The Commission, headed by Professor Cherif Bassiouni, was charged with investigating and analyzing evidence of violations of the Geneva Convention and international law on the territory of the former Yugoslavia.

On May 25, 1993, at the recommendation of the Bassiouni Commission, the United Nations Security Council adopted Resolution 827 which established the Yugoslav Tribunal for the “purpose of prosecuting persons responsible for serious violations of international humanitarian law committed in the territory for the former Yugoslavia since January 1, 1991.”²⁶ The cases brought before the Yugoslav Tribunal came to cover a number of interconnected conflicts—namely, the violence in Slovenia, Croatia, Bosnia and Herzegovina, and Kosovo.²⁷

The Yugoslav Tribunal was mandated to “bring to justice those responsible for serious violations of international humanitarian law” and “contribute to the restoration and maintenance of peace in the region.”²⁸ The specific categories of international crimes the Tribunal was authorized to prosecute included: grave breaches of the Geneva Conventions, violations of the laws of war, genocide, and crimes against humanity.²⁹ The Yugoslav Tribunal did not have jurisdiction to hold states, governments or political parties accountable, only individuals.³⁰

During its 24-year tenure, the Yugoslav Tribunal indicted 161 individuals,³¹ convicted 90 individuals, and acquitted 19 individuals.³² The remainder of those indicted were transferred to other courts, passed away, or had their cases withdrawn for various reasons.³³ Of the 161 indictees, 68% (109 individuals) were associated with atrocities alleged to be committed by

²⁶ Security Council Resolution 827, U.N. Doc. S/RES/827 (May 25, 1993) as quoted in Milena Sterio and Michael P. Scharf, *THE LEGACY OF AD HOC TRIBUNALS IN INTERNATIONAL CRIMINAL LAW 2* (2019).

²⁷ *Sreten Lukic*, TRIAL INTERNATIONAL (2017), available at <https://trialinternational.org/latest-post/sreten-lukic/>.

²⁸ *Mandate and Crimes under Yugoslav Tribunal Jurisdiction*, UNITED NATIONS INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA, available at <http://www.icty.org/en/about/tribunal/mandate-and-crimes-under-icty-jurisdiction>.

²⁹ *Mandate and Crimes under ICTY Jurisdiction*, UNITED NATIONS INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA, available at <http://www.icty.org/en/about/tribunal/mandate-and-crimes-under-icty-jurisdiction>.

³⁰ *Mandate and Crimes under ICTY Jurisdiction*, UNITED NATIONS INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA, available at <http://www.icty.org/en/about/tribunal/mandate-and-crimes-under-Yugoslav-Tribunal-jurisdiction>; *Updated Statute of the International Criminal Tribunal for the former Yugoslavia*, UNITED NATIONS INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA (adopted May 25, 1993, updated September, 2009) [Article 7 specifies that any individual who “planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of a crime” referred to in the statute “shall be individually responsible for the crime.”]

³¹ Milena Sterio and Michael P. Scharf, *THE LEGACY OF AD HOC TRIBUNALS IN INTERNATIONAL CRIMINAL LAW 3* (2019).

³² *Infographic: ICTY Facts & Figures*, UNITED NATIONS INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA, available at <http://www.icty.org/en/cases/key-figures-cases>.

³³ *Key Figures of the Case*, UNITED NATIONS INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA, available at <http://www.icty.org/en/cases/key-figures-cases>.

Serbian forces, 21% associated with Croatian forces (33 individuals), 4% associated with Bosniaks forces (7 individuals), and 4% associated with Kosovar Albanian forces (6 individuals).³⁴ Notably, the vast majority of these indictments were for crimes committed in Croatia and Bosnia.

The Yugoslav Tribunal and the Kosovo Conflict

Only seven members of the Serbian regime were indicted by the Yugoslav Tribunal for crimes committed in Kosovo. Surprisingly, not a single one of these seven indictments included an explicit count of rape as a crime against humanity. Four of these indictments, however, did account for the use of sexual violence as a method of committing other atrocity crimes.³⁵

The most prominent individual indicted was Serbian President Slobodan Milošević. Milošević was the first sitting head of state to be indicted for war crimes by an international tribunal.³⁶ Milošević was initially indicted under the theory of command responsibility for atrocity crimes committed by Serb forces in Kosovo. His alleged crimes included murder and persecution of civilian populations on political, racial, or religious grounds. Milošević's indictment alleged that he "as President of the [Federal Republic of Yugoslavia], Supreme Commander of the [Yugoslav Army] and President of the Supreme Defence Council" was "criminally responsible for the acts of his subordinates."³⁷ His indictment did not include any details about conflict-related sexual violence. The indictment was subsequently amended to include charges related to the conflicts in Croatia and Bosnia, and included charges of genocide in Bosnia. Milošević died from natural causes during the course of his trial, preventing the Tribunal from rendering a decision in his case.

The Tribunal also indicted Nikola Šainović, Deputy Prime Minister of the Federal Republic of Yugoslavia.³⁸ The Tribunal found Šainović guilty of possessing the intent to displace the Kosovo Albanian population and convicted him of individual criminal responsibility for deportation, forcible transfer, murder, and persecution through sexual assault.³⁹ Šainović was sentenced to 22 years of imprisonment.⁴⁰

A third high profile indictee was former Serbian President Milan Milutinović. Milutinović was indicted on the basis of individual criminal responsibility and superior criminal responsibility for war crimes including murder and persecutions on political, racial or religious grounds and crimes against humanity related to deportation, murder, and persecutions.⁴¹

³⁴ *Key Figures of the Case*, UNITED NATIONS INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA, available at <http://www.icty.org/en/cases/key-figures-cases>.

³⁵ *In Numbers*, UNITED NATIONS INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA, available at <http://www.icty.org/en/features/crimes-sexual-violence/in-numbers>.

³⁶ Jennifer Trahan, *Examining the Benchmarks by Which to Evaluate the Yugoslav Tribunal's Legacy*, in THE LEGACY OF AD HOC TRIBUNALS IN INTERNATIONAL CRIMINAL LAW 25, 33 (Milena Sterio and Michael P. Scharf, eds., 1st ed., 2019).

³⁷ *Prosecutor v. Milošević et al.*, Case No. IT-99-37-I, (June 29, 2001).

³⁸ *Prosecutor v. Šainović et al.*, Case No. IT-06-87, Judgement (Feb. 26, 2009).

³⁹ *Prosecutor v. Šainović et al.*, Case No. IT-06-87, Judgement (Feb. 26, 2009).

⁴⁰ *Prosecutor v. Šainović et al.*, Case No. IT-06-87, Judgement (Feb. 26, 2009).

⁴¹ *Prosecutor v. Milošević et al.*, Case No. IT-99-37-I, (June 29, 2001).

Milutinović was found not guilty on all charges. Notably, Šainović and Milutinović headed the Serbian delegation to the Rambouillet Accords negotiations.

The additional four indictments of perpetrators associated with the Serbian regime involved evidence of sexual violence, although rape was not a distinct count in any of the indictments. Colonel General Vlastimir Đorđević,⁴² Chief of Staff of the Priština Corps Vladimir Lazarević, Chief of the General Staff of the Armed Forces of Yugoslavia Nebojša Pavković,⁴³ and Head of the Serbian Police in Kosovo Sreten Lukić⁴⁴ were convicted of the deportation of municipal communities, forcible transfer, and murder.⁴⁵ The indictment argued that all four individuals were found to have directed, encouraged, and supported the sexual assault of Kosovo Albanians, particularly women, by Serb forces as a means of committing the charged crimes.⁴⁶ However, the Tribunal found that intent to discriminate had not been proven and thus “the charge of persecutions committed through sexual assault [could] not been established.”⁴⁷ Đorđević was sentenced to 18 years imprisonment.⁴⁸ Lazarević was sentenced to 15 years imprisonment,⁴⁹ Pavković was sentenced to 22 years imprisonment.⁵⁰ Lukić was sentenced to 22 years imprisonment.⁵¹

The Yugoslav Tribunal also indicted seven Kosovar Albanians for crimes committed during the Kosovo conflict. Four of these seven indictments were members of the KLA and officers at the Lapušnik/Llapushnik Prison camp: Agim Murtezi, Fatmir Limaj, Haradin Bala, and Isak Musliu.⁵² They were indicted for the imprisonment, torture, and murder of detainees at the Prison Camp.⁵³ Murtezi’s indictments were withdrawn.⁵⁴ Limaj and Musliu were acquitted.⁵⁵ Bala was convicted and sentenced to 13 years’ imprisonment, but was granted early release.⁵⁶

⁴² *Prosecutor v. Vlastimir Đorđević*, Case No. IT-05-87/1, Judgement (Feb., 23, 2011).

⁴³ *Prosecutor v. Pavokvić et al.*, Case No. IT-03-70-I, (Sept. 25, 2003).

⁴⁴ *Prosecutor vs. Pavokvić et al.*, Case No. IT-03-70-I, (Sept. 25, 2003).

⁴⁵ *Prosecutor v. Pavokvić et al.*, Case No. IT-03-70-I, (Sept. 25, 2003).

⁴⁶ *Prosecutor v. Vlastimir Đorđević*, Case No. IT-05-87/1, Judgement (Feb., 23, 2011).

⁴⁷ *Prosecutor v. Vlastimir Đorđević*, Case No. IT-05-87/1, Judgement (Feb., 23, 2011).

⁴⁸ *Prosecutor v. Vlastimir Đorđević*, Case No. IT-05-87/1, Judgement (Feb., 23, 2011).

⁴⁹ *Conviction for Kosovo crimes upheld for four senior Serbian officials*, UNITED NATIONS INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA, (Jan. 23, 2014) available at <http://www.icty.org/en/press/convictions-kosovo-crimes-upheld-four-senior-serbian-officials>.

⁵⁰ *Conviction for Kosovo crimes upheld for four senior Serbian officials*, UNITED NATIONS INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA, (Jan. 23, 2014) available at <http://www.icty.org/en/press/convictions-kosovo-crimes-upheld-four-senior-serbian-officials>.

⁵¹ *Conviction for Kosovo crimes upheld for four senior Serbian officials*, UNITED NATIONS INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA, (Jan. 23, 2014) available at <http://www.icty.org/en/press/convictions-kosovo-crimes-upheld-four-senior-serbian-officials>.

⁵² *Prosecutor v. Limaj et al.*, Case No. IT-03-66, Judgement (Sept. 27, 2007).

⁵³ *Prosecutor v. Limaj et al.*, Case No. IT-03-66, Judgement (Sept. 27, 2007).

⁵⁴ *Prosecutor v. Limaj et al.*, Case No. IT-03-66, Judgement (Sept. 27, 2007).

⁵⁵ *Prosecutor v. Limaj et al.*, Case No. IT-03-66, Judgement (Sept. 27, 2007); *Fatmir Limaj and Isak Musliu Acquitted - Haradin Bala Convicted*, UNITED NATIONS INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA (30 Nov. 2005), available at <http://www.icty.org/en/press/fatmir-limaj-and-isak-musliu-acquitted-haradin-bala-convicted>.

⁵⁶ *Prosecutor v. Limaj et al.*, Case No. IT-03-66, Judgement (Sept. 27, 2007).

The fifth Kosovo Albanian indicted was Ramush Haradinaj, who served as Prime Minister of Kosovo and was a former KLA commander.⁵⁷ He was indicted for crimes against humanity and war crimes for mounting a systematic campaign to seize control of the area between villages of Glodjane/Glogjan and Decani/Deçan.⁵⁸ Haradinaj was acquitted of all charges.⁵⁹

Relatedly, the sixth and seventh Kosovar indictees were Idriz Balaj, a member of the KLA and commander of a KLA special unit, and Lahi Brahimaj, a member of the KLA and Deputy Commander of the Dukagjin Operative Staff. They were both indicted for persecution, deportation, imprisonment, murders, cruel treatment, and rape.⁶⁰ Balaj was acquitted.⁶¹ Brahimaj was convicted and sentenced to 6 years in prison.⁶²

The Yugoslav Tribunal completed its mandate in 2017 and no longer takes on new cases. The Hague Branch of the Mechanism for International Criminal Tribunals, established in 2013, is now responsible for “maintaining protective measures granted to victims and witnesses by the ICTY, hearing any appeals from judgements or sentences issued by the ICTY... [and] handling requests for review of judgements.”⁶³ This residual mechanism, as it is called, is also responsible for monitoring cases transferred to national jurisdictions and for handling any future appeals that are filed.⁶⁴

UN Mission in Kosovo and Regulation 64 Panels

In June 1999, the UN Security Council council passed Resolution 1244 establishing a UN Interim Administration Mission in Kosovo (“UNMIK”).⁶⁵ In 2000, UNMIK passed Regulation 64, which created panels for the investigation and prosecution of war crimes in local courts.⁶⁶ These structures, called Regulation 64 Panels, were hybrid international-domestic courts that consisted of an international prosecutor, an international judge, and/or a panel composed of three

⁵⁷ *Prosecutor v. Limaj et al.*, Case No. IT-03-66, Acquittal (Sept. 27, 2007).

⁵⁸ *Prosecutor v. Limaj et al.*, Case No. IT-03-66, Acquittal (Sept. 27, 2007).

⁵⁹ *Prosecutor v. Limaj et al.*, Case No. IT-03-66, Acquittal (Sept. 27, 2007).

⁶⁰ *Fatmir Limaj and Isak Musliu Acquitted - Haradin Bala Convicted*, UNITED NATIONS INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA (30 Nov. 2005), available at: <http://www.icty.org/en/press/fatmir-limaj-and-isak-musliu-acquitted-haradin-bala-convicted>.

⁶¹ *Fatmir Limaj and Isak Musliu Acquitted - Haradin Bala Convicted*, UNITED NATIONS INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA (30 Nov. 2005), available at: <http://www.icty.org/en/press/fatmir-limaj-and-isak-musliu-acquitted-haradin-bala-convicted>.

⁶² *Fatmir Limaj and Isak Musliu Acquitted - Haradin Bala Convicted*, UNITED NATIONS INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA (30 Nov. 2005), available at: <http://www.icty.org/en/press/fatmir-limaj-and-isak-musliu-acquitted-haradin-bala-convicted>.

⁶³ *Mechanisms for International Criminal Tribunals (MICT) begins work in the Hague*, UNITED NATIONS INTERNATIONAL RESIDUAL MECHANISM FOR CRIMINAL TRIBUNALS (July 1, 2013), available at <http://www.icty.org/en/press/mechanism-international-criminal-tribunals-mict-begins-work-hague>

⁶⁴ *Mechanisms for International Criminal Tribunals (MICT) begins work in the Hague*, UNITED NATIONS INTERNATIONAL RESIDUAL MECHANISM FOR CRIMINAL TRIBUNALS (July 1, 2013), available at <http://www.icty.org/en/press/mechanism-international-criminal-tribunals-mict-begins-work-hague>

⁶⁵ Security Council Resolution 1244, U.N. Doc S/RES/1244, Para 10 & Annex 2 Para 3.

⁶⁶ Dominik Zaum, *International Justice and the Prevention of Atrocities: Case Study: Kosovo*, EUROPEAN COUNCIL OF FOREIGN RELATIONS (November 2013) 1, available at https://www.ecfr.eu/page/-/IJP_Kosovo.pdf.

judges, including at least two international judges.⁶⁷ UNMIK opened more than a thousand case files, but only initiated a small number of prosecutions. Specifically in relation to sexual violence, “UNMIK conducted two appeals and retrials in cases involving allegations of [conflict-related sexual violence] which had been tried before December 2000 by Kosovo Albanian judiciary. Both cases ended in acquittals.”⁶⁸ In its eight year mandate, UNMIK completed just 37 war crimes cases.⁶⁹ UNMIK lacked the time and resources to move a significant number of these case files into the court system successfully, resulting in a small number of actual prosecutions.

European Union Rule of Law Mission in Kosovo (“EULEX”)

The EULEX mission was established to “assist the Kosovo authorities in establishing sustainable and independent rule of law institutions.”⁷⁰ When UNMIK was re-organized in 2008 and 2009 and scaled down, EULEX’s original mandate included the authority to assist Kosovar institutions with the prosecution of crimes, including war crimes. From 2008 to 2018, mixed panels of EULEX and local judges delivered 46 verdicts, only four of which involved war crimes.⁷¹

EULEX received almost 1,200 war crimes case files that had been compiled by UNMIK prior to its re-organization. These 1,200 cases each likely had multiple victims and multiple perpetrators, presenting EULEX with thousands of victims in need of justice and thousands of perpetrators not yet held responsible for their crimes. In 2018, EULEX ended its judicial mandate and “[handed] over 900 unresolved [case files] to the local Special Prosecutor’s Office.”⁷² The local Special Prosecutor’s Office only has two prosecutors assigned to war crimes.⁷³

Additionally, as noted by Bernd Borchardt, who served as EULEX Head of Mission, the majority of individuals suspected of war crimes committed against Kosovar Albanians during the war are individuals associated with Serb military or police forces who are no longer in Kosovo.⁷⁴ As Kosovo and EULEX only have jurisdiction over individuals within Kosovo’s territory, they can take extremely limited action to prosecute these individuals.⁷⁵

⁶⁷ UNMIK Resolution 64, U.N. Doc UNMIK/REG/2000/64.

⁶⁸ “*Wounds that Burn Our Souls*”: *Compensation for Kosovo’s Wartime Rape Survivors But Still No Justice*, AMNESTY INTERNATIONAL, 19 (Dec. 13, 2017), available at <https://www.amnesty.org/download/Documents/EUR7075582017ENGLISH.PDF>.

⁶⁹ *Kosovo’s War Crimes Trials: An Assessment Ten Years On 1999 – 2009*, ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE, 8 (May 2010), available at <https://www.osce.org/kosovo/68569>.

⁷⁰ *About EULEX: The Mission*, available at: <https://www.eulex-kosovo.eu/?page=2,60>.

⁷¹ Human Rights Watch, *Serbia/Kosovo Events of 2018*, HUMAN RIGHTS WATCH (2018), available at <https://www.hrw.org/world-report/2019/country-chapters/serbia/kosovo>.

⁷² Human Rights Watch, *Serbia/Kosovo Events of 2018*, HUMAN RIGHTS WATCH (2018), available at <https://www.hrw.org/world-report/2019/country-chapters/serbia/kosovo>.

⁷³ Human Rights Watch, *Serbia/Kosovo Events of 2018*, HUMAN RIGHTS WATCH (2018), available at <https://www.hrw.org/world-report/2019/country-chapters/serbia/kosovo>.

⁷⁴ Bernd Borchardt, *EULEX and War Crimes*, EUROPEAN UNION EXTERNAL ACTION, available at <https://www.eulex-kosovo.eu/en/news/000427.php>.

⁷⁵ Bernd Borchardt, *EULEX and War Crimes*, EUROPEAN UNION EXTERNAL ACTION, available at <https://www.eulex-kosovo.eu/en/news/000427.php>.

Serbian War Crimes Chamber

Serbia has made minimal effort to investigate and prosecute crimes perpetrated by Serbian forces during the Bosnian, Croatian and Kosovo conflicts. Until 2003, Serbia left such prosecutions to local courts that were ill-equipped to prosecute such cases. In 2003, under international pressure for greater accountability, the Serbian Assembly created a War Crimes Chamber and an Office of the War Crimes Prosecutor to handle the prosecution of war crimes committed in Serbia.⁷⁶ However, these entities have been plagued by the “lack of political will, adequate resources, and weak witness support mechanisms.”⁷⁷ Through 2018, the Chambers had issued 44 final judgments, convicted 74 perpetrators, and acquitted 50 individuals for crimes in the conflicts in Bosnia, Croatia, and Kosovo. Very few of these prosecutions were of high-ranking officials.⁷⁸ Moreover, only a couple of the cases pertained to crimes committed in Kosovo, or addressed conflict-related sexual violence.

The Specialist Chambers and Specialist Prosecutor’s Office

In 2015, the Assembly of the Republic of Kosovo amended its Constitution to provide for the authority to create a Specialist Chambers and a Specialist Prosecutor’s Office within Kosovo.⁷⁹ Acting upon this authorization, the Kosovo Assembly passed the Law on Specialist Chambers and Specialist Prosecutor’s Office (Law No. 05/L-053), which establishes the two institutions and provides for their jurisdiction, rules of procedure and evidence, structure, and competencies.⁸⁰ The Kosovar government and the Dutch government agreed to locate the Chambers and Office in The Hague.

The Specialist Chambers has subject-matter jurisdiction over the crimes set out in Articles 12-16 of the Law, including: crimes against humanity, war crimes, and other crimes under Kosovo law.⁸¹ The Specialist Chambers’ temporal jurisdiction covers crimes that occurred between January 1, 1998 through December 31, 2000. The Specialist Chambers has territorial jurisdiction over crimes either commenced or committed in Kosovo.

Public commentary suggests that the Specialist Chambers’ jurisdiction may be narrowly interpreted to focus only on the alleged crimes of ethnic Albanians and members of the KLA. This interpretation looks to be guided by the court’s history rather than a precise legal analysis of its founding documents. The court was created in the wake of an inquiry authorized by the

⁷⁶ Bogdan Ivanišević, *Against the Current—War Crimes Prosecutions in Serbia* (2007), INTERNATIONAL CENTER FOR TRANSITIONAL JUSTICE (2007), available at http://ictj.org/sites/default/files/ICTJ-FormerYugoslavia-Crimes-Prosecutions-2007-English_1.pdf.

⁷⁷ *Serbia/Kosovo: Events 2018*, HUMAN RIGHTS WATCH (World Report 2019), available at <https://www.hrw.org/world-report/2019/country-chapters/serbia/kosovo>.

⁷⁸ *Serbia/Kosovo: Events 2018*, HUMAN RIGHTS WATCH (World Report 2019), available at <https://www.hrw.org/world-report/2019/country-chapters/serbia/kosovo>.

⁷⁹ KOSOVO CONST. art. 162 amendment no. 24 (2008, 2015), available at <http://www.kuvendikosoves.org/common/docs/Amendment%20of%20the%20Constitution%20-no%2024.pdf>

⁸⁰ *On Specialist Chambers and Specialist Prosecutor’s Office*, Law No.05/L-053 (Kosovo, 2015), available at <https://www.kuvendikosoves.org/common/docs/ligjet/05-L-053%20a.pdf>.

⁸¹ Criminal Code of the Republic of Kosovo 2012 (Law No. 04/L-082), available at <http://www.assembly-kosova.org/common/docs/ligjet/Criminal%20Code.pdf>.

Council of Europe, and led by Swiss diplomat, Dick Maarty, into allegations of serious offences perpetrated by organized crime and members of the KLA during and in the immediate aftermath of the Kosovo conflict.⁸²

As explained below, a close reading of the Chambers' constituting law reveals an even broader mandate that includes the authority to investigate and prosecute perpetrators of any ethnicity. Currently, the Chambers are still engaged in the initial stages of investigation and have yet to indict any suspects. This offers an important opportunity to clarify the Chambers' ability and commitment to closing the accountability gap.

THE UNMET NEED FOR JUSTICE

Despite the efforts of the Yugoslav Tribunal, the attempts of the UNMIK Regulation 64 Panels, and the efforts of EULEX, there is a dramatic accountability gap for war crimes and crimes against humanity committed against the people of Kosovo. An estimated 850,000 Albanians were forcibly expelled from Kosovo, 590,000 internally displaced within Kosovo, 20,000 victims of conflict-related sexual violence, and several thousand civilians murdered during the conflict.⁸³ Selectively prosecuting a few military and political leaders from the Serbian regime is undeniably valuable, but nevertheless insufficient.

Perpetrating mass atrocity requires multiple actors to jointly commit international crimes.⁸⁴ These actors can range from regular civilians co-opted by the state or paramilitaries to facilitate heinous acts, to ordinary soldiers, senior military officers, and political leaders.⁸⁵ Following the Bosnian war, an International Crisis Group Report found that while some perpetrators had been indicted by the Yugoslav Tribunal, many "continue[d] to work in the police force, hold public office, exercise power through the legal and illegal economy, or influence politics from behind the scenes."⁸⁶ Undoubtedly, a similar phenomenon has occurred in Kosovo as well. The range of perpetrators involved in perpetrating international crimes during the Kosovo conflict spanned the broadest spectrum, but only a handful of select and mostly high-level actors have been prosecuted to date. Although the previous judicial bodies made important progress, a vast number of perpetrators continue to walk free in Serbia.

For example, a recent report prepared by the Humanitarian Law Centre details the absence of any inquiry into mass graves found in Serbia that contained the bodies of 940 Kosovo

⁸² Council of Europe, *Inhuman treatment of people and illicit trafficking in human organs in Kosovo*, (7 Jan. 2011).

⁸³ *Human Rights in Kosovo: As Seen, As Told. Volume I, October 1998 - June 1999*, ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE, 96 (Nov. 5, 1999), available at <https://www.osce.org/odihr/17772>. "Wounds that Burn Our Souls": Compensation for Kosovo's Wartime Rape Survivors But Still No Justice, AMNESTY INTERNATIONAL, 14n17 (Dec. 13, 2017), available at <https://www.amnesty.org/download/Documents/EUR7075582017ENGLISH.PDF>.

⁸⁴ Mark Drumbl, *Atrocity, Punishment, and International Law*, CAMBRIDGE UNIVERSITY PRESS (2007).

⁸⁵ Mark Drumbl, *Atrocity, Punishment, and International Law*, CAMBRIDGE UNIVERSITY PRESS (2007).

⁸⁶ *War Criminals in Bosnia's Republika Srpska*, INTERNATIONAL CRISIS GROUP (Balkans Report 103, Nov. 2, 2000), available at <https://www.crisisgroup.org/europe-central-asia/balkans/bosnia-and-herzegovina/war-criminals-bosnias-republika-srpska>

Albanians, mainly civilians, who were killed outside of combat situations.⁸⁷ The report, which compiles eyewitness testimony corroborated by evidence from the Yugoslav Tribunal, suggests the graves were part of a coordinated plan carried out by senior Serbian leadership in 1999 to conceal evidence of crimes against Kosovo Albanian civilians.⁸⁸ However, nearly all those who planned and carried out the crimes have not been indicted for their actions.⁸⁹

The accountability gap was further aggravated by the limited capacity of UNMIK and EULEX professionals to properly administer war crimes cases. In addition to struggling with meagre resources and narrow mandates, UNMIK and EULEX officials possessed little to no expertise on how to handle war crimes matters.⁹⁰ The deficit in capacity extended to the entire justice system, including judges, prosecutors, defense lawyers, and investigators. This limited the ability of UNMIK and EULEX to deliver accountability appropriate to the volume of perpetrators and crimes involved.⁹¹

The Importance of Accountability

It is imperative to obtain accountability for mass atrocities. In post-conflict settings, securing justice plays five key roles. First, it helps to establish individual responsibility and deny collective guilt.⁹² Particularly in ethno-political conflicts, accountability helps to distinguish between the culpability of individual perpetrators and the social, ethnic, and religious groups they belong to, preventing that group from being blamed as a whole.⁹³ Isolating the blameless from the blameworthy through criminal processes can foster acknowledgement of the commonality rather than division that exists between a plurality of the individuals belonging to rival groups. This can also help establish a pathway to reconciliation between the ordinary civilians caught in the ethno-cultural crossfires of conflict.

Second, the pursuit of justice helps to discredit the leaders and institutions responsible for the crimes.⁹⁴ The indictment of Milošević, for instance, was a key part of the effort to delegitimize his rule. Third, in undergoing judicial proceedings, the collection and presentation

⁸⁷ Humanitarian Law Center, *Dossier: The cover-up of evidence of crimes during the war in Kosovo: THE CONCEALMENT OF BODIES OPERATION*, (January 2017), available at http://www.hlc-rdc.org/wp-content/uploads/2017/01/Dosije_OPERACIJA_SKRIVANJA_TELA_eng.pdf.

⁸⁸ Humanitarian Law Center, *Dossier: The cover-up of evidence of crimes during the war in Kosovo: THE CONCEALMENT OF BODIES OPERATION*, (January 2017), available at http://www.hlc-rdc.org/wp-content/uploads/2017/01/Dosije_OPERACIJA_SKRIVANJA_TELA_eng.pdf.

⁸⁹ Humanitarian Law Center, *Dossier: The cover-up of evidence of crimes during the war in Kosovo: THE CONCEALMENT OF BODIES OPERATION*, (January 2017), available at http://www.hlc-rdc.org/wp-content/uploads/2017/01/Dosije_OPERACIJA_SKRIVANJA_TELA_eng.pdf.

⁹⁰ *Kosovo's War Crimes Trials: An Assessment Ten Years On 1999 – 2009*, ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE, 8 (May 2010), available at <https://www.osce.org/kosovo/68569> at 23-24

⁹¹ *Kosovo's War Crimes Trials: An Assessment Ten Years On 1999 – 2009*, ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE, 8 (May 2010), available at <https://www.osce.org/kosovo/68569> at 23-24

⁹² Paul R. Williams and Michael P. Scharf, PEACE WITH JUSTICE? WAR CRIMES AND ACCOUNTABILITY IN THE FORMER YUGOSLAVIA 16 (2002).

⁹³ Daniel Bar-Tal and Gemma H. Bennink, *The Nature of Reconciliation as an Outcome and as a Process*, in FROM CONFLICT RESOLUTION TO RECONCILIATION (Yaacov Bar-Siman-Tov, 2004).

⁹⁴ Paul R. Williams and Michael P. Scharf, PEACE WITH JUSTICE? WAR CRIMES AND ACCOUNTABILITY IN THE FORMER YUGOSLAVIA 17 (2002).

of evidence aids in the establishment of an accurate historical record.⁹⁵ The chaos of conflict can bury evidence, but the concentrated and intentional efforts of criminal investigators can help to unearth evidence of serious atrocities and illuminate truth amidst revisionist history.

Fourth, justice plays a large role in providing victim catharsis.⁹⁶ Without justice, perpetrators are seen to be “getting away with it,” a feeling that can breed individual and communal dissatisfaction and resentment.⁹⁷ Finally, efforts to achieve accountability play a role in the deterrence of future atrocity crimes.⁹⁸ Sending perpetrators to jail sends an important message to the broader world that there are consequences for committing of such crimes.

In the context of the serious and widespread violations suffered by victims during the Kosovo conflict, accountability has not yet been satisfied. Justice requires a comprehensive investigation into conflict-related abuses and steps to hold perpetrators accountable. Rarely has the conducting of a few criminal trials satisfied the requirements of international law. Each individual victim, not the collective, has a right for their violation to be investigated and punished where appropriate. To this point, the pursuit of accountability for crimes committed during the Kosovo conflict remains incomplete. While the Yugoslav Tribunal, the UN, the EU, and domestic justice actors have made some progress, there remains an accountability gap, particularly in relation to the prosecution of conflict-related sexual violence.

A Critical Gap: Conflict-related Sexual Violence

A particularly egregious example of the gap in accountability left by the previous judicial mechanisms is their failure to appropriately seek justice for conflict-related sexual violence. Conflict-related sexual violence is defined as “rape, sexual slavery, forced prostitution, forced pregnancy, forced abortion, enforced sterilization, forced marriage and any other form of sexual violence of comparable gravity perpetrated against women, men, girls or boys that is directly or indirectly linked to a conflict.”⁹⁹ Reports approximate that 20,000 individuals were the victims of conflict-related sexual violence during the Kosovo conflict.¹⁰⁰ A Human Rights Watch investigation concluded that “rape and other forms of sexual violence were used in Kosovo in 1999 as weapons of war and instruments of systematic ‘ethnic cleansing.’ Rapes were not rare

⁹⁵ Paul R. Williams and Michael P. Scharf, PEACE WITH JUSTICE? WAR CRIMES AND ACCOUNTABILITY IN THE FORMER YUGOSLAVIA 19 (2002).

⁹⁶ Paul R. Williams and Michael P. Scharf, PEACE WITH JUSTICE? WAR CRIMES AND ACCOUNTABILITY IN THE FORMER YUGOSLAVIA 20 (2002).

⁹⁷ Ronald C. Slye, *Amnesty, Truth, and Reconciliation* in TRUTH V. JUSTICE: THE MORALITY OF TRUTH COMMISSIONS 170 (Robert I. Rotberg, Dennis Thompson ed., 2000).

⁹⁸ Paul R. Williams and Michael P. Scharf, PEACE WITH JUSTICE? WAR CRIMES AND ACCOUNTABILITY IN THE FORMER YUGOSLAVIA 21 (2002).

⁹⁹ *Report of the Secretary-General on Conflict-Related Sexual Violence*, para. 2, delivered to the Security Council, U.N. Doc. S/2018/250 (April 16, 2018), available at <https://www.un.org/sexualviolenceinconflict/wp-content/uploads/report/s-2018-250/SG-REPORT-2017-CRSV-SPREAD.pdf>.

¹⁰⁰ “*Wounds that Burn Our Souls*”: *Compensation for Kosovo’s Wartime Rape Survivors But Still No Justice*, AMNESTY INTERNATIONAL, 14n17 (Dec. 13, 2017), available at <https://www.amnesty.org/download/Documents/EUR7075582017ENGLISH.PDF> (“The most frequently quoted estimate suggests that the number may be as high as 20,000. This figure is based a survey conducted by the US-based Centre for Disease Control, which estimated that 4.4% of the female population of Kosovo had been raped or sexually assaulted.”) Studies by the WHO Kosovo Health Sector Situation report and the The Center for Protection of Women and Children found similar numbers.

and isolated acts committed by individual Serbian or Yugoslav forces, but rather were used deliberately as an instrument to terrorize the civilian population, extort money from families, and push people to flee their homes.¹⁰¹ Despite this, only a handful of perpetrators have been held accountable for their actions.¹⁰²

There a number of factors that contribute to the difficulties in providing accountability for conflict-related sexual violence. The deterioration of public institutions and infrastructure during conflict contributes to a “near universal failure to collect evidence of crimes of sexual violence during the emergency and conflict periods.”¹⁰³ In Kosovo, however, the failure extended beyond evidence collection difficulties. According to a report by Amnesty International, UNMIK possessed hundreds of statements on conflict-related sexual violence that had been collected by NATO’s peacekeeping force in Kosovo or given to UNMIK directly. Yet, UNMIK rarely opened an investigation into these cases, and for those it did, it took years for an investigation to begin.¹⁰⁴ Overall, UNMIK showed “a shocking disregard for the rights of victims” with UNMIK officers failing in a large number of cases to record statements, send files to appropriate personnel, promptly document evidence, or properly apply safeguards to protect witnesses.¹⁰⁵ Ultimately, UNMIK only performed two retrials for cases of conflict-related sexual violence, and the transcripts of both reveal improper application—whether intentional or due to lack of proper training—of the particular evidentiary standards that apply to victim testimony.¹⁰⁶ UNMIK officials did not issue a single new indictment for a crime involving conflict-related sexual violence.¹⁰⁷

Moreover, when UNMIK’s cases were later passed along to EULEX, officials similarly failed to fill the accountability gap. From 2008 to 2018, EULEX prosecuted 38 war crimes cases of the almost 1,200 war crimes files it inherited from UNMIK. Only two of these 38 cases addressed conflict-related sexual violence.¹⁰⁸

¹⁰¹ *Kosovo: Rape as a Weapon of “Ethnic Cleansing.”* HUMAN RIGHTS WATCH (1 March 2000), available at <https://www.refworld.org/docid/3ae6a87a0.html>

¹⁰² “*Wounds that Burn Our Souls: Compensation for Kosovo’s Wartime Rape Survivors But Still No Justice*,” AMNESTY INTERNATIONAL, 7 (Dec. 13, 2017), available at <https://www.amnesty.org/download/Documents/EUR7075582017ENGLISH.PDF>.

¹⁰³ Kim Thuy Seelinger, *Domestic accountability for sexual violence: The potential of specialized units in Kenya, Liberia, Sierra Leone and Uganda*, INTERNATIONAL REVIEW OF THE RED CROSS 539, 548 (2014), available at <https://www.icrc.org/en/international-review/article/domestic-accountability-sexual-violence-potential-specialized-units>.

¹⁰⁴ “*Wounds That Burn Our Souls: Compensation for Kosovo’s Wartime Rape Survivors, But Still No Justice*,” AMNESTY INTERNATIONAL, 19 (Dec. 13, 2017), available at <https://www.amnesty.org/download/Documents/EUR7075582017ENGLISH.PDF>.

¹⁰⁵ “*Wounds That Burn Our Souls: Compensation for Kosovo’s Wartime Rape Survivors, But Still No Justice*,” AMNESTY INTERNATIONAL, 7 (Dec. 13, 2017), available at <https://www.amnesty.org/download/Documents/EUR7075582017ENGLISH.PDF>.

¹⁰⁶ “*Wounds That Burn Our Souls: Compensation for Kosovo’s Wartime Rape Survivors, But Still No Justice*,” AMNESTY INTERNATIONAL, 19 (Dec. 13, 2017), available at <https://www.amnesty.org/download/Documents/EUR7075582017ENGLISH.PDF>.

¹⁰⁷ “*Wounds That Burn Our Souls: Compensation for Kosovo’s Wartime Rape Survivors, But Still No Justice*,” AMNESTY INTERNATIONAL, 19 (Dec. 13, 2017), available at <https://www.amnesty.org/download/Documents/EUR7075582017ENGLISH.PDF>.

¹⁰⁸ “*Wounds that Burn Our Souls: Compensation for Kosovo’s Wartime Rape Survivors But Still No Justice* (2017) 20, available at <https://www.amnesty.org/download/Documents/EUR7075582017ENGLISH.PDF>

Progress in achieving accountability has been limited by the strong social stigma that surrounds conflict-related sexual violence in Kosovo,¹⁰⁹ as it does in many countries. Victims are often reluctant to come forward for fear of an impending backlash by members of their family or community.¹¹⁰ This is compounded by the lack of effective witness anonymity. Testifying before courts carries the very strong risk of victims being re-traumatized by the process or rejected by society.¹¹¹ The availability of protective measures and psychosocial support can help alleviate those risks, but judicial institutions have been failed to offer the assistance necessary to make victims feel safe and prepared to testify.¹¹²

Investigators, prosecutors, and judges also regularly lacked the training necessary to successfully pursue justice for victims of conflict-related sexual violence.¹¹³ These trials require an added level of sensitivity, compromise, and understanding, which the judicial actors often lacked, in order to account for the psychological and social effects of the physical violence. According to a Senior Medical Advisor at the International Committee of the Red Cross, such trauma may include behavioral disorders, such as post-traumatic stress disorder, and often carries a strong stigma causing victims to be shamed, ostracized, and even “treated by their families and communities as if they have committed a crime.”¹¹⁴ Appropriately supporting victims of conflict-related sexual violence and combating these psychosocial ramifications thus requires additional judicial measures, such as confidentiality protections, post-investigation follow through, and the provision of additional medical support resources to victims. Yet, many involved with investigating and prosecuting sexual violence in Kosovo lacked specific training on how to approach such issues. Investigators, prosecutors, and judges often did not know what evidence to look for, how to collect it, or appropriate ways of managing the testimony process.¹¹⁵

¹⁰⁹ *Human Rights in Kosovo: As Seen, As Told. Volume 1, October 1998 - June 1999*, ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE, 96 (Nov. 5, 1999), available at <https://www.osce.org/odihr/17772>.

¹¹⁰ “*Wounds That Burn Our Souls: Compensation for Kosovo’s Wartime Rape Survivors, But Still No Justice*,” AMNESTY INTERNATIONAL, 47 (Dec. 13, 2017), available at <https://www.amnesty.org/download/Documents/EUR7075582017ENGLISH.PDF>.

¹¹¹ “*Wounds That Burn Our Souls: Compensation for Kosovo’s Wartime Rape Survivors, But Still No Justice*,” AMNESTY INTERNATIONAL, 47 (Dec. 13, 2017), available at <https://www.amnesty.org/download/Documents/EUR7075582017ENGLISH.PDF>.

¹¹² “*Wounds That Burn Our Souls: Compensation for Kosovo’s Wartime Rape Survivors, But Still No Justice*,” AMNESTY INTERNATIONAL, 19 (Dec. 13, 2017), available at <https://www.amnesty.org/download/Documents/EUR7075582017ENGLISH.PDF>.

¹¹³ “*Wounds That Burn Our Souls: Compensation for Kosovo’s Wartime Rape Survivors, But Still No Justice*,” AMNESTY INTERNATIONAL, 18 (Dec. 13, 2017), available at <https://www.amnesty.org/download/Documents/EUR7075582017ENGLISH.PDF> [“In 2006, UNMIK Police’s then Director of Criminal Investigations, told Amnesty International that none of the international police officers recruited to conduct war crimes investigations had any expertise in cases of gender-based violence, nor had they been trained in how to approach survivors. In addition, criteria for selecting international judges and prosecutors did not include previous expertise in war crimes or crimes of gender-based violence, nor did they receive any training in the adjudication or prosecution of CRSV.”]

¹¹⁴ Paul Bouvier, *Sexual Violence, Health and Humanitarian Ethics: Towards a Holistic, Person-centered Approach*, INTERNATIONAL REVIEW OF THE RED CROSS 565, 569 (2014), available at <https://www.icrc.org/en/international-review/article/sexual-violence-health-and-humanitarian-ethics-towards-holistic-person>.

¹¹⁵ “*Wounds That Burn Our Souls: Compensation for Kosovo’s Wartime Rape Survivors, But Still No Justice*,” AMNESTY INTERNATIONAL, 7 (Dec. 13, 2017), available at <https://www.amnesty.org/download/Documents/EUR7075582017ENGLISH.PDF>.

This lack of appropriate training has led to inappropriate and harmful decisions by the involved justice mechanisms. For instance, in the Furundzija case, the Tribunal ordered the release of a rape victim's psychotherapy records to the chamber after finding the records material to assessing the victim's credibility as a witness.¹¹⁶ In its order, the Tribunal subpoenaed the non-governmental counseling organization to turn over all documents related to the victim's treatment, which, after being reviewed by the Chamber, were disclosed to both the prosecution and defence.¹¹⁷ The order was criticized by victim's groups and survivors who argue the Tribunal's decision has chilling effect on the willingness of victim's seek therapy and come forward.¹¹⁸

Notably, many Serbian military and paramilitary perpetrators responsible for conflict-related sexual violence live outside of the territory of Kosovo.¹¹⁹ Lacking jurisdiction over individual perpetrators outside of its territory, Kosovo's domestic accountability mechanisms have struggled to investigate and charge perpetrators located in Serbia.¹²⁰ As reported by Amnesty International, these difficulties have been aggravated by Serbia's "continuing culture of impunity [which] prevents the prosecution of police, para-military groups and military commanders reasonably suspected of war crimes, including CRSV [conflict-related sexual violence] in Kosovo."¹²¹ Serbia's minimal cooperation with Kosovo's judiciary has thus added to the accountability gap.

CLOSING THE ACCOUNTABILITY GAP

Kosovo Specialist Chambers

A close analysis of the the Specialist Chambers' constituting law indicates that the body's jurisdiction is broader than simply prosecuting ethnic-Albanians and members of the KLA. The court's subject matter jurisdiction is triggered for crimes that "relate to" the Counsel of Europe report.¹²²

¹¹⁶ Susana SaCouto, Katherine Cleary, *Importance of Effective Investigation of Sexual Violence and Gender-Based Crimes at the International Criminal Court*, 17 AMERICAN UNIVERSITY JOURNAL OF GENDER, SOCIAL POLICY & THE LAW. 337, 352-353 (2009).

¹¹⁷ Susana SaCouto, Katherine Cleary, *Importance of Effective Investigation of Sexual Violence and Gender-Based Crimes at the International Criminal Court*, 17 AMERICAN UNIVERSITY JOURNAL OF GENDER, SOCIAL POLICY & THE LAW. 337, 352-353 (2009).

¹¹⁸ Susana SaCouto, Katherine Cleary, *Importance of Effective Investigation of Sexual Violence and Gender-Based Crimes at the International Criminal Court*, 17 AMERICAN UNIVERSITY JOURNAL OF GENDER, SOCIAL POLICY & THE LAW. 337, 352-353 (2009).

¹¹⁹ "Wounds That Burn Our Souls": Compensation for Kosovo's Wartime Rape Survivors, But Still No Justice, AMNESTY INTERNATIONAL, 7 (Dec. 13, 2017), available at <https://www.amnesty.org/download/Documents/EUR7075582017ENGLISH.PDF>.

¹²⁰ "Wounds That Burn Our Souls": Compensation for Kosovo's Wartime Rape Survivors, But Still No Justice, AMNESTY INTERNATIONAL, 7 (Dec. 13, 2017), available at <https://www.amnesty.org/download/Documents/EUR7075582017ENGLISH.PDF>.

¹²¹ "Wounds that Burn Our Souls": Compensation for Kosovo's Wartime Rape Survivors But Still No Justice (2017) 7, available at <https://www.amnesty.org/download/Documents/EUR7075582017ENGLISH.PDF>.

¹²² Law No.05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, Article 6, available at: <https://www.scp-ks.org/en/documents/law-specialist-chambers-and-specialist-prosecutors-office>.

For the purposes of interpreting the court's jurisdiction, it is important to distinguish between what prompted the report and what the report contains. In addition to alleged KLA abuses, the report reveals crimes that may involve other perpetrators, such as the thousands of disappeared who are still unaccounted for,¹²³ and acts of conflict-related sexual violence.¹²⁴ These findings suggest the court's subject matter jurisdiction includes the authority to inquire into criminal acts that extend beyond the abuse allegations which prompted the report. This would include the authority to investigate and prosecute perpetrators of *all* crimes that were committed during the Kosovo conflict. In addition to identifying crimes that may relate to perpetrators from multiple ethnicities, the contents of the report, which are not meant to be exhaustive findings, include general conclusions about the accountability gap. The report explains that the purpose of its inquiry "was not to conduct a criminal investigation,"¹²⁵ and instead emphasizes the requirement to deliver accountability for *all* conflict-related crimes.¹²⁶

The existence of and need to address widespread impunity are at the heart of the report's findings. Such findings square with the obligations embodied under international law, which require states to investigate and prosecute those responsible for committing serious violations of international human rights and humanitarian law.¹²⁷ To characterize the Council of Europe report as merely concerned with evidence of crimes alleged to have been committed by one party to the conflict does not paint a complete picture. The report also highlights broad gaps in accountability and demands that impunity for crimes should be ended comprehensively. In this light, the court's jurisdiction necessarily includes both the authority to investigate crimes revealed by the report—including disappearances and conflict-related sexual violence—as well the crimes it did not. Contrary to some perceptions, therefore, the court is bestowed with a broad and ethnically neutral mandate.

Additionally, a narrow interpretation would be at odds with customary international practice in the creation of similar accountability mechanisms. In the modern era of international criminal law, courts and tribunals have been established to look into situations and contexts, not specific ethnicities or predetermined groups. In this context, an ethno-specific tribunal would widely be viewed as illegitimate. The mandates of international courts and tribunals have all broadly included the ability to deeply investigate and prosecute whomever is responsible for the international crimes related to a specific geographic and temporal scope. The Yugoslav Tribunal, for example, prosecuted individuals for crimes perpetrated in the dissolution of the former Yugoslavia, the Rwanda Tribunal prosecuted individuals for the Rwandan genocide and its associated violence, the Special Court for the Sierra Leone prosecuted individuals for crimes

¹²³ Council of Europe, *Inhuman treatment of people and illicit trafficking in human organs in Kosovo*, (7 Jan. 2011) at 8.

¹²⁴ Council of Europe, *Inhuman treatment of people and illicit trafficking in human organs in Kosovo*, (7 Jan. 2011) at 15, 23.

¹²⁵ Council of Europe, *Inhuman treatment of people and illicit trafficking in human organs in Kosovo*, (7 Jan. 2011) at 26.

¹²⁶ Council of Europe, *Inhuman treatment of people and illicit trafficking in human organs in Kosovo*, (7 Jan. 2011) at 4, 5, 7, 8 10.

¹²⁷ A/RES/60/147, *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, Principle III. (16 December 2005) UNITED NATIONS GENERAL ASSEMBLY, available at: <https://www.ohchr.org/en/professionalinterest/pages/remedyandrepairation.aspx>.

committed during the Sierra Leone civil war, the Extraordinary Chambers in the Courts of Cambodia prosecuted individuals responsible for atrocities committed during the Khmer Rouge regime, and even the Special Tribunal for Lebanon—which was created to investigate and prosecute those responsible for the assassination of former Lebanese President, Rafic Hariri—is empowered to prosecute whoever is most responsible for the assassination, regardless of ethnic or group affiliation.

Nevertheless, it may be important to clarify the issue and Kosovo should take the opportunity to confirm the court's broad mandate. The Chambers is a product of the Kosovo Constitution, so Kosovo has the power to decisively affirm the court's jurisdiction and commitment to ending impunity for all war-related crimes. If necessary, the Kosovo Parliament may even direct the Specialist Chambers to prioritize particularly heinous crimes largely ignored by other mechanisms, such as conflict-related sexual violence. Explicitly clarifying the court's broad mandate will strengthen the court's legitimacy and help support intercommunal reconciliation efforts. Doing so is also consistent with Kosovo's international obligations, which require it to ensure accountability for all serious abuses of international law.¹²⁸

An Added Advantage: Victim Participation

The Specialist Chambers, if appropriately reconceptualized, would also be particularly well-placed to address gaps in accountability because of its innovations regarding victims participation in the trial process. In traditional criminal proceedings, victims may only participate as witnesses—they cannot make submissions, test evidence, or deliver statements. Those rights belong to the prosecution and defense, meaning victims must rely on the two parties with standing to pose questions that are sufficiently capable of revealing the truth. Previous attempts at accountability in Kosovo have all famously lacked victim participation rights, leading some to suggest that the historical record established by those mechanisms fails to fully capture victim interests or the impact of the crimes on their lives.¹²⁹ To address this concern, the Kosovo Specialist Chambers has rules that permit victim participation through a court-appointed lawyer.¹³⁰ These provisions represent the cutting edge of international criminal justice, and mirror similar measures adopted by the ICC and the Cambodia Tribunal. Under these rules, victims have the opportunity to independently add to and correct the factual record by way of their involvement. This ensures a more complete accounting of the violations and harm perpetrated during the Kosovo war.

The right to victim participation is codified in the Specialist Chambers statute and rules of procedure, which broadly permit victims to engage in all stages of proceedings,¹³¹ and include measures to ensure victim security. Among other things, the statute creates a Victims

¹²⁸ A/RES/60/147, *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, Principle III, (16 December 2005) UNITED NATIONS GENERAL ASSEMBLY, available at: <https://www.ohchr.org/en/professionalinterest/pages/remedyandreparation.aspx>.

¹²⁹ Susana SaCouto, *Victim Participation at the International Criminal Court and the Extraordinary Chambers in the Courts of Cambodia: A Feminist Project?*, 18:2 Michigan Journal of Gender and Law at 300 (2012), available at: <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=1016&context=mjgl>.

¹³⁰ *Law No.05/L-053 on Specialist Chambers and Specialist Prosecutor's Office*, Article 26(2).

¹³¹ *Law No.05/L-053 on Specialist Chambers and Specialist Prosecutor's Office*, Article 26(2).

Participation Office in the court Registry¹³² and entitles victims to group representation by an appointed lawyer, known as “Victims’ Counsel.”¹³³ The modalities of participation provided by the court’s laws are broad, empowering victims to participate through their legal representative in a variety of ways, including: (i) applying for protective measures and the non-disclosure of identity; (ii) attending depositions and questioning deponents; (iii) presenting opening and closing statements; (iv) delivering oral and written submissions; (v) and asking questions of witnesses.¹³⁴ Importantly, Victims’ Counsel is entitled to full disclosure from the prosecutor, including the evidence supporting the indictment and any other material evidence within the prosecutor’s possession.¹³⁵ Victims’ Counsel may also petition the court to order the submission of additional evidence if that produced by the parties fails to adequately address the impact of the alleged crimes on the victims of those crimes.¹³⁶

A key challenge to addressing gaps in accountability in Kosovo is establishing an accurate historical record. The right to victim participation at the Specialist Chambers is one measure that promises to strengthen the record by offering victims an opportunity to tell and clarify their stories. While the concept of victim participation is still evolving under international criminal law, the robust provisions of the Specialist Chambers, and in particular, the ability for Victims’ Counsel to protect and articulate victim impact, can help facilitate greater recognition of the harms suffered, empower victim communities, and identify gaps in accountability.

Universal Jurisdiction

As the Specialist Chambers moves forward and continues to develop, there are a number of other mechanisms for accountability and victim reparations that could be pursued to increase accountability for international crimes in Kosovo.

One method for international accountability includes the prosecution of war criminals through foreign domestic courts under the principle of universal jurisdiction. According to the principle of universal jurisdiction, states are authorized to investigate and prosecute certain heinous international crimes regardless of the accused’s nationality, country or residence, or connection to the prosecuting state.¹³⁷ The rationale behind universal jurisdiction is that some international crimes are of such magnitude that all states have an interest in preventing and prosecuting those crimes.¹³⁸ The crimes that trigger universal jurisdiction are accordingly limited in scope and concern the most serious violations of international law, including: genocide, crimes against humanity, war crimes, ethnic cleansing, and torture.¹³⁹

¹³² *Law No.05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office*, Article 26(5).

¹³³ *Law No.05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office*, Article 26(2).

¹³⁴ *Rules of Procedure and Evidence Before the Kosovo Specialist Chambers*, Rule 114.

¹³⁵ *Rules of Procedure and Evidence Before the Kosovo Specialist Chambers*, Rule 102.

¹³⁶ *Rules of Procedure and Evidence Before the Kosovo Specialist Chambers*, Rule 114(5).

¹³⁷ M.D. Evans, *International Law*, 326-27 (2010), available at <https://www.icrc.org/eng/assets/files/2014/universal-jurisdiction-icrc-eng.pdf>; Amnesty International, *UNIVERSAL JURISDICTION: Questions and Answers*, AMNESTY INTERNATIONAL, available at <https://www.amnesty.org/en/documents/ior53/020/2001/en/>

¹³⁸ *UNIVERSAL JURISDICTION: Questions and Answers*, AMNESTY INTERNATIONAL, available at <https://www.amnesty.org/en/documents/ior53/020/2001/en/>.

¹³⁹ *UNIVERSAL JURISDICTION: Questions and Answers*, AMNESTY INTERNATIONAL, available at <https://www.amnesty.org/en/documents/ior53/020/2001/en/>.

While states are not obliged to exercise universal jurisdiction, some have enshrined the principle within their domestic laws.¹⁴⁰ Others have created dedicated special prosecutors offices to investigate and try the most serious crimes under international law.¹⁴¹ States have begun using these tools to bring universal jurisdiction cases for war crimes related to Syria, for example, where the principle has enjoyed renewed interest from the international community. A similar approach could be taken for Kosovo, where states could bring cases under the principle of universal jurisdiction to fill gaps in accountability related to the war. Taking this approach cannot singlehandedly end the impunity of course; it can merely supplement complementary efforts. However, states are not prevented from taking action on their own and may use universal jurisdiction to prosecute Kosovo war criminals who enter their territory.

Independent Evidentiary Mechanism

Recently, the international community has begun establishing Independent Mechanisms for the documentation of international crimes committed during particularly heinous conflicts. In December 2016, the UN General Assembly created the first of these mechanisms for the Syria conflict. The International, Impartial, and Independent Mechanism (“IIIM”) was established to “collect, consolidate, preserve and analyze evidence of violations of international humanitarian law and human rights violations and abuses and to prepare files in order to facilitate and expedite fair and independent criminal proceedings, in accordance with international law standards, in national, regional or international courts or tribunals that have or may in the future have jurisdiction over these crimes, in accordance with international law.”¹⁴² Then, in September 2018, the UN Human Rights Council followed the General Assembly’s lead and created a similar Impartial and Independent Mechanism for evidence of the genocide committed against the Rohingya population in Myanmar.¹⁴³ The Mechanisms for Myanmar and for Syria work to document the atrocities of their respective regions and prepare files that can be used in accountability proceedings when appropriate mechanisms—whether international *ad hoc* tribunals or otherwise—are established.

The pursuit of justice in Kosovo does not require a mechanism to prepare files in *anticipation* of a judicial mechanism, but Kosovo could benefit from a similar institution that properly consolidates and preserves both the evidence already collected by prior judicial bodies and that not yet collected. The proceedings at the Yugoslav Tribunal, UNMIK Regulation 64 Panels, and EULEX hybrid courts all required significant evidentiary work that should not be lost or hidden in non-accessible archives. Moreover, there are substantial amounts of additional testimony, witness reports, and other corroborating evidence that exists yet has never been

¹⁴⁰ *S.C. 2000, c. 24, Crimes Against Humanity and War Crimes Act (2000)*, CANADA, available at <http://laws-lois.justice.gc.ca/PDF/C-45.9.pdf>; *Denmark Criminal Code, Article 8 (2005)*, available at <http://www.legislationline.org/documents/section/criminal-codes>.

¹⁴¹ Human Rights Watch, *The Long Arm of Justice: Lessons from Specialized War Crimes Units in France, Germany, and the Netherlands* (Sept. 16, 2014), available at <https://www.hrw.org/report/2014/09/16/long-arm-justice/lessons-specialized-war-crimes-units-france-germany-and>; Birgitte Vestberg, *Prosecuting and Investigating International Crimes in Denmark*, Guest Lecture Series of the Office of the Prosecutor, 2 (April 5, 2006), available at https://www.icc-cpi.int/NR/rdonlyres/9C4449DE-B59B-40E2-BF72-062764FFCBEB/0/Vestberg_paper.pdf.

¹⁴² G.A. Res. 71/248, ¶4 (Dec. 21, 2016), <https://undocs.org/A/RES/71/248>.

¹⁴³ H.R.C. Res. 39/2, ¶22 (Sept. 27, 2018), <https://undocs.org/A/HRC/res/39/2>.

formally recorded or organized. For example, Kosovo Police War Crimes Investigators reported there are a number of cases for which women provided testimonies years ago that do not have proper records, and a number of women's group have protested that information on rape and sexual assaults that they spent resources gathering in the aftermath of the conflict was lost by the UN Mission in Kosovo.¹⁴⁴ The creation of an evidentiary institution could thus serve an important role in establishing an accurate historical record. In turn, the knowledge amassed would help to validate the pain endured by individual victims as well as provide collective recognition of the atrocity crimes that occurred during the conflict.

Non-Amnesty Based Truth Commission

In the absence of the full and complete prosecution of all perpetrators, the existence of an independent mechanism for the documentation of crimes would be a significant step towards justice and reconciliation. There are also other mechanisms that can assist in the codification of an accurate historical record. The most notable of these mechanisms is a non-amnesty based Truth and Reconciliation Commission. These commissions differ from the Independent Mechanisms created for Syria and Myanmar as they are not focused on preparing documents according to evidentiary standards of international law. While the later is preferable for accountability, the former may still help in the healing and reconciliation process by providing a degree of closure and assuaging some of the lasting trauma of the atrocity crimes.

Moreover, the creation of such a record by either an Independent Mechanism or non-amnesty based Truth Commission can be instrumental in providing a foundation from which other forms of transitional justice are based. Victim compensation, for instance, relies on there being accurate information on those who have status as victims, a status that may be contentious without a reliable historical record from which to ground the claim. Other forms of reparations are similarly undergirded by the establishment of an accurate historical record. These include restitution, such as the restoration of property, residence, employment or other liberties, and rehabilitation, whether through the provision of medical and psychological services or forms of communal support.¹⁴⁵ Memorialization is also a form of "symbolic reparations" that relies heavily on documentation to build sites within fraught communities that can bridge the tense legacies of the conflict.¹⁴⁶ The process of constructing physical testaments to collective memories has a gained traction in recent years as an essential pillar of transitional justice.¹⁴⁷

¹⁴⁴ "Wounds that Burn Our Souls": *Compensation for Kosovo's Wartime Rape Survivors But Still No Justice*, AMNESTY INTERNATIONAL (Dec. 13, 2017) 26, available at <https://www.amnesty.org/download/Documents/EUR7075582017ENGLISH.PDF>.

¹⁴⁵ UNGA Res 60/147, *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, (16 December 2005), available at <https://www.ohchr.org/en/professionalinterest/pages/remedyandrepairation.aspx>.

¹⁴⁶ Yasmin Sooka, *Forward* in Ereshnee Naidu, *From Memory to Action: A Toolkit for Memorialization in Post-Conflict Societies* (International Coalition of Sites of Conscience), available at <https://www.sitesofconscience.org/wp-content/uploads/2016/08/Memorialization-Toolkit-English.pdf>.

¹⁴⁷ Ereshnee Naidu, *From Memory to Action: A Toolkit for Memorialization in Post-Conflict Societies* (International Coalition of Sites of Conscience) 3, available at <https://forum.savingplaces.org/HigherLogic/System/DownloadDocumentFile.ashx?DocumentFileKey=a9c268c5-365a-aeaf-7e62-b848dd893eca>.

CONCLUSION

During the Kosovo conflict, hundreds of thousands of Kosovo Albanians were subjected to war crimes and crimes against humanity, including forced deportation, murder, torture, rape and other acts of conflict-related sexual violence. Despite there seeming to be a plethora of international and domestic mechanisms designed to bring to justice those responsible for these crimes, there is a dramatic accountability gap. Only a small handful of individuals have been indicted and prosecuted for their actions. Thousands of perpetrators remain free and enjoy *de facto* immunity. Hundreds of thousands of victims remain without justice.

The Specialist Chambers for Kosovo presents an opportunity to afford justice to the victims of the Kosovo conflict. It is imperative that the international community not be allowed to distort the jurisdiction of the Court and narrowly tailor its focus to a defendant class of ethnic Albanians and the KLA. To do so would run counter to the core foundations of justice and accountability, and to basic principles of fairness and of equal justice.

Moreover, the Specialist Chambers embraces state of the art provisions for victim participation and the protection and facilitation of witness testimony related to conflict-related sexual violence. Given the dramatic under-prosecution of those responsible for these crimes, the Specialist Chambers presents a rare opportunity to correct earlier failure to provide adequate judicial redress to victims.

The United States should work with the government of Kosovo to affirm, and if necessary clarify, that the mandate of the Specialist Chambers covers *all* crimes committed in the territory of Kosovo, and is not limited to prosecuting members of a specific ethnic group of alleged perpetrators. The United States should also work with the government of Kosovo to encourage the Specialist Prosecutor's Office, a part of the judicial system of Kosovo, to prioritize the investigation and prosecution of rape and other conflict-related sexual violence.

Chairman ENGEL. Thank you, Dr. Williams.
Mr. Bytyqi?

STATEMENT OF ILIR BYTYQI

Mr. BYTYQI. Chairman Engel, Ranking Member McCaul, members of the committee, thank you for hosting this important hearing and inviting me to testify.

My name is Ilir Bytyqi.

Chairman ENGEL. Mr. Bytyqi, could you just pull the microphone a little closer to your lips?

Mr. BYTYQI. Sure. Thank you.

My name is Ilir Bytyqi. On behalf of my family and other victims of war crimes committed during the Kosovo War, I am here to offer you the words of a simple message: victims cannot be ignored. If you want lasting peace in the Balkans, we cannot be ignored. If you care about justice, we cannot be ignored. And if you all you want is simply the truth, we cannot be ignored. As I hope to make clear today, this history is still being written. This committee can help shape its course.

I come from an American-Albanian immigrant family in New York. I grew up between the United States and Kosovo with lots of siblings, including my brothers Fatose, Ylli, Agron, and Mehmet. We were a close family, one for all, all for one. But six boys in New York, imagine the headaches we gave my mother.

In the late 1990's, we started hearing about what was happening in Kosovo. We were devastated to see images of our friends/families being expelled from their homes and murdered in their villages. We were worried sick thinking about my mother, sister, and my brother Fatose who were in Kosovo at the time.

Around this time, we got word from the American-Albanian community in New York that people were going over to fight against President Milosevic's barbaric campaign and ethnic cleansing. Ylli, Agron, and Mehmet went without hesitation. They were not scared. The last thing I told them was, "Be safe. You know I expect you to come back."

Toward the end of the war, my brothers decided to stay in Kosovo and help with the rebuild efforts. One day, they agreed to go on a humanitarian mission to help some neighbors get to a safe zone. Eventually, Serbian police came in unmarked cars and in plain clothing and kidnapped my brothers. They took them to the other side of Serbia, to Petrovo Selo. Two years later, their bodies were found on top of a mass grave in Petrovo Selo with their hands tied behind their backs and bullet holes through the back of their heads. My brothers were sent to these killing grounds because they were Albanians. They were murdered because they were Americans.

This has devastating my family. For the past 20 years, my brother Fatose and I have been fighting for justice because the Serbian government will not. In 2015, then-Prime Minister Alexander Vucic admitted as much. He looked my brother Fatose in the eye and said in an uncertain manner, "In my mind, only two people are responsible for these murders." Then, he named the names.

This is not some unsolved mystery. It is a simple matter of will. Then, as the Prime Minister, and now as the President, Alexander

Vucic protects war criminals who murdered my brothers. President Vucic has no shame about this. He has threatened my family for our efforts. For 5 years now, he has promised members of this committee and the United States Vice President that he would resolve this case. Earlier this year in Munich, President Vucic bragged to Serbian media that he told members of this committee that NATO officials should be extradited to Serbia, not the war criminals who murdered the American citizens.

This is a systematic problem with Serbia. The government consensually protects war criminals, creating a political culture that intimidates witnesses and victims. Convicted war criminals are regularly given a hero's welcome when they exit the ICTU prison. Recently, President Vucic had the audacity to call Slobodan Milosevic "a great leader".

Serbian war crimes answers are failing in many ways. They issue very few indictments. The few indictments they allow are low-level suspects and direct perpetrators. Superior officers are shielded from scrutiny. Human Rights Watch, Amnesty International, the Humanitarian Law Center, the European Commission, the European Parliament, and others, have each noted this defect.

Recently, Serbia did not have a leading war crime prosecutor for 18 months. When the Serbian Parliament finally elected one, the candidate won based on the pledge of prioritizing cases of Serbian victims, not the cases like ours.

These and many other problems are illustrated in lack of effort and will to resolve war crimes. Mr. Chairman, this effort affects other issues that I know you care deeply about. There are still over 1300 missing persons from the war, many of whom have not been found because of the coverup operations that occurred at the end of the war. The main suspect in the Bytyqi case and principal responsible over many of these covered operations, to date, Serbia has not prosecuted a single person for the coverups.

The good news is that concrete things that the Congress, the European Union, Serbia, and even Kosovo can do can help these causes. First of all, I urge you to do the following:

Pass the H.Con.Res. 32 resolution regarding the case that was recently introduced by Republican Lee Zeldin, Chairman Engel, and Republican Grace Meng. When the Congress speaks, Serbia listens.

Make sure that the European Union counterparts prioritize these issues, as Serbia is currently in the midst of their EU ascension process. To date, Serbia has been allowed to open relevant chapters just by making empty promises. This must stop.

Consider legislation to give the President and my family more tools to pursue justice in this case, where Americans are killed abroad by foreign governments. Our advocates at Pretrial Rights International have forwarded a legislative proposal to some of your offices regarding these issues. We would be happy to share with any other members of the committee.

Second, I urge the European Union to do one simple thing: start prioritizing accountability for war crimes during both the Serbia ascension process and during the related dialog between Pristina and Belgrade. There are a number of ways to do this.

Mr. Chairman, I strongly support your call to not allow Serbia to enter the EU until it cleans up its act. Serbia should not be allowed to enter the EU until it proves that it can and will complete prosecute of mid—and high-ranking war criminals and those responsible for the coverup operation.

Additionally, the international community has taken creative approaches to work with the countries in the region that have similarly faced problems, such as locating trials outside the country borders. It is now time for the EU, the United States, and the international partners to consider similar options for Serbia.

Also, the EU should not shy away from difficulties, but relate issues like justice sector cooperation between Serbia and Kosovo. Both countries need to cooperate in all types of cross-border criminal investigations. The EU should make sure that they have agreement in place.

To Serbian leaders, I urge you to change your course. There is no shame on facing one's past, only honor. Until Serbian politicians/leaders support their efforts to honestly confront Serbia's past, Serbia will never become a great nation that we all know and hope it can be.

Finally, we are truly grateful for the many recognitions that the Kosovo government has given to my family and other war crime victims, but the Kosovo government can do more. It should make war crime justice in Serbia and regional cooperation in war crimes cases a frontline issue in the dialog with Serbia. As a sovereign nation, Kosovo also has the right to take real action in these cases. We urge you, the international community, to start prioritizing these issues.

Thank you for your consideration of my testimony.
[The prepared statement of Mr. Bytyqi follows:]

Testimony of Ilir Bytyqi, April 30, 2019

Chairman Engel, Ranking Member McCaul and Members of the Committee, thank you for hosting this important hearing and inviting me to testify. My parents regret not being able to make it here today. They are currently visiting family and friends in Kosovo for the next few weeks.

My name is Ilir Bytyqi. On behalf of my family and other victims of war crimes committed during the Kosovo war, I'm here to offer you and the world one simple message. Victims cannot be ignored. If you want lasting peace in the Balkans, we cannot be ignored. If you want Serbia and Kosovo to come to an agreement that has widespread and deep support, we cannot be ignored. If you want leaders to stop pitting one group against the other, we cannot be ignored. If you want tens of thousands families who were victimized by war crimes in Kosovo to find closure and peace, we cannot be ignored. And if all you want is simply the truth, we cannot be ignored.

As I hope to make clear today, the United States, the European Union, Serbia, and Kosovo have much more to do in these respects. This history is still being written. This Committee can help shape its course.

I come from a big American-Albanian immigrant family in New York. I grew up between the United States and Kosovo with a lot of siblings, including my brothers Fatose, Ylli, Agron, and Mehmet. Except for Fatose, all of us were born here in the United States, just outside of Chicago. My family later moved to Long Island, New York many years ago.

Growing up, me and my brothers, we liked to play soccer, basketball, and do normal things as kids. We were very close as a family. One for all, all for one. We had a good life and loving parents. Six boys in New York – Imagine the headaches we gave my mother.

In the late nineties, we started hearing about what was happening in Kosovo. We knew things had been bad for some time. Serbian officials harassing my family caused us to come to America in the first place. In Kosovo, there was no opportunity and no fairness if you were Albanian. My father and many others were passed up for jobs and opportunities even though they were better educated and more qualified than many of their Serbian colleagues.

But in the late 1990's, we were devastated to see the images of our friends and family being expelled from their homes and murdered in their villages. We worried ourselves sick, thinking about my mother, sister, and brother Fatose, who were in Kosovo at the time. Luckily, one of their neighbors – a Roma family – really helped them out. Our Roma neighbors helped shelter and protect them when Serbs were coming through Prizren. But eventually, my mother, sister, and Fatose were expelled from their homes and joined a long march to Albania.

Around this time, we got word from the American-Albanian community in New York that people were going over to fight against President Milosevic's barbaric campaign of ethnic cleansing. They were going to protect our families and our friends in Kosovo – a mission that the United States strongly supported. My brothers and I sat down and had a difficult conversation with my dad. We

wanted to go too. There was no fear, just determination. But we knew that somebody had to stay behind just in case. We drew sticks and I got the short end, twice.

Ylli, Agron, and Mehmet went without hesitation. They weren't scared. There was nothing stopping them. The last thing I told them, was "be safe, you know, I expect you guys to come home".

Towards the end of the war, my brothers decided to stay in Kosovo and help with the rebuilding efforts. But times had changed and the Roma family that had protected my mother now needed protection of their own. Families like theirs were now being threatened by Albanians, who thought Roma had worked with Serbs during the war. So, my mother asked my brothers to help their neighbors. Ylli, Agron, and Mehmet agreed to escort the family to the Serbian border, where they would be safer. But the border markings were poor and they were eventually arrested for crossing an unmarked border. A judge sentenced them to two weeks in jail for illegally entering the former Yugoslavia. At the end of the two weeks, the judge ordered their release. But we never saw them again.

My mom and Fatose were trying to get in touch with them, but there was no way of getting in touch. It was hell. It was a very desperate time for us. I was there myself a few times and met with Serbian officials. They told us that they would be fine, they're just in prison probably and they'll be released. They assured us there was nothing to worry about.

Later, we found out that Serbian police had come in unmarked cars and in plain clothes and kidnapped my brothers. They took them to the other side of Serbia - to Petrovo Selo, where these same units had recently dug a mass grave. Petrovo Selo was then run by Lieutenant-Colonel Goran Radosavljevic. Two years later, their bodies were found on top of that mass grave with their hands tied behind their backs and bullet holes through the back of their heads.

These kidnappings were ordered from the very top of the Serbian government. All people involved have admitted that the Minister of Interior ordered his assistant minister, Vlastimir Dordevic, to take my brothers to Petrovo Selo. They all knew what was going to happen next. These same people had used Petrovo Selo to cover-up seventy-five war-crime murders in a mass grave just a few weeks before. My brothers were sent to this killing ground because they were Albanians. They were also sent there because they were Americans.

This has shattered my family. We will never celebrate their birthdays or celebrate their marriage. I will never be able to be uncle to their kids. It's like a glass when it shatters. You try to put it together, but it'll never be the same.

For the past twenty years, my brother Fatose and I have been fighting for justice because the Serbian government won't. All of these facts have been known to the Serbian government for some time. Vlastimir Dordevic and Goran Radosavljevic, nicknamed "Guri", and others were each directly in the chain of command that ordered my brothers murders. In 2015, then Prime Minister Aleksandar Vucic admitted as much. He looked my brother Fatose in the eye and said in no uncertain matter, "In my mind, only two people are responsible for these murders – Guri and [one other individual]" This is not some unsolved mystery. It is simply a matter of will. Then as Prime Minister and now as President, Aleksandar Vucic protects war criminals. He has done so for almost his entire political career and he

is doing it again now. For five years now, he has promised us, U.S. officials, and members of this Committee, that he would resolve the case. Instead, he is protecting people who murdered three American citizens.

President Vucic has no shame about this. Goran Radosavljevic has been one of his close advisors and on the Executive Board of the SNS political party that Vucic leads. When US Ambassador Kyle Scott and Fatose Bytyqi questioned this close relationship, President Vucic responded: "You should be ashamed of yourself, what do you think, that I will allow someone to kick me in the head?" Earlier this year, some of the members of this Committee confronted President Vucic in Munich about my family's case. President Vucic bragged then and later to the media that he told you that NATO officials should be extradited to Serbia, not Goran Radosavljevic. The message is clear. Radosavljevic is off-limits.

This is a systemic problem in Serbia. Vucic and the SNS-led government have similarly and consistently attempted to rehabilitate and protect war criminals, creating a political culture that intimidates witnesses and victims. For example:

- Media and tabloids, which remain tightly manipulated and controlled by President Vucic and the government, remain "ethnically biased" when reporting on war crimes.
- SNS parliamentarians accused the Serbian War Crimes Prosecutor of "espionage" for sharing information about the Bytyqi case with the US Embassy in Belgrade.
- Then Prime Minister Vucic, President Nikolic, and Foreign Minister Dacic's falsely accused the Humanitarian Law Center of trying to "bring down" the government and country for accusing the former Army Chief of Staff of war crimes.
- Convicted war criminals are regularly given a hero's welcome when exiting ICTY prisons, including one that subsequently went on to teach in a military academy.
- There are even attempts to rehabilitate Slobodan Milosevic, whom President Vucic recently called a "great" leader.

Under such circumstance, no witnesses will come forward and truthfully testify in cases like my brothers'. As former Serbian War Crimes Prosecutor Vladimir Vukcevic said of the Bytyqi case, "witnesses are terrified".

Despite the requirements of EU accession, the Serbian government has also shown no intention of curing these problems. It is similarly content with a failing and sometimes corrupt Office of the War Crimes Prosecutor ("OWCP"), one that has enabled the government's protection of suspects in the Bytyqi case.

First, the office is neither professional nor competent to properly investigate its own cases. Since adoption of the government's 2016 National Strategy for the Processing of War Crimes, the Humanitarian Law Center in Belgrade says that there had been no tangible progress with respect to war crimes prosecutions. Of the fifteen indictments issued since the adoption of that strategy, only three indictment were the result of an investigation conducted by Serbian prosecutors; the rest resulted from complete case files transferred from the OWCP of Bosnia and Herzegovina. Indictments are regularly returned by the courts for being insufficiently pled.

Second, the office only indicts uncomplicated cases, involving one or two victims and low-level suspects, and direct perpetrators. Superior officers are shielded from scrutiny.

Numerous organizations and institutions have similarly pointed out the Serbia does not adequately

investigate and prosecute mid-ranking or high-ranking war crimes suspects. Human Rights Watch, Amnesty International, the Humanitarian Law Center, the European Commission, the European Parliament, and others have each noted this deficit. Each have also pointed other systemic problems, like the low number of original indictments Serbian prosecutors are able to bring.

Third, the government and prosecutors are not serious about using the OWCP in a neutral and effective manner. The position at the head of the OWCP was recently left vacant for eighteen months. When Serbia's parliament finally elected a new chief prosecutor, the candidate won based on a pledge to prioritize cases of Serbian victims.

Fourth, in the Bytyqi case, the OWCP and other authorities allegedly cooperated directly with Goran Radosavljević during previous investigations into the case, never interviewing him as a suspect – only as a potential witness.

These and many other problems illustrate Serbia's basic lack of effort and will to resolve war crimes.

Mr. Chairmen, this includes a related issue that I know you care deeply about; There are still over 1,300 missing persons from the war, many of whom have not been found because of callous cover-up operations that occurred at the end of the war. Vlastimir Dordevic, Goran Radosaljevic and others main suspects in the Bytyqi case had principal responsibility over many of these cover-up operations. They need to answer for such crimes as well. To date, Serbia has not prosecuted a single person for these cover-up operations. Unlocking the vault of impunity in the Bytyqi case will not only help bring closure for my family and right a wrong being perpetrated against the United States itself, it may also help bring closure to hundreds of other families still searching for answers about their loved ones.

The good news is that there are concrete things that the Congress, the European Union, Serbia and even Kosovo can do to help these causes.

First, I urge you and the House of Representatives and Senate to do the following:

- 1) Pass H.Con.Res. 32, a resolution regarding the case that was recently introduced by Rep. Lee Zeldin, Chairman Engel, and Rep. Grace Meng. When it passed this Committee last Summer, it was reported on in Serbia for four days and drew comments from the Foreign and Justice Ministers. When the Congress speaks, Serbia listens.
- 2) Make sure your European Union counterparts do not soft-peddle this issue. As you know, Serbia is currently in the midst of their EU-accession process. To date, accountability for war crimes has been a third or even fourth-tier issue in Serbia's accession process. Serbia has been allowed to open the relevant chapters just by making empty promises instead of proving that they can do better. This has to stop.
- 3) Consider legislative fixes to give the President and families like mine more tools to pursue justice in cases where Americans are killed without due process. Unfortunately, my brothers are not the only Americans who have been murdered by foreign governments. You only have to read the newspapers to know about other high-profile cases. Our advocates at Pretrial Rights International have forwarded a legislative proposal to some of your offices regarding this issue and would be happy to share it with any other member of this Committee.

Second, I urge the European Union to do one simple thing – start prioritizing accountability for war crimes during both Serbia's accession process and during the related dialogue between Pristina and Belgrade. There are a number of ways to do this:

- 1) Mr. Chairman, we strongly support your calls to not allow Serbia to enter the EU until it cleans up its act. Serbia should not be allowed to enter the EU until it proves that it can and will competently prosecute mid-ranking and high-ranking war criminals and those responsible for the cover-up operations.

One small example will tell you why. One of the most talked about battles in Serbia and 2) Kosovo is not actually from 1999 or even 1989. It is from 1389 – the Battle of Kosovo. Memories in the Balkans are very long. If a 630 year old battle is still a hot subject, don't think that crimes committed just twenty years ago will so easily fade from memory. Any push to normalize relations between Kosovo and Serbia must not overlook thorny issues, like war crimes accountability, in favor of expedient agreements.

- 2) Additionally, the international community has taken creative approaches in working with other countries in the region that have similarly faced problems with witness intimidation, such as locating trials outside of a country's borders. It is now time for the EU, United States, and other international partners to consider similar options for Serbia.
- 3) Finally, the EU should not shy away from difficult but related issues, like justice sector cooperation between Serbia and Kosovo. Like other countries in the region, both countries need to cooperate on all types of cross-border criminal investigations, including organized crime and war crimes. The EU should make sure that they have agreements in place to allow such cooperation to happen.

To Serbian leaders, I urge you to change course. Although there have been some better moments, Serbia has been on a long march to trivializing war crimes and rehabilitating war criminals. There is no shame in facing up to one's past – only honor. Many Serbs know this and fight through constant threat and against great political odds to make their country better. Organizations like the Humanitarian Law Center, the Youth Initiative for Human Rights are all heroes and patriots. So too are independent journalists like those at BIRN and the recently departed Dejan Anastasijevic. Until Serbian political leaders support them and otherwise honestly confront Serbia's past, Serbia will never move forward to become the great nation that we all know and hope it can be.

Finally, I urge the government of Kosovo to step up its efforts to ensure that justice for victims is a priority. The Kosovo government can do much more to support victims. We are truly grateful for the many recognitions that the government has bestowed upon my brothers and family and other war crime victims. But the Kosovo government can take swift and tangible actions to ensure justice. This includes making war crimes accountability in Serbia and regional cooperation in war crimes cases a frontline issue in its dialogue with Serbia. As a sovereign nation, Kosovo has the right to take real action in these cases.

We urge you and the international community to start prioritizing these issues. Thank you for considering my testimony.

Chairman ENGEL. Thank you, Mr. Bytyqi.
 Ms. Krasniqi-Goodman?
 Push the button and move the microphone closer, too.

STATEMENT OF VASFIJE KRASNIQI-GOODMAN

Ms. KRASNIQI-GOODMAN. Is this good?

Chairman ENGEL. We will see.

Ms. KRASNIQI-GOODMAN. Thank you.

Chairman ENGEL. Keep talking.

Ms. KRASNIQI-GOODMAN. Honorable Chairman Engel, Honorable Ranking Member—

Chairman ENGEL. A little louder. If you can just move it closer to you? Yes. Just speak directly into it and it will pick up your voice.

Ms. KRASNIQI-GOODMAN. Honorable Chairman Engel, Honorable Ranking Member McCaul, honorable members of the Foreign Affairs Committee, ladies and gentlemen, I want to thank you all very much for giving me the honor of sharing my story with you. I hope it will shed some light on the depth of the issues that you are considering here today.

On April 14, 1999, when I was only a 16-year-old child, a Serbian police officer burst into my family's home. He was looking for my father and my brothers, despite the fact that they were not there. I was with my mother, my aunt, and my two cousins. The police officer ordered us to show him our IDs. After taking a look at my ID, he kept it and he said I had to go to the police station to give a statement about the men of our household.

At this moment, my uncle walked over from his house and simply asked, "Why are you taking our girl?" The police officer replied, "Don't anybody move or I'll shoot everybody." My mom told him to take her in my place. "No, she's a child," replied the police officer. "She will not be able to lie about the whereabouts of her father and brothers."

The Serbian police officer then ripped me away from my mother's arms and took me to the Serbian village nearby. He walked me into an empty house just off of the main road and threw me onto a stack of corn that was piled against the house. I started to yell and I screamed at the top of my lungs. That is when he took me inside of his car and he started raping me.

I remember everything. I was held at the gunpoint. He abused me and raped me repeatedly. I was shocked and exhausted. I lost consciousness. When I regained consciousness, I cried with no control, begging him to kill me. "No," he said, "I will not because you will suffer more this way." He was right; I have suffered greatly since then.

I remember he had a bandage on his left hand, and he was saying that is where the Liberation Army shot him and he was taking revenge on me. Every time that I screamed, he threatened to take me to an area full of Serbian forces where more men would rape me. After he was done assaulting me, he went into a local store and left me alone in the car. I know the village was primarily Serbians, so I was terrified to make a move.

Shortly after the policeman left, an older man came out of the same store and walked toward me. He forced me outside of the car

and took me to an unfinished house. I distinctly remember this man. He was an old man and he was crippled. There in that house he raped me.

A few hours later, I was taken back to my village and left on the street. I walked through the village cemetery, hoping that my life would end just right then and there because I do not want to go home to explain to anybody what has just happened to me.

They told me not to tell anybody what had just happened. They said to tell they was at the police station giving a statement about the whereabouts of my father and my brothers.

Somehow I managed to make it to my uncle's house. I did not have to explain anything what happened to me. By judging in the conditions they saw me, they knew that no one takes a 16-year-old child to the police station for a testimony just to return her a few hours later with scratches, bruises, and torn up.

The next day I reported my case to the Kosovo Liberation Army. Later, I reported it to the United Nations Mission in Kosovo. I also reported everything to the European Union Rule of Law Mission in Kosovo.

The perpetrators of this crime, they were identified eventually. However, 20 years have passed. My torturers are not being held accountable for the crimes that they have done and they are still at large.

There are 20,000 women and men who suffered crimes of war, sexual violence in Kosovo. All they want is justice. All I want is justice.

Although today I live a happy life in Texas as a proud wife and as a proud mother of two daughters who were born in the United States, and, thankfully, they will never have to encounter the tragedies that I experienced, I will never have a peace with my past until justice is delivered.

Thus, today I call on the Representatives of the U.S. Congress to address the impunity of war crimes and human rights abuses that were committed in Kosovo by taking immediate action to seek justice for all survivors.

Thank you.

[The prepared statement of Ms. Krasniqi-Goodman follows:]

Prepared Testimony of **Ms. Vafije Krasniqi - Goodman**
submitted before the U.S. House of Representatives Committee on Foreign Affairs
on "Kosovo's Wartime Victims: The Quest for Justice"
April 30th, 2019

Honorable Chairman Engel,
Honorable ranking member McCaul,
Honorable members of the Foreign Affairs Committee,
Ladies and gentlemen,

Thank you very much for giving me the honor of sharing my story with you. I hope that it will shed some light on the human dimension of the issues that you are considering here today.

On April 14th, 1999 when I was only sixteen years old, a Serbian police officer barged into my house. He was looking for my father and my brothers. However, they were not at home. I was there with my mother, my aunt, and my two cousins. The policeman ordered us to show him our IDs. After taking a look at my ID he kept it and told me that I had to go to the police station with him to give a statement about the men of our household.

At this moment, my uncle who had walked over from his house came in and asked him "Why are you taking our girl?" The policeman said if anyone moved, he was going to shoot everyone. My mom told him to take her in my stead. "No, she is a child" replied the policeman, "that's why she would not lie about the whereabouts of her father and brothers. The Serbian police officer then ripped me away from my mother's arms and took me to a Serbian village nearby. He walked me into an empty house, just off of the main road and threw me onto dried corn stacks that were piled up against the house. I started to yell. I screamed at the top of my lungs. That's when he took me to his car and started to rape me.

I remember everything. He held me at gunpoint, abused and raped me repeatedly. I was so shocked and exhausted that I lost consciousness. I would regain consciousness and cry with no control begging him to kill me. He said "No. I won't because you will suffer more this way." In all honesty, I did suffer a lot.

I remember that he had a bandage on his left hand and he told me that the KLA had shot him, so now he would take revenge on me. Every time that I screamed he threatened to take me to an area full of Serbian forces where he said more people would rape me. After he was done assaulting me, he went into a local store and left me alone in the car. I knew that the village was predominantly Serbian, so I was terrified to make any move.

Shortly after the policeman left, an older man came out of the same store and walked towards me. He forced me out of the car and took me to an unfinished house. I distinctly remember the man, he was old and crippled. There, in that house that man raped me. A few hours later I was taken back to my village and left out on the street. They told me not to tell anyone about what had transpired. Instead, I was supposed to say that I had been at the police station the whole time, giving a statement about the whereabouts of my father and brothers.

I walked through the village cemetery and I hoped that my life would just come to an end, right then and there. I did not want to go home and have to explain to anyone what had just happened to me. However, I somehow made it to my uncle's house. Once I got there, I did not have to say a word. Judging from the condition that I was in, everyone knew what had happened. No one takes a sixteen-year-old child to the police station and keeps them there for hours only to return her home scratched, bruised, cut up and torn up. The next day, I reported my case to the KLA. Later I reported it to the United Nations Mission in Kosovo. I also reported everything to the European Union Rule of Law Mission in Kosovo.

The perpetrator of this crime was eventually identified. However, twenty years have passed and justice continues to fail me. My torturer has not been held accountable for his crimes, and is still at large. There are twenty thousand women and men who survived crimes of wartime sexual violence in Kosovo. All they want is justice. All I want is justice. Although today I live a happy life in Texas as a proud mother of two daughters who were born in the United States and thankfully will never have to encounter the horrors that I experienced, I will never have true peace with my past until justice is delivered.

Thus, today I call on the representatives of the United States Congress to address the impunity of war crimes and human rights abuses that were committed in Kosovo by taking immediate action to seek justice for the victims.

Thank you.

Chairman ENGEL. Thank you, Ms. Krasniqi-Goodman, and thanks to all our witnesses.

Let me start with Ms. Krasniqi-Goodman. This room got very quiet. Thank you, first of all, for the courage of telling your story. It is not an easy thing to have lived through, obviously, and it is a very difficult thing to be able to go public and tell everybody. But it is so important if we are ever going to get justice for what happened during the war in Kosovo. People like you and others, Mr. Bytyqi, have to have the courage to speak. So, I want to thank you personally. I got to know you a little bit last night at dinner.

And I want to thank all of our witnesses. Thank you. Thank you so much.

President Jahjaga, I have worked with you so much during these past several years, and thank you for your courage.

Dr. Williams, you have always spoken the truth.

And, Mr. Bytyqi, everyone in Kosovo knows the story of the Bytyqi brothers. Everyone knows the story, and we are not going to forget ever about your brothers. We are not going to stop until we seek justice.

Let me start with President Jahjaga. Thank you for your service to your country and your efforts to raise awareness about the women who survived sexual violence during the Kosovo War. It is very difficult, even 20 years later, to come to grips with what was done to these women and to, sadly, say that we have had 20 years and we have not done right by them.

Could you please share with the committee the ongoing struggles of the victims of wartime rape? And how can we assist your efforts to work with you in bringing people to justice?

Ms. JAHJAGA. Mr. Chairman, thank you very much one more time for giving a chance to us to be able to share with the United States lawmakers and the global audience how the justice has failed the victims of the war in Kosovo and what are the steps necessary to be taken in order to move forward.

We want to bring forward the issue of the justice for the war crimes and the crimes against humanity committed by the Serbian regime, by the Milosevic regime, by the military police, and by the paramilitary forces of Serbia. We want to bring the justice for so many of the innocent who lost life. We want to bring the justice for so many of the survivors of the sexual violence. We want to bring the justice for so many of the missing people.

Our dignity, Mr. Chairman, has been touched and our humanity, and we have been stripped of that 20 years ago. Many of the reports of the human rights and the verification reports have shown, and many of the testimonies of the witnesses of these atrocities, and the crimes committed against humanity in Kosovo show that Kosovo, the ethnic majority of Kosovo have been violated and have been a target of some of the most grievous crimes and the violation of the human rights.

The Milosevic regime wielded the absolute control over the Serbian police, military, and paramilitary forces that they have been ordered to conduct this series of the violations of the human rights. It was mentioned here that an estimated number of over 1 million people were made by force to leave their homes for the purpose of the ethnic cleansing. Only during the wartime, it was also men-

tioned here, over 13,000 people have been killed and massacred. In between then, I want to repeat again, 1,230 of them children under the age of 18 and an estimated number of 20,000 women and men raped, where rape has been used as a tool of war.

Only between March and April 1999, about 1 million people were forced to leave the country for the purpose of the ethnic cleansing, as you mentioned, Mr. Chairman, in the very beginning of this hearing today, toward the direction of Albania, Macedonia, and Montenegro, as the neighboring countries, for our people to search for safe haven. These were not only the countries that have received the refugees from Kosovo, but we are forever grateful to many of the countries and the nations, started from here, from the U.S., from Germany, Austria, and many countries within Europe as far as Israel, Australia, and New Zealand, that have opened their doors to offer the safe haven for the people which were facing the tremendous crimes and suffering during the wartime in Kosovo. And here it was mentioned that the Western world did not experience that type of the ethnic cleansing since the Holocaust from the World War II, and it is a true statement.

And something that I really want to stop here, because it was mentioned, before I go to the survivors of the sexual violence. And I would like to use this opportunity to mention three more cases in the realm of several other crimes and the massacres that have been recorded also by the Humanitarian Law Center in Kosovo, which is a long list of those that I want to mention for the sake of this many lives that have been lost in Kosovo by name, starting from February 28th of 1998 to June 6th of 1999. And I want to go by every location of the crimes that have been committed here.

It's Likoshan, Municipality of Gillogoc and Qirez, Prekaz i Poshtem, Lubeniq, Poklek i Ri, Rahovec, Shtutica, Grejqefc, Senik, Rezalla, Dubovc, Obri e Eperme, Racak, Rogova, Neighborhood II and III of Skenderaj, Kotlina, Brestoc, Goden, Ternje, Bellacerka, Krusha e Vogel, Krusha e Madhe, city of Suhareka, city of Fushe Kosova, Celina, Padalishta, Duzhnje, Samadrexha, Dardania Neighborhood in the city of Peja, Mamusha, city of Gjakova, Krushevc, Izbica, city of Podujeva, Samadrexha, Beleg, Polac, PaStatella, Joviq, Lubeniq, city of Gjakova, city of Fushe Kosova, city of Gjakova, Nagavc, Marina, Kralan.

Chairman ENGEL. President Jahjaga, we will submit, without objection, all these names, so it will be in the official record.

Ms. JAHJAGA. Please.

Chairman ENGEL. We will submit that.

Chairman ENGEL. I just want to very quickly say one thing, and then, I will turn it over to Mr. McCaul. I have been to Kosovo many, many times. I have been there with my friend Harry Bajraktari and with others as well.

I remember particularly in 1999 going to a city called Peja, and every Albanian in that city, which was an Albanian city, was forced out of their home. And as the people left their homes, the Serbian forces torched each home, burned down each home systematically one by one by one, until thousands upon thousands of homes were all burned.

And someone presented me with pictures of every home in Peja burning or charred, and I kept that. I still have that on my dresser

in my bedroom. So that every night it reminds me that there's still a lot of work to be done.

The point that I want to make—and I guess it does not really require an answer—but anybody who commits horrendous crimes of war should be brought to justice. And we heard Ms. Krasniqi-Goodman having the courage to say what you have said, and thank you. And Mr. Bytyqi, your family, you know, I have been to Kosovo where the monuments are to your family, to your brothers. It is a well-known name.

The thing that annoys me the most is that, whatever atrocities that were committed on either side have to be brought to justice, but there were so many atrocities committed against ethnic Albanians. It is not even near equality. And yet, when you look at what the international community has done, they have gone after Albanians much more than they have gone after Serbs, when there is not even an equality there. There were so many more atrocities committed against ethnic Albanians, and to sort of pretend that there is this moral equivalency is absolutely a disgrace. And as long as I have anything to do with it, we are going to make that point and to continue to demand that people who did the terrible things to citizens that we heard from Ms. Krasniqi-Goodman, that these people are brought to justice. So, I just want to say that.

Mr. McCaul?

Mr. MCCAUL. Thank you, Mr. Chairman.

I want to say thank you to Ms. Goodman for your courage to come forward with that story. I know, as a former Federal prosecutor dealing with victims, it is hard to relive that experience.

And, Mr. Bytyqi, your brothers, it never quite leaves, and it is PTSD of the worst kind. So, again, I want to thank you for coming forward.

What I am kind of shocked by, Mr. Chairman is the fact that we had over 13,000 people killed, 1.2 million people displaced; it has been 20 years. We have a U.N. administration mission, some sort of U.N. court involved, and only six people have been convicted?

And I think, Dr. Williams, you said that rape is not even a standalone crime that can be prosecuted.

So, again, I want to thank you for having this hearing. I just find that completely unacceptable. So, perhaps, Madam President and Dr. Williams, can you tell us what has been going on over the last 20 years? Because those numbers just do not add up to me.

Ms. JAHJAGA. As I said earlier, we have an estimated number of about 20,000 women and men that have been raped during the wartime, where rape has been used as a tool of war. Like in every other case, like also in our case in Kosovo, there has been enormous stigma surrounding the survivors of the sexual violence. And the reason why the rape has been used as a tool of war by the police, military, and the paramilitary forces was to emasculate the men of Kosovo and to destroy the very fabric of our society.

And their main intention was to have the war last much longer after it has officially ended. And they have achieved that because, for 20 years after the end of the war, we still have this very living evidence and the proof and the suffering among the survivors, each and every one of them which are living with these atrocities and with what they have gone through during the wartime.

In many of those cases, the perpetrators of this horrendous crime, they were telling, even out loudly, that we are going, even though that the victims and the survivors were begging them to kill them after they committed those acts, they said to them that, “No, we are going to leave you alive, so you can live with this thing forever and you can remember what we have done to you forever and for your entire life.”

And every single survivor of sexual violence, no matter in which part of the country I have met—and I have met many of them throughout the country, hundreds of them—they seek only one thing. They seek for the justice. They seek for the perpetrators whoever done these crimes to be put forward to the justice and to be facing with the justice for the crimes that have been unjustly committed upon them.

Unfortunately, this issue of the survivors of the sexual violence, as you rightly said, Mr. McCaul, they have not priority immediately after the end of the war, neither from the international mission, neither from the provisional institutions of Kosovo. Only the women activists were the open door to the survivors of the sexual violence to offer, starting from the psychological treatment and all the way down to the physical and toward the medical treatment of others. Only back in 2014, we, as the country, have started the institutional approach and care toward the survivors of the sexual violence.

In that time, in my term as the President of the Republic of Kosovo, I established the National Council for the Survivors of the Sexual Violence, which opened a totally new chapter for the survivors for rape, their integration, rehabilitation, resocialization, and the access to the justice.

I mentioned the access to the justice, which is very limited because, so far, we do not have a single perpetrator that has been found guilty for all those crimes.

Mr. McCAUL. And thank you for starting the National Council for Survivors.

Ms. JAHJAGA. And that is why we need—sir, there is a tremendous need to establish the Special Court in order to prosecute these cases of the war crimes and crimes against humanity and the crimes of the sexual violence used as a tool of war in Kosovo. I call upon this body, I call upon you, as the U.S. Congress, as the body that has proven so far and has lined up yourself in the right side of the history, and you have proven that 20 years ago, in regard with the intervention in Kosovo, to stop the war, to stop the genocide, and to stop the ethnic cleansing, to condition Serbia and to keep Serbia accountable for all of the crimes and atrocities that they did toward the innocent people of Kosovo.

And it is really unjust to see that Serbia has a very open part toward Euroatlantic integration. And I want from this body to analyze all of the possible circumstances, to establish the type of Special Court the way that we have established in Kosovo for all of the crimes to be investigated by this body; at the same time, Serbia to be conditioned in their path toward the Euroatlantic integration.

Mr. McCAUL. And I look forward to working with the chairman on the idea of the Special Court.

And, Dr. Williams, my time is limited, but the United Nations has wholly failed. I mean, as a Federal prosecutor for many years, this is incompetence. It is inept. It is not working. So, is this Special Court idea the answer?

Dr. WILLIAMS. A Special Court with a clarified mandate is the answer. There are three reasons why the U.N. mission failed. The Yugoslavia Tribunal was timid and tardy in its indictments. When it indicted Milosevic, it said to itself, we have indicted the most senior political leader; take the box on Kosovo. They indicted a handful of other small individuals. They, then, had a 2-year trial, and he died during the trial. So, justice was not achieved.

The U.N. mission in Kosovo, the EU mission in Kosovo simply were not equipped, were not interested, and did not exercise the jurisdictional mandate that they possessed.

And then, the third reason, as I mentioned in my testimony, is this sense of moral equivalency. The European Union approach, which the United States falls into once in a while, is that we need to integrate Serbia into Europe. If we say all sides are responsible, the Croats, the Bosnians, the Kosovars, the Serbs, it is easier to accommodate and appease the existing regime in Serbia. You saw this at Dayton. You saw this at Rambouillet.

And then, you have the Special Court, which is the worst possible court one could imagine, which is a court specifically designed only to prosecute one ethnic group for one set of crimes. That is its public characterization. A close reading of the statute—and you know, as a prosecutor, you look at the statute of the court; it can apply to all crimes and crimes committed by all perpetrators, and provide justice for all victims, but it is going to need direction.

The important thing to remember is this court was created by the Parliament of Kosovo. The government of Kosovo possesses the authority to clarify, reframe, and, if necessary, amend the statute to make it crystal clear that it is not just an ethnically based court. And I would encourage—I will stop there.

Mr. MCCAUL. Thank you.

Chairman ENGEL. Thank you.

Ms. Bass?

Ms. BASS. Thank you, Mr. Chair. And let me just take a moment to thank you for your leadership on this issue for a very long time. I am aware of that.

I did want you to continue on talking about the Special Court, to try to understand exactly what you think would be the best.

And then, I also wanted to hear in terms of our role, the role of the United States, and whether or not you feel that we have played a positive role in terms of bringing the perpetrators of war crimes to justice.

And, gentleman, I am sorry, I do not want to mispronounce your name. You described your brothers and you said they were Americans. And I just was wondering specifically what the U.S. did in your situation.

So, I throw those questions out to the panel.

Dr. WILLIAMS. The Special Tribunal has a unique founding. There was a report crafted by the Council of Europe, again, as part of this approach of moral equivalence. It focused on its face exclusively against crimes committed by ethnic Albanians, but it did ac-

knowledge that there were a number of crimes committed by a number of parties, and that is important. It was not the emphasis of the report, but it did acknowledge that a lot of what we have spoken about here today, about the preponderance of the crimes being committed by the Serbian regime.

The statute has an odd jurisdictional mandate. The jurisdictional mandate is for crimes related to the report of the Council of Europe. Now no lawyer would write a statute that would lay out the jurisdiction, and then, reference it to a report by a diplomat, but that is what you have.

And then, there was tremendous pressure put on the government of Kosovo to adopt this, and then, to physically move the court to the Netherlands. And that is where the opportunity comes to turn this court around and make it successful. There are international judges, international prosecutors, and there is a list of defense attorneys that are both Albanian, Serbian, and international.

The problem is, as lawyers, we look at the statute and we can say, yes, this can be used to bring about accountability for all perpetrators, for all victims, and provide justice for all witnesses. And in particular—I emphasized this in my written statement—it has state-of-the-art witness protection, which makes it ideal for prosecuting sexually related crimes for conflict abuse or conflict-related sexual violence.

But the diplomatic momentum is that it is a narrow ethnic-based court, and unless the U.S. Government takes some action or works closely with the Kosovars to provide them the political cover to reframe—

Ms. BASS. What do you see that action being?

Dr. WILLIAMS. This action would be a statement by the Department of State explaining what the mandate actually covers. The U.S. Government provides funding for this court because it is an internationalized, hybrid tribunal; to condition this funding on the proper interpretation of its mandate and to send necessary personnel and resources.

And I will end with 10 seconds of, when I was at the State Department in the early 1990's, the Yugoslavia Tribunal was set up. The Americans moved money, they moved personnel, and the American Government was heavily involved in crafting the Security Council resolution, the mandate, the statute of the Yugoslav Tribunal, because America knew how important justice was going to be for durable peace. That has waned in these last few years and needs to be reinvigorated.

Ms. BASS. OK. And I know I am just about out of time, but I would like for you to respond. And then, I wanted to know if Madam President had a comment she wanted to make.

Mr. BYTYQI. Thank you.

The Bytyqi brothers were all American citizens in the 1990's when the atrocity of the Serbs, the Milosevic regime was put on the Albanian people in Kosovo. At the time, we had our parents there, my brother, younger brother, my sister, and my mother. And we heard that the American-Albanian community are gathering up together to go fight over with the support of the U.S. Government. And they went and fought. They did what any soldier would do, protect one from the other.

And where the U.S. Government stands, the U.S. Government does do a lot, but the problem is Serbia.

Ms. BASS. What was the response when they found your brothers' bodies? What did the U.S. Government do?

Mr. BYTYQI. They did everything—they started, we started prosecuting. After a couple of years, there was a prosecutor. The U.S. Government—the Serbian government does not cooperate. They talk the talk, but they do not walk the walk. They will give you empty promises, which has been happening for the past 20 years. The President himself, he keeps the criminals close allies to himself.

Ms. BASS. OK. And then, Madam President, is there anything you would like to add?

Mr. BYTYQI. Thank you.

Ms. BASS. Thank you.

Ms. JAHJAGA. Thank you very much. And actually, I would not have more else to add than what Dr. Williams has already explained as regards the structure of the Special Court, which should only require some of the amendments of the current structure of the Special Court, which has been already established. And it was very well said here that no court should be established only in certain ethnic-based in there.

Proofs and evidences are already there because they have been there for about 20 years. And these are very well-documented by many of the international human rights reports. And it only has the political backing or the political support starting from here, from this body. It was very well-described by Dr. Williams, starting from your side toward the State Department, and then, back to the European channels.

And again, about the necessary diplomatic pressure and the political pressure in the authorities of Serbia to be able to show the same readiness as we have shown in the case of Kosovo in establishing this certain crime, because this is not only in the interest of Kosovo because this is also in the interest of the long-lasting peace in the entire region of the southeastern part of Europe.

It is not our intention to create a monster out of one nation of the Serbia. Our intention is to have Serbia and the Serbian authorities to hold accountable and responsible everyone who has committed these crimes toward the innocent people of Kosovo.

Chairman ENGEL. Thank you. Thank you, President Jahjaga.

Before I call on Mr. Chabot, I want to acknowledge all the people who came from all over the country, particularly from New York, to be here with us today to witness what is happening. I am very happy to see all of you, and I want to single out Councilman Mark Gjonaj, who is here in the audience as well. Thank you very, very much. And, of course, Harry Bajraktari and all the people that I know so well.

Mr. Chabot?

Mr. CHABOT. Thank you very much, Mr. Chairman, and thank you very much for holding this hearing. I think this was very important for you to do so, and I know that you have personally been very involved in this issue for many, any years. And I think Members on both sides of the aisle respect your dedication and your commitment to it.

I have not been to the region or to Kosovo nearly as many times as you have. I have been there, learned a lot when I was.

And coincidentally, the Dayton Accords occurred just up the road from my district. I represent Cincinnati, Ohio. Dayton is just north of my district.

And I saw you nodding, Dr. Williams. My first question, I wanted to ask you, and the ranking member, Mr. McCaul, I got a sense from him. He is as outraged as a lot of us are about how the U.N. and the world has really, I think, failed miserably in this. The Dayton Accords did get the war more or less ended, at least the physical shooting and the bombings, and that type of thing. But, in holding guilty parties accountable, it has just failed miserably.

And hearing especially the two witnesses that felt this with their families, it is just horrific what you all had to go through, and the courage of you coming here again today puts all of us, I think on both sides, in awe that you are able to come before a committee like this and testify. So, thank you for doing that. It is important that the world hear this.

So, I guess, Dr. Williams, let me just ask you this: as horrible as this has been, there are other atrocities and mass killings that have occurred. Obviously, Rwanda comes to mind, Cambodia, South Africa, as the reconciliation afterwards. Is there anything that we can learn from how they handled some of these things that did or did not happen here? Or what can we learn, because we need to learn as much as possible from this?

Dr. WILLIAMS. Thank you.

By way of full disclosure, my father's family is from Dayton, Ohio. So, we are kindred spirits there.

The thing we can learn, there are two things we can learn about dealing with accountability and reconciliation. The first, it is important to understand the nature of the individuals that we have negotiated with to create the Dayton Accords, to create the Rambouillet Accords, and what sort of countermeasures must be subsequently employed.

Three of the four signatories of the Dayton Accords—Karadzic, Milosevic, and Tudjman—were indictable or indicted for war crimes. Karadzic and Milosevic were indicted; Tudjman died before the prosecutor said she was about to indict him. The two chief negotiators for Serbia at the Rambouillet Accords, Milutinovic and Sahinovic, were also both indicted for crimes against humanity.

So, you have to bear in mind that, while we negotiate or the U.N. negotiates with these individuals to get to yes, to get a peace agreement, you are not going to find justice as part of the peace process, which is why you have these tribunals.

And what we found in Sierra Leone, in the Ivory Coast, in Rwanda, in Cambodia, and in other places where there are tribunals, is you need a holistic approach. You need an accurate historical record, which the tribunals, but also truth commissions, non-amnesty-based truth commissions, help to provide. You need victim catharsis.

So, in Rwanda, there was the genocide. The International Tribunal prosecuted nearly 60 individuals, but, then, you had local prosecutions and you had gacaca courts at the community. And

over 100,000 individuals have been processed through the system that Rwanda created. So, the victims have their say. In a tribunal, it is the perpetrators who have their say. They are the ones on trial. Milosevic represented himself. But, in truth commissions or localized mechanisms, or these hybrid type of tribunals that the Specialist Chambers could be, you have the opportunity for victims' representation, victims' counsel.

And then, you need memorialization and you need recognition, and it must be a comprehensive package. You have not had that in Kosovo. And that lesson has not been learned from all of these other tribunals that we have seen.

So, negotiate peace with whoever you have to. Indict and hold accountable those responsible for atrocity crimes. And then, expand that mechanism and develop other mechanisms for victim catharsis, historical records.

And importantly, as Madam President had noted, to deny collective guilt. And I was very careful in my testimony to talk about Serbian regime perpetrators because, although it is tens of thousands, it is not millions and it is not the entire Serbian population. And you need to identify and pull out those responsible, so that there is a denial of collective guilt and you can have reconciliation and durable peace.

Mr. CHABOT. Thank you very much.

And, Mr. Chairman, my time has expired. If I could just thank the panel, again, for their tremendous testimony. And hopefully, we will, as a Nation, along with the world, act upon this. So, thank you very much.

Chairman ENGEL. Yes, thank you, Mr. Chabot.

Ms. Spanberger?

Ms. SPANBERGER. Thank you, Mr. Chair.

Thank you very much to the witnesses for being here. I especially want to thank you, Ms. Krasniqi-Goodman. Thank you for your testimony today. I appreciate you bringing a voice not just to your experience, but to the experiences of so many victims.

And to Mr. Bytyqi, I am so sorry for the loss of your brothers Ylli, Agron, and Mehmet. Thank you for honoring them by being here today.

I would like to continue the conversation a bit about the discussion related to the need for a Special Court. My area of interest is in recognizing that, in 2014, Kosovo law was amended to recognize victims of conflict-related sexual violence as war victims. And this made them eligible for reparations. However, thus far, only 1300 women have applied.

I am curious if you believe that, were there to be a shift in the accountability process, the creation of this Special Court that you have talked about, Madam President, do you think that would change the pathway for victims of sexual violence to come forward, and would that have an impact on this catharsis that you, Dr. Williams, have spoken about as well?

Ms. JAHJAGA. Well, ma'am, absolutely, it will shift. As I said in the very beginning, the issue of the survivors of the sexual violence has never been the priority, neither for the international community immediately after the end of the war, neither for the provisional institutions of Kosovo. They have been living in the tremen-

dous stigma from the society. And actually, that did not only happen with the survivors of sexual violence in Kosovo, but it happens in every past war, in past conflicts of societies. There is always a tendency of pointing the fingers toward the survivors rather than pointing the fingers toward the perpetrators.

And it took for us about 13 years after the end of the war to be able to change the course and to be able to pass the necessary step for the survivors of the sexual violence to have institutional care, as you referred and I have already filed in my statement. By the creation of the National Council, which in a month after the work of the National Council, the legal status has been recognized toward all of the survivors of the sexual violence as the civilian victims of the war.

The Committee for the Ratification of the Status of the Civilian Victims of the War has started its work in February 2018. Until now, we have about over 1,000 applicants. And definitely, this has reflected indirectly, and in each and every survivor that I talk to them personally, before this process has started, about four or 5 years ago, will you be able to step forward and ask for your justice? And actually, they have been hesitating. But now has been created a totally different momentum that each and every one of them is willing to come forward.

And as I said in the very first statement, no matter what kind of circumstances they live, no matter that they live in a very dire economic situation, the only word that is being spelled out continuously by each and every survivor—and we have heard today also by Vāsfiže—is that we want justice. We want the justice and we want to see whoever has done this horrendous crime to be faced with the justice.

And by putting the focus on perpetrators, we also have seen that the stigma around the survivors has kind of like shifted in another direction that has been created, a different momentum. And this is happening today. It is going to be another momentum for the survivors of the sexual violence, for the justice that they have been lacking for about 20 years.

And not to forget that we already lost so many of them. Some of them have left us. They died due to the consequences of what they have been going through.

And so, many times when I have been arguing with many of the lawyers, with many of the prosecutors in the country, when it was a matter of the evidence, you do not need more evidence than the survivors of the sexual violence. In most of those cases, they were not done or they were not conducted alone. They were conducted in the presence of the family. They were conducted in the presence of the entire village. They have been conducted in the presence of the in-laws and a much wider group into that.

So, evidences are there. Everything is ready. What we need is the proper platform and mechanism, such as a Special Court to be able to proceed and move forward to bring, for the first time after 20 years, the long-lasting peace in the hearts and minds in each and every survivor.

Ms. SPANBERGER. Thank you, Madam President. And thank you so much for your advocacy on behalf of the people of Kosovo.

And I am out of time, Mr. Chair. So, I yield back. Thank you.

Chairman ENGEL. OK. Thank you very much.

I am going to call on Mr. Zeldin in a moment. But, before I do that, I want to say to Mr. Bytyqi, I have had President Vucic of Serbia in my office twice right here in this building, and twice when I questioned him about your brothers, he promised me that he would have a solution for me where people who committed this heinous crime would be brought to justice. And both times he showed that his word means absolutely nothing because there was never a followup. And even when I tried to followup with him many, many months later, he gave me reassurances again, and, of course, nothing. So, it is pretty clear that the highest levels of the Serbian government are not willing to do anything. And I just saw him again for a third time in Germany a couple of months ago and raised it with him again, and we got the same old, the same old ridiculous dodging. It is really just disgraceful.

And I know that Congressman Zeldin is your Representative. He and I wrote to Secretary Pompeo about your case and other post-conflict justice issues, and we are going to continue to be relentless when it comes to bringing back truth and getting some justice for you and your family and your brothers.

Mr. Zeldin?

Mr. ZELDIN. Thank you, Mr. Chairman, for holding this hearing. And I can personally attest, from being with Chairman Engel in that meeting in Munich with President Vucic, and having many other conversations with the chairman and his team over the course of not just the last few months while he has been chair, but years, it is a very personal in a very positive way, laser-like focus on this issue. And I just want to thank the chairman and his team for making such a dedicated effort with a ton of follow-through.

It is one thing to have a meeting with a constituent or someone in our country. They share a personal story, and maybe you forget about it in the weeks or the months that follow. But I think it is an important message. I know that President Vucic and his team pay attention to today's hearing. They are watching. It is an important message that they receive that, on both sides of the aisle, this issue is not going away. And if it is the 20th anniversary of what happened to the Bytyqi brothers and we are still here having this conversation, and they might have thought 5 or 10 or 15 years ago that, fast-forward to 2019, that we would just stop talking about it. If you look around this entire room, there are not seats. They are plenty more people who would be filling these seats if we had them. And that should also send a powerful message to President Vucic and his team because they have goals for their country.

And I believe, and I agree with what Mr. Bytyqi said, and what Ms. Goodman said, that justice absolutely must be part of any of those talks for a future relationship. For a Serbian relationship with the United States, it requires justice for the victims.

This my third term serving in this committee, and I have heard a lot of personal stories on different topics for different nations around the world. I have to say that nothing was as emotional and gut-wrenching as listening to your story, Ms. Goodman, and your strength to be able to be here and to share that story with Congress and with the American people. It is a testament to your

strength of character, and there is a lot of respect for you just to be here and be able to share those reflections with us.

And I think it really highlights for all of my colleagues, as they read through House Concurrent Resolution 32, as they talk to their teams about what that text means, what the message means; that, hopefully, if they were not in this room to hear it, to replay the witness testimony from Mr. Bytyqi and Ms. Goodman especially, and sign on. We need every member of the House Foreign Affairs Committee to sign onto House Concurrent Resolution 32. We need every Member of Congress to be supportive of House Concurrent Resolution 32, and to send a powerful message beyond today to President Vucic and his team that all of their goals for what they want with their neighbors, what they want with a wider region, with the United States, it all requires, well, the demand and the insistence of the United States must include justice.

In December 2018, the Department of State designated Goran Radosavljevic—it was under Section 7031(c)—due to his involvement in these war crimes. I am grateful that this designation was made by the State Department. Goran's name has been referenced in other meetings that have taken place with colleagues, and he is known to be a suspect in the murder of the Bytyqi brothers.

And when Chairman Engel and I sat with President Vucic in Munich, it was explained that there has not been enough evidence in order to bring a prosecution. But the family wants their day in court. Based off the evidence that exists, the United States feels comfortable to make this designation back in December 2018. We have heard it acknowledged through people who have met with President Vucic in other settings, including Mr. Bytyqi was in the room when he heard it out of President Vucic's mouth, and others acknowledging that Goran is a suspect.

So, what does that mean? Whatever evidence you have now, 20 years later, it is time for a trial. It is time for a day in court. This issue is not going to go away. And for the sake of U.S.-Serbian relations, and for Serbian relations with their counterparts in their region, for everything that they seek, that justice is what this committee, hopefully, will continue to demand.

And once again, thank you to Chairman Engel because I know that, as President Vucic watches today, he knows that on both sides of the aisle that we will not let this issue go. And that is the key. Justice is the key, and that is what the United States must continue to demand.

And I yield back.

Chairman ENGEL. Thank you, Mr. Zeldin.

Mr. Gonzalez?

Mr. GONZALEZ. Thank you, Mr. Chairman.

My question will be for Ms. Krasniqi-Goodman. Ms. Goodman, thank you for being here with us. Thank you for your courage and willingness to tell your story to the committee. I know that it cannot be easy, but I am sure what you are doing means a great deal for women not only in Kosovo, but around the world, especially the thousands we face sexual violence during war. And I want you to know that we all here deeply care what you are saying and what happened to you and many others, and we want to do all we can to help women in Kosovo to find justice.

With that being said, I have a special question for you and for Mr. Bytyqi. Do you feel that, as United States citizens, our government has lived up to your expectations in how we should have sought justice for you at this moment in time? And what would you expect, if not that?

Ms. KRASNIQI-GOODMAN. Thank you.

I have been a U.S. citizen for 13 years. When I was going through the trial with my case, all the trials available to me, the basic court, the appeals court, the supreme court. The United States did not do nothing for me, no, they did not, but neither did my country, Kosovo. So, they let me down. But I am hoping maybe now it is something that we can start working on to seek justice, if it is not for my case, at least for the other 20,000 men and women, because we do need justice.

Mr. GONZALEZ. Well, as my colleague on the other side of aisle suggested, we will never forget what happened, and we will continue to look for justice for you and others who have suffered these atrocities.

And, Mr. Bytyqi, I would like to hear from you as well.

Mr. BYTYQI. Thank you, Mr. Gonzalez.

Yes, the U.S. could do more. They could put an amount of pressure and take swift and precautional measures that Serbia delivers justice to my brothers, not only for my brothers, but the rest of the victims of the Kosovo Albanian war crimes committed.

As you know, before I stated that, when Congress speaks, Serbia listens. The only way is political pressure on Serbia. That is the only way Serbia will cooperate, no other way. They will promise you heaven, but they will not deliver. As you have heard Chairman Engel, he was promised a few times. My family was promised. Members of this committee were promised. Nothing, nothing.

Instead of prosecuting the criminals, he holds them dearly to himself, close to his lobby. Practically, they work still in the government of Serbia. Criminals that killed my brothers are still in power in Serbian government.

Thank you very much.

Mr. GONZALEZ. Thank you. Thank you. And I see you visibly shaken.

And, Ms. Goodman, thank you for your courage to come and express so vividly what happened to us, because this is the way we learn and how we can continue this fight until the end, until we can finally bring those to justice.

My next question is to Ms. Goodman again. You brought your case to the UNMIK and the and the EULEX, where no action, nothing was founded, and your case was taken up in the Kosovo court system with two Serb policemen indicted. And ultimately, the supreme court dismissed their case. Do you have plans for further legal action against your perpetrators any other way?

Ms. KRASNIQI-GOODMAN. Thank you.

Yes, we do have plans maybe to go through the chain of command. That is my only option at this point.

Mr. GONZALEZ. But have you not reached the last place, being the supreme court of the country? Or are you saying the international community?

Ms. KRASNIQI-GOODMAN. The supreme court of my country, it is a closed case. Now they are going to go through the chain of command. They are going to reopen my case and go through the chain of command.

Mr. GONZALEZ. Well, I am very sorry the international community has failed you, and we, the United States, will continue pushing this to the end and we will not forget.

Ms. KRASNIQI-GOODMAN. Thank you.

Mr. GONZALEZ. And I yield back.

Ms. KRASNIQI-GOODMAN. We need your help. Thank you.

Chairman ENGEL. Thank you.

Mr. Smith?

Mr. SMITH. Thank you very much, Mr. Chairman, for convening this important hearing, and to our distinguished witnesses for bearing witness to an extremely ugly truth that still needs to be rectified in terms of accountability.

And I do want to thank all of you. Dr. Williams, your testimony about the accountability gap—you know, during the conflict, I remember traveling to Stankovic and met with hundreds of refugees who were the lucky ones who made their way over the border to relative safety, but, obviously, so many others never were able to make that trek and suffered horribly under Slobodan Milosevic.

And I think it is very timely, 20 years later, to be calling for all of the unmet needs when it comes to justice, which has not been served well. As you point out, the number of sexual assaults, about 20,000 individuals were the victims of conflict-related sexual violence, and that is almost a carbon copy of what happened in other parts of that region, particularly in Bosnia. I remember chairing a hearing with Bianca Jagger who had borne witness to exactly what was happening to Bosnian women, and the same happened to Croatian women. And still, there has yet to be a full prosecution of those who have committed these crimes. And this is a fresh reminder that we need to redouble efforts.

If you could speak to the evidence that was gathered by UNMIK, which obviously disappointed in the extreme? Why were they so feckless in their work? And is that evidence still available?

I mean, one of the things we learned in Srpska as well, Republican Srpska, was that one of the reasons why reconciliation could not happen is because people were living right next door to people who had committed atrocities, including in Srebrenica, and elsewhere.

So, it is the same thing, obviously, in Kosovo. I wonder if you could speak to that evidence, whether or not it is still usable. I remember when the original court for the former Yugoslavia was constituted, all of us were concerned, and I actually offered an amendment on it to ensure that we captured that information, because you cannot do a prosecution effectively if you do not have actionable data and information. So, if you could speak to that, whether or not that information still could be used, eye witness accounts, for example?

And again, I came a little late. So, I do not want to be redundant on other questions, but I will look at the record and go over your testimonies very carefully.

But thank you so much, and thank you, Mr. Chairman, for this hearing.

Chairman ENGEL. Thank you.

Ms. Omar?

Mr. SMITH. I think Professor Williams wanted to answer.

Chairman ENGEL. Oh, I am sorry.

Dr. WILLIAMS. If there is time permitting—

Chairman ENGEL. There is time.

Mr. WILLIAMS [continuing]. I would like to provide a brief answer.

Chairman ENGEL. I jumped the gun.

Dr. WILLIAMS. Thank you, Congressman Smith.

On paper, you would hear that the files gathered by UNMIK were transferred to EULEX, and then, those would be made available to the Specialist Chambers. But you can sort of imagine your crazy uncle's garage and a filing system. And that is my fear, is that when these testimonies were taken, when the witnesses' testimony was made available, the investigators for UNMIK/EULEX were not trained and did not prioritize conflict-related sexual violence.

There is an incidence where NATO troops took over 50 testimonies and provided them to UNMIK, and UNMIK essentially said, well, what do you want us to do with these? And the NATO forces are saying the victims are coming to us and telling us their stories; you need to get out there in the field and set up proper investigations.

So, I think what you would find is that there are plenty of leads and there are plenty of witnesses willing to tell their story and to identify the perpetrators. And that is what is unique about Kosovo, is the deep, deep commitment of the victims to seeing justice be done, so that there can be reconciliation and they can live alongside their neighbors.

It is going to need the resources that the Specialist Chambers has, and it is going to need the infrastructure that the Specialist Chambers has. And there are two things that are important about the Specialist Chambers. One is a comprehensive witness protection program, which, again, when you are talking about conflict-related sexual violence, that is very important.

And then, second, they actually have a provision for victims' counsel. So, when you go to the court, there are the judges; there is the prosecution; there is the defense, and the victims actually have the third podium, so that they can be represented. And they can bring the evidence. They can ask questions. They can cross-examine. They can make submissions.

So, it provides that role of the victims to basically rebuild the integrity of what is a failed justice process. Again, you can only do that if you clarify, reframe, and possibly amend the statute of the Specialist Chambers. But that is the only way you are going to get a durable peace in the Balkans.

Thank you.

Mr. SMITH. Thank you, Mr. Chairman.

Chairman ENGEL. Thank you, Mr. Smith.

Ms. Omar?

Ms. OMAR. Thank you.

I want to start by saying to Ms. Krasniqi-Goodman how much I admire your courage for coming here today and sharing your story. We could all visibly see how shaken you are and how much you are still being traumatized by what happened to you 20 years ago.

And to Madam President, so much of your testimony deeply resonates with me. Like both of you, I am a survivor of war.

I particularly wanted to talk to you guys about the use of sexual violence and rape as a weapon of war, which you both spoke about in such clear and heartbreaking terms. As I am sure you know, the U.N. recently put a resolution on the use of rape as a weapon of war. It was severely watered-down at the insistence of the United States. This is outraged me, as it should outrage every American.

In the first place, I want to assure you that the administration's position does not reflect that of the American people and does not reflect that of Congress, and it certainly does not reflect my position. As we continue to partner on justice mechanisms in Kosovo, you have allies in Congress on making such complete accountability. It is made not only for the survivors of war in Kosovo, but those around the world. And this concludes the complete range of necessary reparations, including access to sexual and reproductive health care for victims.

Madam President, I am hoping that you could tell us about your experience in leading the effort in Kosovo, what is necessary to fully address the victims of sexual violence in war, and how the United States can tangibly help address this.

Ms. JAHJAGA. Madam Omar, thank you very much.

And as I already mentioned also in my long statement filed for your information, we, as a country, as the institution, telling you this truth, we did not know how to handle with the issue of the survivors of the sexual violence for the continuous 13 years after the end of the war, due to the stigma and due to the taboo topic that was existing among our society.

But the turning point for the status of the survivor has been in 2014 with the National Council of the Survivors of the Sexual Violence. We started the process of the rehabilitation, reintegration, resocialization, and access on the justice. Just 1 month after the work of the National Council, the law for the war values has been amended, which has recognized the status of the survivors of the sexual violence as the civilian victims of the war, which automatically has guaranteed and granted the rise for the life-term pension, which is directly linked with their reintegration, rehabilitation processes that have been put already within the system, the legislative system of Kosovo.

It is the budget has been also approved by the government of Kosovo last year, and we are in the process of the proceeding of the application through the verification committee approved by the government of Kosovo, which is a very slow process going, but we are very much satisfied because this will be another step forward on their continuous demand and the requirement for the access on the justice, which is also the precondition. Because with the application and the coming forward to speak about the atrocities that they have gone through, they would be able for the first time to share their stories, starting from the committee, but also which will indirectly empower the survivors to come forward and to seek

so much needed justice that has been lacking for the 20 years after the end of the war.

Madam Omar, we will never be able to offer our survivors with a full recognition, with a full reparation, or justice. But I am telling you the truth. That has been overdue for these past 20 years after the end of the war. And if we do not act now, which is the main reason why we are here today, to establish the necessary mechanism of the Special Court which will be exclusively investigation, investigating the war crimes, crimes against humanity, and include in there rape that has been used as a tool of war, this will be forever a burden and burning in our conscience, and we should not allow this. It has been enough happening for these past 20 years.

Ms. OMAR. Yes. Thank you so much for your presence and your testimony and the work that you are doing. It really speaks to the role women play in reconciliation and sort of helping communities we build, as we are storytellers, we are the revivals of our communities. And to you and to everyone who had suffered the horrific war in Kosovo, my heart is with you.

Thank you. I yield back.

Chairman ENGEL. Thank you, Ms. Omar.

Mr. Burchett?

Mr. BURCHETT. Thank you, Mr. Chairman, Ranking Member. I appreciate you all being here.

I come from this at a little different angle, I guess. My father fought in the Second World War in the Pacific, and he visited, went back to one of the islands that he was on the invasion on, but the other one he did not. And as a child, I remember him telling me some of the horrific stories of things they found out that, in fact, I guess the Japanese were doing to the Koreans and these ladies that they had actually kidnapped. And my father was invited back for the anniversary of that invasion, and he would not go. Looking back on that now, I think I understand why, because of some of the horrific things he saw that were done to those folks at the hands of the Japanese.

Do I call you President? Is that correct? I am going to try your last name, Jahjaga. Not close? Close? Close? I got it? All right. Well, thank you, ma'am.

I am from east Tennessee. The chairman always thinks I am from his hometown in New York, but I am not, by my accent.

[Laughter.]

But I am concerned about the Serbians have such low political will, that that is political correct—I just think it is gutless—to investigate these war crimes. And what more can we do as a country, and I can, as a Congressman from Tennessee, do to put pressure on the Serbian government to bring some justice about?

And the followup of that would be, is there any hope that we could have some cooperation between the law enforcement and the judicial institutions in Kosovo and Serbia? And I just throw that out to the panel. And, Madam President, if you want to take a shot at it, that would be great.

Ms. JAHJAGA. Mr. Burchett, thank you very much. And to tell you the truth, that was the closest ever I had on pronouncing on surname.

Mr. BURCHETT. Well, thank you.

Ms. JAHJAGA. Well, you mention the word "low political will". If I may say, there is no political will at all. So far, we have not seen that to be shown or to be expressed by none of the leadership of Kosovo. On top of that, they have been using Kosovo and the crimes that they have done unjustly toward the innocent people of Kosovo for the political gains within their own country. And they are getting very easily off with that. And the world, the rest of the democratic world, it is not recognizing that, or it is allowing for Serbia to get off very easily with this matter.

On purpose, I did mention that it is not our intention to create a monster out of one nation, like the people of Serbia. People of Kosovo have no problem with the people of Serbia. What we want is from the Serbian people, and from the Serbian leadership, to take the responsibility and to take for accountability, and to keep them accountable for the crimes that they have done unjustly toward the innocent people of Kosovo. It has been way too far, 20 years. We are speaking about 20 years' time.

You mentioned an issue of the cooperation of the law enforcement and others. From somebody that has a law enforcement background myself, there is no cooperation whatsoever when we speak about the war crime cases.

And do you want me to tell you that Serbia is continuing with their ongoing fight to stop Kosovo's membership in all of the international and regional organizations, including the INTERPOL and Europol? Just last year, Kosovo has been voted against the membership in INTERPOL, which is one of the basic international institutions for the cooperation on the matters of the rule of law. So, while Kosovo has shown readiness all the time, we have been always facing with the denials from Serbia to have whatsoever cooperation.

And for the cooperation in the rule of law, we are not only speaking in the war crime cases; we are speaking also the day-to-day cases, which are a handicap for Kosovo's progress. Because of the lack of the cooperation for Serbia, we have that level of organized crime and the corruption taking place in the northern part of Kosovo, which Serbia is keeping hostage or is controlling their parallel and illegal structures which are operating in the northern part of the country.

Mr. BURCHETT. I yield back the remainder of my time, Mr. Chairman.

Thank you, ma'am.

Chairman ENGEL. Thank you, Mr. Burchett.

Mr. Phillips?

Mr. PHILLIPS. Thank you, Mr. Chairman, and for your steadfast efforts relative to the Balkans generally and Kosovo particularly.

And to each of our witnesses, and all of you that took the time to be here today. It makes a big impact on us.

And I want to salute you, Ms. Goodman, and you, Mr. Bytyqi. Your stories deeply affect me, and perhaps most importantly, inspire me. And they say that sunshine is the best disinfectant. And now that we have illuminated the truth, I believe it is time to start paving the path to justice.

To that end, the tools available to us are somewhat limited, but foreign aid is surely one of them. Yet, if we reduce foreign aid to

Serbia, it likely pushes them closer to the Russian sphere. Yet, maintaining the status quo does nothing to inspire a change in attitude.

So, my question begins with you, Dr. Williams. How do we address this conundrum? What leverage do you think might be available to us to affect or assert the pressure that is needed, particularly as it relates to how we use our foreign aid?

Dr. WILLIAMS. Thank you, Congressman Phillips.

We have an amazing ally in the Balkans, the State of Kosovo, the country of Kosovo. And so, oftentimes, when we think about influencing a State's behavior, we will think about what type of sanctions we might put on Serbia, what type of limit on aid, what type of truth, sunlight we can bring to bear.

But I think it is also important to remember that we need to have Kosovo's back. They are trying to become a member of INTERPOL. They are trying to become a member of the United Nations. They adopted this Specialist Chambers with this distorted mandate. They are contemplating reframing it and reshaping it.

The United States needs to double down on its support for those things that the government of Kosovo, the country of Kosovo, is doing to try to pave the path toward justice. So, there are a number of mechanisms that the U.S. Government has in its toolkit to pressure countries. But here you have a case where there is a country you can work very closely and very effectively with, and we have a long history and, quite frankly, a special relationship with the country of Kosovo. And that would be where I would encourage the U.S. Government to put its energy to work to bring about a sense of justice for the victims and to put its resources in that direction.

Mr. PHILLIPS. Thank you, Dr. Williams.

Madam President, if you might opine on the same question?

Ms. JAHJAGA. Mr. Williams was very right that the United States actually has no stronger ally than Kosovo and the Albanian people, the entire region of the southeastern part of Europe. And the United States can help to affect the truth and justice in your foreign policy with Serbia, and that has to be one of the priority requirements. It has to be part of the foreign policy of the United States toward the neighboring country, our neighboring country of Serbia.

And use every mechanism possible that the United States and this committee can do to make pressure for the establishment of the Special Court or defining the new mandate and the mission of the already-existing Special Court to include also the crimes committed against Albanians.

Mr. PHILLIPS. Thank you, Madam President.

Before I yield back my time, I just remind everybody that we must be relentless. It is never a time to give up. And I think over time, if each of us with the same end game in mind worked together in a bipartisan fashion on this side, and all of you collectively, we will see the change that we desire.

I yield back my time.

Chairman ENGEL. Thank you, Mr. Phillips.

Mr. Vargas?

Mr. VARGAS. Thank you very much, Mr. Chair. I kind of knew you before I got here because of the family that lived with us. We were very fortunate in that, when we were seeing what was happening with the atrocities in Kosovo, my wife and I decided to adopt a family from Kosovo. And so, we did. And so, the family lived with us for 2 years: Brahim, Sevdie, Lirije—although she writes it “Lareege”; we used to teach her that it was “Lareege,” but it is Lirije, and Blerina. So, they lived with us for 2 years.

They were from a place called Podujevo—at least that is how I pronounce it—not from Pristina because so many people that I met later on were from Pristina. And so, I heard of all the atrocities, all the terrible things. But I also heard of Mr. Engel because of all the work that you did and, in particular, Bill Clinton. When I had a picture of Bill Clinton, they were very excited to see that.

But I have to say they live in San Diego now. They are doing extremely well. One of the daughters, she is the person who runs, the manager of a Wells Fargo branch. The other one is in college still. Both the husband and the wife are doing extremely well. He is like my seventh brother. I have six brothers. He is like the seventh, and she is like the fourth sister that I have. They are wonderful, wonderful human beings and people, and we love them deeply.

But the atrocities that they saw, thank God that they avoided many of them, although their life was very difficult. They went to Macedonia. From Macedonia, they were airlifted to Fort Dix, New Jersey. And from Fort Dix, New Jersey, they came to our house in San Diego. And again, they lived with us for almost 2 years.

But I am horrified that we have not done more on these war crimes. And one of the things that was interesting to me, I always used to ask Brahim, I said, “How did you live before? Were you always fighting?” He said, “No, it was amazing.” He said that, “Neighbors that we knew were turning us in, saying that these are Muslims, these are Kosovars, people that we had known forever that were our friends, how they turned against us.” And some of the people had committed atrocities. And that we have not been able to bring these people to justice is I think a real travesty.

So, Dr. Williams, I would like to ask you, I mean, I thought that the tribunal was going to work better, frankly, and it has not. And why is that? I mean, we know that the crimes are there. I have been listening to all the testimony. Crimes are there. The victims are there. The evidence is there. It seems like the will is not there. What do we need to do, Dr. Williams? Because I think we have to have a better resolution than we have today.

Dr. WILLIAMS. Thank you, Congressman Vargas.

The difficulty with the Specialist Chambers, the tribunal, is that it has a distorted origin. It came about because there was this misperception that there had not been justice for all. But, as we have seen in the testimony, the Yugoslav Tribunal, and then, the EU and the U.N. domestic tribunal, bent over backward to pursue moral equivalency, to create all sides equal. And then, somehow this court popped about to prosecute ethnic Albanians associated with the Kosovo Liberation Army, and there was not the thought or the need to perceive how it would become distorted as it was implemented.

That said, it is an internationalized tribunal. It is a Kosovo tribunal, but it is a hybrid and it is based in The Hague. And you can read the statute to actually provide accountability for all of the perpetrators and justice for all of the victims, but there has not been the political will to do that.

When you look at the public statements of the European officials or those that comment on the court, they still echo the perception that it is an ethnically based tribunal just focused on the Kosovo Albanians. It is legally incorrect, but, as a lawyer, I can tell you that does not really matter.

Mr. VARGAS. Right.

Dr. WILLIAMS. It is the public perception of the diplomats. And that is why you need a counter-narrative. All perpetrators should be held accountable. All victims should have access to justice.

And this tribunal, which is a state-of-the-art tribunal and has learned lessons from a dozen other international hybrid tribunals, is the place to go.

Mr. VARGAS. Well, I hate to say it, but my time is almost up. But I have to tell you, I mean, there is no moral equivalency here. Most of the atrocities were committed by the Serbs against the Kosovars. I mean that is reality.

And so many of the people who committed these horrible crimes, you have heard, have not been brought to justice. And I think we have to figure out a way to put more pressure on, not only to have the back of our friends, but also those that committed these crimes, sure, we need to apply more pressure to bring these people to justice.

President, yes?

Ms. JAHJAGA. Mr. Vargas, if I may, because Dr. Williams has mentioned that there has not been a political will. It is true; it has never been a political will. And to tell you the truth, there is never a political will from none of the parties, would be the political will, if there is no sufficient pressure coming from the bodies which are required. And that is what we are requiring from you, the necessary pressure and the mechanisms to be used toward Serbia to hold them accountable and to moving in that direction, to keep them—to build in this political will, as they are supposed to have from day one.

Mr. VARGAS. Thank you, and I agree with you completely. Thank you.

Thank you, Mr. Chairman. Thank you.

Chairman ENGEL. Thank you, Mr. Vargas.

I want to just take a prerogative to comment on something that Dr. Williams had mentioned. And that is that you would think that, 20 years later, we would have been more down the line; we would have accomplished more; we would have done more.

And President Jahjaga said it as well. It is really disappointing that the political will of the rest of the world has not really been there. It is just unbelievable.

And, if you go to Kosovo, there is no more pro-American country than Kosovo. You get stopped in the street by strangers. They know we are Americans. They want to be part of us. They want us to be part of them. And I just think the people of Kosovo deserve so much more.

Mr. Sherman?

Mr. SHERMAN. Mr. Chairman, we have served on this committee together for 23 years. And during those 23 years, I have seen your dedication to the innocent victims in Kosovo. And I have seen other Members of Congress get involved in a particular issue or focus on a particular part of the world, but I have never seen any of our colleagues put their head and their heart into a human rights issue as you have for the people of Kosovo.

I had the opportunity to visit the refugees 20 years ago, and it is appropriate to have this hearing now, not because something happened 20 years, but because of what is continuing to happen, and more importantly, not happen.

I want to say a few words of praise for the United States. As we have learned today, America can do more, should do more, must do more. But, looking around the world, America is depicted as a nation that will always take a position against people or nations that are predominantly Muslim or of Muslim heritage. But, in fact, no nation did more to protect the people of Kosovo, of all religions, a nation of predominantly Muslim heritage. No nation did more to protect the Bosniaks and the people of Bosnia. And chairing the Asia Subcommittee, no nation is currently doing more for the Rohingya and for the Uighur. Now we need to do more, but the world, especially the Muslim world or the countries that are predominantly of Muslim heritage, need to understand America's role and that others have not done as much. Of course, we bombed Serbia twice, once for to protect the people of Kosovo and once to protect the people of Bosnia.

I will ask all the witnesses, but starting with Dr. Williams, what specific steps should the United States take to help the country of Kosovo? And particularly focus on how do we get Kosovo into INTERPOL. That just makes us all less safe. If you are in favor of crime, then you want to keep countries out of INTERPOL. What argument is there to exclude them, and what pressure can the United States put on that one issue and other issues? And then, we will turn to Madam President.

Dr. WILLIAMS. Thank you, Congressman Sherman.

The United States has tremendous leverage when addressing questions of the former Yugoslavia and, in particular, Kosovo. As you noted, the Americans, through NATO, led the humanitarian intervention to stop the violence and atrocities in Kosovo. It was the American airplanes which were doing the no-fly zone over Bosnia and engaged in the airstrikes to protect the people of Bosnia, as well as the U.N. peacekeepers.

Even 20 years later, the United States has tremendous moral authority when it comes to addressing issues in the Balkans. And it is appropriate for the United States to draw down on that moral authority when insisting that Kosovo become a member of INTERPOL, when seeking to promote its membership in the United Nations.

Kosovo is recognized by over 100 countries, but is not a member of the U.N. And so, this has some consequences for its ability—

Mr. SHERMAN. But is there a particular strategy, Madam President, that we should use with regard to INTERPOL, the U.S., or other international organizations?

Ms. JAHJAGA. Congressman Sherman, thank you very much.

And first of all, I want to express our deepest thanks and gratitude on behalf of all people of Kosovo for the great support and the help that we have been getting from the people of the United States of America and from institutions of the United States of America. We would not be able to come this far the way we have come if we did not have you alongside with us, which we appreciate that a lot.

Kosovo, all of the progress that we have done so far, we have done in the coordination and in the close collaboration with all of our allies, starting from the United States of America. Not only Kosovo, but the entire region, is the investment and the cooperation between the countries and between the Western countries.

But, somehow, we are in the halfway, that we need, if I may use the term, the final push in order to be in the other half, that we do not endanger any of the processes or any of the progress of sliding back that we have jointly invested so much in this past two or three decades.

You have referred to the composition of Kosovo. Actually, Kosovo is a very multi-ethnic and a multi-religious community where all of the community groups have been living together for the past several of the decades. To tell you the truth, that has been one of the biggest strengths, that we have been able always to build upon that; that none of that has been the reason why the war has started in Kosovo, but the reason has been for the power struggle and for the egos of certain political gains which within the night that turns their neighbors into the enemies in there.

And so, Kosovo, in all of its initiatives, no matter being a member State of the regional organization or the international organizations, started from the United Nations. So far as Dr. Williams has mentioned, we have been recognized by over 110 countries around the world. We are closely operated—

Mr. SHERMAN. Is there any particular thing we could do—

Ms. JAHJAGA. Yes.

Mr. SHERMAN [continuing]. At INTERPOL to press them in the right direction?

Ms. JAHJAGA. We are closely cooperating and there is a strategy in place by the government of Kosovo, which we have shared with all of the authorities here and with other allies, what has to be supported.

But the priority thing is to kind of like make that necessary pressure toward Serbia, toward all of their supporters, like Russia and China and other countries, to not use the veto against the Kosovo in every single thing, because they are not only harming Kosovo, but they harming, also, other processes which are related to the safety and the security of our citizens in the entire region of the southeastern part of Europe.

Chairman ENGEL. Thank you, Mr. Sherman.

Let me, in conclusion, say that this was a very excellent hearing. I think that a lot of points were raised, and I think the whole situation is there. It is going to, obviously, be broadcast all across the country on C-SPAN.

And anything that we can continue to do to draw light on the fact that this was 20 years ago, and the people have still not seen justice.

I wanted to just add one thing, and that was not only has Serbia kept Kosovo out of INTERPOL, but also out of other agencies as well. And it seems to me that, if we are talking about ascension to the European Union by both Kosovo and Serbia, that it shows an incredible amount of bad faith on the Serbian part for them to continue to block, or attempt to block, Kosovo from becoming part of these important organizations. It shows very bad faith, and I think we have to talk about that more and more.

So, let me conclude by saying this has been a very important and enlightened hearing. I think that the issues have all come out.

I want to thank our panelists. All four of you were really excellent and really brought home another aspect of why it is so important for us to act now.

And I want to tell you that I have gone around the world, but Americans will not be greeted better in any place in the world than in Kosovo. Truly, the country has a love affair with Americans, and I have had a love affair with Kosovo.

So, I want to thank all the people who made their way here from New York and other places.

I want to thank our witnesses, President Jahjaga, Dr. Williams, Mr. Bytyqi, and Ms. Krasniqi-Goodman. Thank you so much. And we will continue to seek justice for all the people who deserve it. Thank you.

The hearing is now closed.

[Whereupon, at 12:20 p.m., the committee was adjourned.]

APPENDIX

FULL COMMITTEE HEARING NOTICE
COMMITTEE ON FOREIGN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515-6128

Eliot L. Engel (D-NY), Chairman

April 30, 2019

TO: MEMBERS OF THE COMMITTEE ON FOREIGN AFFAIRS

You are respectfully requested to attend an OPEN hearing of the Committee on Foreign Affairs to be held in Room 2172 of the Rayburn House Office Building (and available live on the Committee website at <https://foreignaffairs.house.gov/>):

DATE: Tuesday, April 30, 2019
TIME: 10:00 a.m.
SUBJECT: Kosovo's Wartime Victims: The Quest for Justice
WITNESS: Her Excellency Atifete Jahjaga
(Former President of the Republic of Kosovo)

Paul Williams, Ph.D.
Washington College of Law
The American University

Mr. Ilir Bytyqi

Ms. Vashije Krasniqi Goodman

By Direction of the Chairman

The Committee on Foreign Affairs seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202/225-5021 at least four business days in advance of the event, whenever practicable. Questions with regard to special accommodations in general (including availability of Committee materials in alternative formats and assistive listening devices) may be directed to the Committee.

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FULL COMMITTEE HEARING

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ADDITIONAL MATERIALS SUBMITTED FOR THE RECORD BY
CHAIRMAN ENGEL

Written Testimony of **Mr. E.B.**

submitted before the U.S. House of Representatives Committee on Foreign Affairs
on "Kosovo's Wartime Victims: The Quest for Justice"

April 30th, 2019

I was a 39 years old, a married man, a father. I had gotten somewhat used to police actions. They happened very frequently in the village where I lived. All the time, day and night. Houses were burned, people were killed on the streets, people were shot at, families were deported, and so on. One morning, I was going to my neighbor's house to get some coffee when my neighbors suddenly screamed "Run! They're here!" At that very moment, the whole neighborhood started to panic.

We had taken in some refugees from different villages at my house. They stayed there for a couple of weeks. On the first night of the airstrike campaign, the refugees left because they were worried that the Serbian soldiers would burn us down in retaliation. People were legitimately panicking. No one knew what to do or where to go. I told my wife that we should stay at our home because I did not know what was going to happen to us.

Sure enough, the Serbian forces started to burn our houses down. I was going to the house of an acquaintance when I saw Serbian soldiers firing snipers from the roof. I understood that they had taken their positions and that they had us surrounded. A few people were waving at those of us out on the street, signaling that we should leave. I did not know whether I could go back to get my family or not. One man screamed out "Leave, I see the White 101 (Serbian car)." My family had already started to leave, and that is when I was separated from them. I fled too, and I made it for about 100 meters or so, jumping over fences and walls and into a house at the end of the street. There were a few people there.

I went behind the house, and I saw soldiers on the walls, so I started to run again. I ran until I arrived at the crossroad. Just when I was about to cross the street, I saw them. I hesitated so much. I remembered that they would load their automatic weapons with something that burned immediately after they fired. They had me cornered, and I was terrified. I hadn't seen them coming, but they had clearly seen me. Paramilitary officers were stationed on the lower story of the building before me, and Serbian military forces were upstairs. They were armed. Two of them came to get me, and the others scattered all over. I just froze. "Where do you think you're going?" they asked. I said, "I'm looking for my family."

I don't know how they could say or even think all the names and words that they called me and swore at me. They spoke on the phone with one another, and I saw someone approaching us. They punched me and cracked my lip. Then they told me to turn around and punched me again. They threw me into a ditch and I screamed "No! Don't!" They turned to each other and said: "This one, we are not going to kill." That is when the torture began.

They threw me on the ground and took turns raping me. In the beginning, I had some strength to fight them back. However, someone broke a bottle of rakia (alcohol) and wanted to cut my hands.

He did not cut too deep, but just enough to scare me and make me bleed. Then the violation continued. I remember two officers who raped me until I lost my conscience. When I woke up, I was scared and humiliated. My mouth was parched. I thought they had killed me!

When I came back to my senses they told me "You shall remember who we were!" They used rape as a weapon of war. I don't know how many of them raped me besides those two. I do not know how long it lasted. I recovered slowly and went back home. My wife saw that I was beaten up, cut and torn all over. I took a shower that night. I wrapped my bleeding hands, my cut lip, and my black eye. The police action in our neighborhood had ended.

The next day, we went outside our house and we could not believe our own eyes. The entire place had been burned down to ashes. We walked on fire sparks. We saw a store that used to be nearby. The glass on its door had turned into liquid from the heat. I went in and grabbed two bottles of water. The Serbian police were patrolling the streets. They lined us up and we walked. Endless columns of terrified people. We had no idea where we were going. We continued like that until we reached the border. Then they somehow let us go. We were in Albania. It was my first time in Albania.

I implore the United States Congress to demand justice for the victims of war crimes and atrocities that were committed in Kosovo.

Written Testimony of **Mr. Liri Loshi**

submitted before the U.S. House of Representatives Committee on Foreign Affairs
on "Kosovo's Wartime Victims: The Quest for Justice"

April 30th, 2019

I was born in the village Pemishte of the Skenderaj municipality on August 20th, 1960. I worked as a general medical practitioner in Skenderaj and Runik from 1989 until 1999, when I decided to move to Canada with my family. During the war in Kosovo, I was working at a medical clinic in Runik where I would regularly tend to patients of all ethnicities, including Albanian and Serbian. As the conflict between the Serbian forces and the KLA intensified, the Serbian military and paramilitary forces were shelling the entire Runik area. People had no choice but to leave their homes and move to remote villages in the surrounding area to seek refuge from the Serbian attacks. One of these villages was Izbica.

My village, Pemishte, like many others, was burned down. I found myself without a home, without shelter for myself or my family. In June 1998, I went to a neighboring village called Lecnice. From there I went to Izbica and Turicefc, to live and work as a medical doctor.

In March 1999, the village Klladernice was shelled by Serbian forces that were stationed in Runik, which is only a few kilometers away from Klladernice. One of the shells hit a house and killed three people that were inside. The population of the village then gathered in the building of the elementary school to get cover from the shells.

On March 25th people started to concentrate in the Izbica Valley. By March 26th, thousands of people had gathered there. On the morning of March 27th, a friend of mine, Xhavit Dragaj, a dentist who I used to work with at a health station in Runik, asked me to help him and his family get out of Izbica. We could hear the Serbians shelling, and we knew that this was a clear indication that the Serbian forces were approaching Izbica. I drove Xhavit and his family in my car for about three or four kilometers to the village Tushile. This village had also become a gathering point for civilians.

When we arrived in Tushile, we found out that the village was overpopulated and the houses could not accommodate any more people. I stayed in Tushile until March 29th. People gathered in an open field and surrounded the area with white sheets to signal to the Serbian forces that they were unarmed civilians. There were thousands of people there, in the Tushile area, all of whom were civilians.

On March 29th, late in the evening, I left Tushile because I knew that the Serbian forces were approaching. I went to the village Kopiliq i Eperm, which is mid-way between Tushile and Izbica. While I was in Tushile, I talked with several women who were forced to leave Izbica with their children after they had been separated from their husbands. They told me that the Serbian forces had taken their husbands away in three groups. Shortly after they had been separated from the men, the women heard gunshots. This led them to assume that their husbands had been killed. However, they had not witnessed the killing with their own eyes, and therefore could not confirm it. Hence, I believed that it was necessary for me to go to Izbica myself in order to seek the truth.

The next day, on March 30th, I went from Kopiliq to Izbica. When I got there, I saw the bodies. It was clear that a massacre had occurred. Then, some people who had been living in the area and were

able to escape deep in the mountains guided me to the place where the massacred bodies had been scattered on the ground. There were three groups of bodies, a few hundred meters apart from one another. Each group had between 30 and 50 people. So even at first glance, you could tell that over 100 people had been killed there. 27 were counted in total.

Judging from their clothing and the shoes that they were still wearing, one could tell that these individuals had prepared for long travel and were likely refugees who had been fleeing from one place to another to save their lives. I saw bloodstains near the bodies and unmistakable signs of execution by gunshot. From the appearance of the wounds on their faces and bodies, I could tell that they had been shot from very close range. Only close-range fire could have caused such horrific damage to them. There was no doubt that all of these men had been brutally massacred.

After seeing the gruesome sight of these massacred bodies, I immediately looked for a camera to record them and to show the world what had happened in Izbica on March 28th, 1999. I found a man called Sefedin Thaci, who had hidden his camera underground, and asked him to come with me to film the bodies together. He agreed, and we started to film. On that same day, KLA members and civilians who were in the area got together to dig graves and bury the bodies, most of whom were their family members or relatives.

We were little over one kilometer away from the Serbian forces who, after committing this massacre, were now in the village Vojnik. As we were filming the bodies, three elderly people approached me and told me that they were among the wounded civilians who had survived the massacre. After we finished burying the bodies, Sefedin filmed me as I interviewed the three elders who described to us in their own words the horrific events that they had experienced. They told me how they were lined up and shot from close range by Serbian forces. However, they said that the blows which struck them did not cause critical damage to their bodies. In order to survive, they had to lay under the bodies of the victims that had been murdered and remain still until the Serbian forces left. Among these massacred bodies I identified three of my own cousins. They were three generations of men from the same family, Selman Loshi, his son Jashar Loshi, and his grandson Sami Loshi.

It took me approximately one month and a few attempts to get out of Kosovo and smuggle my tape to Albania. There, I was able to send the video out to the White House, NATO headquarters, the Hague Tribunal, and international media. I testified about the massacre that I had witnessed in Izbica during the trial of Slobodan Milosevic in 2002, and the trials of two other groups of Serbian officials who were tried in 2006 and 2009 for war crimes committed in Kosovo.

The massacre in Izbica has never been properly addressed. There are still so many Serbian criminals who have not been punished for the crimes that they committed against the civilian population in Kosovo in the 1990s. I urge the United States Congress to seek justice for the victims of war crimes and human rights abuses committed in Kosovo, by taking immediate action to address this matter.

Written testimony of **Mr. Liridon Markaj**
submitted before the U.S. House of Representatives Committee on Foreign Affairs
on “Kosovo’s Wartime Victims: The Quest for Justice”
April 30th, 2019

I was born in Gjakova on April 30th, 1984. I grew up in the village Korenica, that is where I finished elementary school. My family were farmers. We were a large family of 30 members, and my grandmother was the matriarch. Much like other children, I spent my childhood playing. I loved sports. However, I also helped my family farm the land. We planted peppers, cucumbers, tobacco, and watermelon. We lived off of our land, and we had a good life. We were a Catholic family. My mother was a homemaker, and my father was a teacher. After my father was fired from his job by the regime, he began to work in the parallel system.

My father had been politically active since the 1980s. In 1992, the Serbian police arrested him because he was a member of the municipal council in Gjakova and he had spoken against the Serbian regime. He had been warned not to speak out. Nevertheless, he continued to do so. The Serbian criminal, Milutin Prasevic, once beat my father to a pulp and left him for dead. After that things deteriorated. While we were never truly free, now we were also unsafe and abused.

I went to high school in Gjakova. The walk to school was long and arduous. It was made harder by the regular beatings and berating by the Serbian police. In the winter of 1998, my father came to pick me up in the village Brekoc. I was together with my brother, my cousin, and two other friends. All six of us got stuffed into one car. The Serbian police stopped us on the road. We thought they would kill us on the spot, but we made it out alive by a stroke of luck.

When the war began, our movements became very limited and difficult. On April 5th, 1998 we were forced out of our house. Milutin Prasevic was there. The Serbian forces lined us into columns along with people from the village Gusk and made us walk to the border with Albania. Then they decided to walk us all the way back.

When the NATO airstrikes began we were in our house following the news. I will never forget the feeling of pure joy when we got word of the NATO intervention. We all went out on the balcony in exhilaration. We had no idea what would follow. After that, we were unable to walk out of our houses. We couldn't even go to our uncle's place across the yard. About 80 people were staying with us at our house.

On April 27th, 1999 my mom woke us up at the break of dawn and told us that we had been surrounded. When I looked out the window, I saw rows of Serbian soldiers. It was a foggy morning, but when we looked onto the Erenik river, we could clearly see three rows of Serbian soldiers. We could also hear screams echoing through the village.

Once the fog cleared away, we were still in our house. Some villagers from the Kamberi family came by and asked us for shovels because one of their family members had been killed. We stayed inside the house. The elders went out to speak to the soldiers but were told to remain inside the house. Later the soldiers came over and told us that we have 5 minutes to get out. We all walked toward the village graveyard. When we got there, we saw three trucks overloaded with people. We ran into the

Kamberi family. They did not have a truck, so we took them onto ours. One of the trucks actually tipped over because it was overloaded, but fixed it and kept driving towards Mehje.

When we got to Mehje, we were met by men in masks. They were Serbian military and paramilitary forces. Some of them could speak Albanian. They ordered all the men to step down from the trucks. I did not, because I thought of myself as a child. I was quite tall, but I was only fourteen years old. They dragged me out of the truck and onto the ground. They took all of our valuables and told us to walk down the street. Then they made us sing Serbian songs. First, they would sing the words to us. Then we had to repeat it to them as they shot their automatic weapons over our heads. We thought that this would be our end. I was in the line with my hands over my head and the Serbian police kept telling us to yell "Kosovo je Srbije / Kosovo is Serbia." There, in that line, is the last time that I ever saw my uncles.

After a while, we noticed that the first two trucks were leaving the area. On our way to Mehje, I had been on the third truck. It was not my family's truck. It was actually our neighbor's truck, and I had been on it with my grandmother. The soldiers took me out of the line and one of them hit me on the face with their gun. They dragged me to the third truck and made me drive it. My grandmother was still on the truck. After a few miles, I lost consciousness and my father came to drive the truck in my stead. We were stopped in every village along the way. The soldiers dragged us off of the trucks. They beat us and they terrorized us. Then they loaded us back on the trucks and drove to the next village. It went on like that, all the way to Albania.

After the war ended, we returned home. Our house was completely wrecked and partially burned down. It had been used as a military base by the Serbian forces. We slowly put both the house and our lives back together from scratch. We went back to work, continued school, and got married. Every day, we woke up anxious for news about my uncles. Every night we went to sleep with the hope that we would reunite with them.

On May 15th, 2003 I was at work at the hospital when I heard the news. They had found a mass grave from the massacre in Mehje and my two uncles' names were on the list. Uncle Gjovalin (36) and uncle Milan (35). When their bodies were brought back, my family had to relive the tragedy all over again. My grandmother carried us through it all. She insisted on seeing the bodies before they were buried. I remember that she was struck because the bodies seemed to have been burned. We buried my uncles on May 23rd, 2003.

For weeks on end, people and journalists came from everywhere to visit us. Just after all the ceremonies were over, one night, my grandmother split all her savings and distributed the money to each member of the family. The next morning, before dawn, she went to visit the graves of her two sons. On the way back, halfway between our house and the graveyard, she covered herself in gasoline and burned herself alive. 372 people died in Mehje with my uncles. Their bodies were found in Batajnice in 2003.

I ask the esteemed United States Congress to seek justice for the victims of war crimes and human rights abuses committed in Kosovo.

Written Testimony of **Ms. Ferdonije Querkezi**
submitted before the U.S. House of Representatives Committee on Foreign Affairs
on "Kosovo's Wartime Victims: The Quest for Justice"
April 30th, 2019

On March 27th, 1999 twenty-three members of my family were present in my house.

I was there together with my husband Halim Querkezi and my four sons Artan, Armend, Ardian and Edmond. Artan's wife Arta was there, and so was her family. Her father Shpejtim Ymeraga, her mother Vlora, her grandmother Sevdije, her two sisters Fiona and Marigona, and her aunt Venera. Armend's wife Miranda was there too. Kasim Querkezi's son Vegim was also with us, and so was Skender Dylhasi with his wife Dudije, and their son Murteza with his wife Edi, and their two-year-old daughter Genta. Our cousin Manduha was also there with two sons Fatos and Shpend.

Out of the twenty-three of us, eleven were men, including my youngest son Edmond who was only 14 years old, nine of us were women and three were young girls.

On March 27th, 1999 at approximately 12 o'clock, four policemen came into our house. Two of them came in from the main entrance, and the other two used the basement door. Once they were inside the house, one of them asked my husband Halim "Who are all these guests?". Halim promptly began to gesture towards each person and explain his relationship to each of them. "This one is my brother's son. This is Shpejtim Ymeraga's family, they are my son's in-laws. The other two families, Dylhasi and Jetishi, are my cousins," he said.

The Serbian policeman turned to Halim and said "Everything is good. There are no refugees. You can all go in now." That is exactly what we did.

Three hours later, the same policeman, Dragan Raxhiq, returned with his friends. They asked us to go outside again and stand by the basement doors. Then they asked for our ID cards. We all gave them our ID cards, except for Edmond because he was too young to have one. They took us and our ID cards back to the police station where we had to wait outside in the rain. After a full hour had passed, they told us that everything was ok and that we could go back to our house where they were going to protect us from NATO.

While we were on our way inside, the policeman ordered Artan to take our car out of the garage. Our car was a green Opel Kadett. Artan did as he was told and drove the car out for them.

Dragan Raxhiq was in the first basement with my husband Halim and Skender. He ordered a man to bring a table and two chairs in there for them. The rest of us were told to go to the second basement. While we were still in the first basement, the policemen ordered Halim to bring them some raki, a type of alcoholic drink. Halim told them that he doesn't have any alcohol in the house, only fruit juices. Dragan Raxhiq was rather surprised and asked Halim "How come you don't have any raki when you own a bar?" Halim responded, "I do have raki at the bar, but I do not keep any in my house." The policeman proceeded to drink the juice that he was offered. Then Dragan asked me for coffee. I obliged and made them two coffees with a medium amount of sugar. Dragan gave the coffees back and asked for one sweetened coffee and another unsweetened one. While I was on my way back upstairs to make fresh coffees, I sighed. Dragan heard me and said, "Don't be scared

mother.” Dragan then asked Ardian for water and told him that he was a good waitress. Ardian brought him the water.

As I was coming down the stairs with the new cups of coffee I overheard Dragan tell Halim “You Albanians, we need to cut your heads off.” Halim replied, “We are at your mercy, and you can do whatever you want with us.” Dragan stood up and checked the back door of the basement, locked it, and placed the key in his pocket. We stayed like this for two hours. Dragan and his friends gave our children chocolates and gave the women a 500 gram bag of coffee.

Dragan Raxhiq knew Myrteza Dylhasi, Skender's son. He would constantly refer to Myrteza as “tzar” and wouldn't give him a break. He would repeatedly tell Skender that a son like his is hard to find these days. When Myrteza came to the second basement, Edi's wife asked: “Who is this guy and how does he know you?” Myrteza answered, “He is Dragan Raxhiq from Montenegro. He worked at the cultural center. He comes to my store and often takes food without paying for it saying that he is going to pay me next time he comes by.”

The first basement where Halim and Skender were still was quiet. Myrteza was with us in the second basement holding his daughter when he heard Dragan's voice call out “Tzar, let go of the kid and come here.” He walked out with Myrteza and told him to leave the door open.

Then my husband Halim came to the second basement. Skender's wife Dudije asked him “Mr. Halim, where did they go?”. Halim said “Yes, they left, and on the way out they told us not to be scared. They said that the police will keep an eye on us and will bring us flour so that we can cook for everyone, including the whole police station”.

A few minutes after we had all quietly gathered together in the second basement the same policemen came back in. This time they were wearing masks. They had the same uniforms on. We recognized Dragan from his eyes and the sound of his voice. They turned towards us and said “We are KLA. Do you love KLA? Do you love NATO? Do you love America?” Then, without changing the tone of their voice they said: “All the men, go outside!”

They proceeded to call all the men by their names: Artan, Armend, Ardian, Fatos, Shpend, Vegim, Shpetim, and Edmond. Fourteen-year-old Edmond was asleep. I woke him up and told him that he was being called. They had a list of names and they were looking for all the men.

Then they turned towards the women and children. They placed guns to our faces and asked us for gold. All the women took off their rings, necklaces, earrings, everything we had and gave it to them. The masked policemen filled a glass up with our gold. Then they turned to me and asked me for money. I gave them 500 DM. They placed a gun on Manduha's chest and asked her for money too. She did not have any. They became angry and shot at the floor. The hole is still there, in our house. They turned to Dudije and placed the sharp end of a knife on her throat and told her that they were going to cut all the Albanians' throats.

The other masked policemen approached Edi and said: “You either give us money, or we will kill your little daughter.” Edi told them “This is not my house and I do not have any money.” The policemen, who had placed a gun on the little girl's chest, took it off of her and told everyone “You all have ten minutes to get your things ready and leave for Albania.”

The time was around 7:00 p.m. All the women with their children left the house. None of us knew where we were going. As we were walking, we decided to go into an apparent complex nearby. One of the owners, Mr. Qumil Haxhijanuzi, opened his door to us. Qumil told us that he had a mentally challenged son and that the police had also taken him a day before.

All nine of us women, together with our children, spent the night in Qumil's apartment. The next day, each of us took a different direction, except for Skender's wife Dudije and her daughter in law Edi. That day Qumil informed us that the police had released his son and that without being prompted his son had told him "Father, at the police station I heard that the police had brought in a lot of men with the last name Qerkezi."

On May 7th, 1999 I went to Dragan Raxhiq's house with Kasim Qerkezi and Nysrete Kumnova. When we opened the door, we saw his coworker Vuk Mirkoviq. Vuk turned to Kasim and said "Welcome Kasim." Kasim replied, "I have been looking for you." Vuk then told us to come inside. Once we were in, Dragan turned to me and asked me whether I remembered him. I responded "Yes!" Dragan asked, "Do you remember that I gave chocolate to the kids?" I replied "Yes" again.

Kasim had been a colleague of Dragan's before the war. They both worked at the cultural center. Kasim asked Dragan "Dragan, do you know where my sons and Halim and his sons are?" Dragan replied, "If I come by to your house this evening, I will bring you news. If not, then you will not know what happened to them for the rest of your life." He then asked us to stay for some coffee or raki. We did not stay.

Then Dragan showed us our keys and told us that he still has our car. Kasim said, "It is yours to keep if you just tell us where the men are?" Dragan turned towards me and asked me if I wanted the basement key back. I said, "Yes, I want it back." However, when Dragan took a look down at the pile of keys that he had, he could not remember which one was mine. Hence, he decided that he would bring it back when he figures out which one it was.

Dragan's last word to us were "Do you see what NATO is doing?", and then he told us that they had sent their families to Nish. Since we had never heard anything about them until then we only knew that he was from Montenegro. On June 14th, 1999 our town, Gjakova, was liberated. On that day, Kasim Qerkezi and Muharrem Kumnova saw Dragan Raxhiq drive by in my husband's car, the green Opel Kadett.

Throughout this whole ordeal during the war, I Fredonije Qerkezi together with my two daughters in law, Arta and Miranda, stayed in Gjakova from the day that we left our house. From March 27th, 1999 until June 14th, 1999. During this time we found shelter at my parent's house, Malush and Gjejlone Kumnova. The men of our family have been missing for 20 years. Dragan Raxhiq, Vuk Mirkoviq, and their friends are responsible for the tragedies of our families, Qerkezi, Ymeraga, Dyhasi, and Jetishi.

I ask the United States Congress to address the human rights abuses and war crimes committed in Kosovo through direct action to demand justice for the victims.

Written Testimony of Ms. H.U.

submitted before the U.S. House of Representatives Committee on Foreign Affairs
on "Kosovo's Wartime Victims: The Quest for Justice"

April 30th, 2019

When the war in Kosovo broke out, I was staying at my house in the village together with my kids. My husband was a KLA soldier and he was moving around all the time. He would come and visit us periodically, and then he would go and fight. When the war reached a village near our house, it became clear that we had to leave. Together with my family, I moved from village to village for a long time, trying to escape the terror and save ourselves. On relatively calmer days we would try to go back to our house and check on it.

We were in our house when the NATO airstrike campaign began. We were staying there together with many members of our extended family who had come over so that we could all be together. I remember the joy that overtook us when we heard the news. We went out on the balcony. We believed that we were finally safe from harm. Only a few days had passed when our husbands told us that we would have to leave our house again because the situation was deteriorating and it would not be safe for us to stay there any longer.

All of us together went to another village and stayed with my husband's relatives. There were a lot of other refugees from different places in that house with us. The day after we arrived there, we heard loud noises on the streets. I went over to the door because I thought it might be my husband. When I got there, I saw tanks on the streets and a Serbian soldier walking directly through the front yard. When he spotted me, he began to shout at me. I immediately ran inside screaming "For God's sake, the Serbians are here."

A group of soldiers came inside the house. They kicked us out on the front yard and lined us up for execution. Then they decided to send us to an open field, and they kept us there until nighttime. A battle was happening in a village nearby where many Serbians had just died. So the next day, they took revenge on us.

They started burning houses and wanted to burn us all with them. We ran out and tried to escape, all the while being yelled at by the Serbian soldiers. They captured us and beat us up. They punched me in the head and threw me in the meadow where the women and children were separated on one side and the men on the other. I remember when they found a child's notebook and took it. There was a poem written on it about Adem Jashari. The Serbian soldiers read it out loud in impeccable Albanian.

They divided the women into groups of four or five and sent us into the basement of an abandoned house nearby. They took all the money and jewelry that we had. They shouted at us saying "You will give us all that you have, or we will undress you all!" They took all the money and jewelry that we had. After they stripped us from all our belongings, they sent us back to the meadow and left us

there until sunset. At sunset, they brought our husbands so that they could say their last goodbyes. Since that very moment, the fate of those men remains unknown to this date.

After separating us from the men, the Serbian soldiers led the women and children into the room of a house where I found myself with my kids and some cousins. That is when the true horror started. It was dark and nobody knew what was happening outside. The Serbian soldiers would come in with torches and take us one by one. First, they took some young girls, then many older ones. Children were taken as well. Everyone who they brought back would be shaking and crying incessantly. None of them could speak.

Then, it was my turn. I left my children there, in the dark room. I was terrified. I did not know what was going to happen to them or me because they did not tell us anything. A few soldiers took me, all alone, and sent me into a room where one of them was waiting. It was dark, so I couldn't identify him. The men that brought me there stripped off my clothes. I tried to fight but couldn't. I had no strength left.

When they stripped me, they told me "If you scream, if we even hear a peep from you, we will come in too." Then they went out and left me alone with the man who was already in the room. He approached me. He was speaking in Serbian, but I couldn't understand a thing that he was saying. He started to kiss me and bite me. He threw me on the floor, and I could not even scream because I was afraid that the other ones would come in too. He threw me on a mattress that was laying on the floor and started to rape me. There I was, without an ounce of strength, wanting to leave but with nowhere to go. I could not even move.

He kept going until he was satisfied. Then the cops who were outside the room came in and took me. They sent me into the room where I was before. When I went in, I saw a woman who was slamming her head against the wall because they had taken her daughters. The soldiers who took me came back again that same night. This time, they tried to take my daughter. They asked me how old she was. I lied to them and told them that she was eight. They told me that it's ok; there are plenty of other women. They went on with the same routine all night long. Hardly anyone was spared. The next morning, they loaded us onto trucks and deported us to Albania where we waited until the war was over.

I appeal to the United States Congress to address the war crimes committed in Kosovo by taking the necessary actions to claim justice for the victims.

Written Testimony of **Ms. N.N.**

submitted before the U.S. House of Representatives Committee on Foreign Affairs
on "Kosovo's Wartime Victims: The Quest for Justice"

April 30th, 2019

It was just before I turned eleven years old when they threw us out of our home. My father, my mother, my brothers, my sisters, my cousins and all the other women who had found refuge in our house. Serbian soldiers lined us up into columns and sent us to different villages. When we arrived at village D, the Serbian soldiers stopped us and separated the lines into two. One part was sent to village P and the other to village K. My mother, my sisters and I were kept in village K. Meanwhile, my dad and my brothers were sent to the village P.

In village K, they left us on the front lawn of the village school. After a few hours, they sent us to some houses near the school. They separated us into different rooms. I was in a room with my mother, sisters, cousins, and many other women. They left us there, in that room, and told us that we were okay there.

An hour later, two drunken Serbian soldiers came in. One of them was wearing a scarf over his head and the other one was bald. As soon as they entered the room they turned to my oldest sister and told her to get undressed.

We did not understand what they were saying because they spoke in Serbian. However, an old man translated it to us. After my sister, another girl was picked up and told to do the same. Somehow, the soldiers got distracted, and my sister sat down. The other girl was forced to undress in front of us all. She was very shy, and her grandfather did not have a choice but to translate to her what the soldiers were asking for. The girl fainted. No one touched her after that. They just left her as she was. On the floor. Naked.

I was very young and I looked almost like a boy with my short hair, so they asked me to stand. My cousin thought that they would kill me and pulled me over to explain that I was a girl. When the soldiers understood that I was a girl, they spat on me, punched me hard, and told me to sit down.

The soldiers then started to ask for money and jewelry. Everyone gave them all that they had. Some women had difficulties in taking their rings off because of their swollen hands, and the soldiers threatened to cut off their fingers. They began to fire up their guns, and some other Serbian soldiers and paramilitary came to get them out of the room.

We were told to stay calm. They said that we would have food and water and they left. We spent the night in that room, and nothing happened. The next day, they came back. They took us all out of the rooms and sent us back to the school we were at the day before. There were different soldiers there. Some had scarves on, some were in black uniforms, others in green uniforms, and some with police uniforms on.

We sat down, and all those soldiers surrounded us. There were so many of them. I distinctly remember when they discovered that a boy was among us. He was drawn out of the crowd and shot at with the intent of being wounded. Then they hung him, right there in front of us, on a tree by the fountain of the school.

The boy's mother and his sisters were pulling their hair out, screaming from the terror. They grabbed the boy's mother and his two sisters and took them inside the school. When they got inside, they killed the mother in front of her daughters. The two sisters were screaming so loud that you could hear it from the outside. As a child, I was terrified by the sound.

After that, the soldiers came back to our group and started taking more women and girls. My mother gave them all our gold and money so that they would not take us. They took it all, and then they took my mother, and my sister, and me. My youngest sister who was only a baby was left behind with an old lady who was standing next to my mother.

We were sent inside the school. When I got there, I saw the mother of the boy that was hanged laying dead on the floor with blood all around her. On the walls, you could see marks of blood that her hands had must have left when she was trying to get up.

I was placed inside a classroom with one of my sisters and some other women. There were different Serbian paramilitary forces there. Some had scarves on, some had masks, others had their faces painted with stripes. They did all sorts of horrible things to us in that classroom. Two of them came after me. One of them was bald and the other had stripes painted on his face. The bald one pulled my hair and tore my pants off.

I was only a child, not even eleven years old when the Serbian soldier raped me. I had no idea what he was doing to me. I kept moving the whole time, and I could hear other women screaming, but I was too scared to look around. The soldier raped me over and over again, in different ways. Whenever I would move and scream he punched me.

While he was raping me, the Serbian soldier cut my face with a knife, once on the cheek and twice on my head carving a cross on my forehead. He said, "You will bear this as a memory." The other soldier raped me as well. They did so at the same time. The bald one bit me all over my body and blood started to flow down my face. I fainted. I had no idea where I was anymore. I only know that I was there for a long time, nothing more. After a while, I started to wake up but I was very tired. My whole body was shaking.

I attempted to get up, but I had no strength left. I could hear voices, but everything felt like a dream. I heard the sound of my mother's voice calling out my name. Some people placed me on a mattress outside the school. I remember feeling the fresh air. It felt like I was waking up.

Someone took us on a horse carriage and sent us to a house that was under construction. We stayed there for many hours. I was with my mother, my sisters, and some other women. From there we were sent into the woods. A cousin of mine took care of us. I got very sick and could not eat for two weeks. They managed to keep me alive with water and sugar and we stayed there until the war was over.

Today I call on the United States Congress to take action in response to the war crimes and atrocities committed in Kosovo.

Written Testimony of **Ms. Shyhrete Berisha**
submitted before the U.S. House of Representatives Committee on Foreign Affairs
on “Kosovo’s Wartime Victims: The Quest for Justice”
April 30th, 2019

Shyhrete Berisha is one of three survivors of the massacre of March 26th, 1999 in Suva Reka where over forty women, men, and children of the Berisha family were murdered. She testified before the International Criminal Tribunal for the Former Yugoslavia three times about how she lost her husband, her four children, and 40 members of her family in an attack by the Serbian police.

My name is Shyhrete Berisha. In the 1990s I lived in Suva Reka with my husband Nexhat, our two daughters Majlinda (born in 1983) and Herolinda (born in 1985), and our two sons Altin (born in 1988) and Redon (born in 1997). Our home was located across the street from the headquarters of the Suva Reka police. We shared our house with my husband’s nephew, Faton Berisha. We lived on the left side of the building, and Faton lived on the right one.

Late in 1998, the Organisation for Security and Co-operation in Europe (OSCE) rented our house. Hence, our family moved in with my parents in Mushtisht, which is approximately 9 kilometers away from our home, and Faton moved his family to their uncle’s house.

The OSCE evacuated from the Suva Reka area on March 20th, 1999. The next day, March 21st, 1999 my husband called me on the phone and asked me to move our family back to our house. We cleaned the house and prepared to move back quickly. At the time, we were staying with Faton and his family.

On Wednesday, March 24th, 1999 there was a lot of movement from the Serbian police and their vehicles. Throughout that day and the following evening I saw tanks, buses full of police officers, Pitzgauer, and military vehicles.

At the break of dawn on Thursday, March 25th, 1999 at around 5:00 am we heard a knock at the front door. I got out of bed and opened the door. There were three Serbian policemen standing outside our door and they pointed their automatic weapons at my chest. The taller policeman was poking my chest with his weapon and yelling at me in Serbian “Where are your guests? Where are the Americans? Where is NATO?”. Then one of them asked me where my husband was and told me to call for him immediately. My husband came to the door, and the police took him outside and walked over to our side of the house. I saw that there was a large tank parked only twenty meters away from us, and it was pointing straight at our house.

When they got to our side of the house, the police could not open the doors of the OSCE offices upstairs. Hence, they kicked the doors in. The policemen were screaming and swearing at my husband, and they repeatedly hit him as hard as they could.

The tank was still standing there, and a truck had also come into our yard. The policemen were loading things from our house onto the truck. They stole equipment like televisions, computers, heaters, and everything they could carry.

My sister-in-law Fatime and I walked towards the front door when we noticed that the first three policemen who had come in were now walking back with my husband towards Faton's house. I could see that my husband had been severely beaten and his face was covered in bruises. He stood still as they walked into the house.

The tall policeman told us all to sit down, and he said it in Serbian. "Give us money otherwise we will kill you and burn your house along with your children," he said. Fatime had some money hidden away on her chest and was trying to pull it out when the policeman with the black gloves put his hands down her chest and grabbed all the money. I had 3000 DM on my chest and I gave it all to the policeman with the black gloves because I was truly scared that he would strip me down. Finally, at around 7:00 am, they left.

We were all afraid to stay in our house any longer, so we decided to go to my husband's uncle's house. Vesel Berisha's house was about 30 meters behind our house. We wanted to escape. However, throughout the course of the night, we heard gunshots, and we were too afraid to leave.

My whole family was in that house along with Faton Berisha (27), his mother Fatime (48), his sister Sherine (17), his wife Sebahate (25) and their two sons Ismet (born in 1996) and Eron (born in 1998). Vesel's wife Hava Berisha (60), Vesel's sons Sedat (44), Bujar (40), and Nexhmedin (37) were there too, and so were Bujar's wife Flora (38), Nexhmedin's wife Lirije (24) who was 8 months pregnant, Sedat's wife Vjollca (37), Sedat's daughter Dafina (16), and his sons Drilon (14), and Ggunoz (9). Bujar's sons Blorjan (17) and Edon (14), and his daughter Dorentina (4) were there as well.

Only three people who slept in that house that night survived the events that followed.

At 12:20 pm on Friday, March 26th, 1999 I saw a large number of people leaving from the police station across the street. From what I could tell, there were about 30 of them. Some were in civilian clothes, and others wore police uniforms. They were all carrying automatic weapons. Sedat looked out of the window and said: "They are all from Suva Reka." They ran straight into Ismet Kuci's house.

The next thing I remember was hearing a Serbian man yell out in Albanian "Bujar, where are you?." I recognized the voice. It was a Serbian man named Zoran. Zoran spoke Albanian well, and he used to drive the Albanian bus. Zoran then yelled out in Serbian "Where do you have your Americans? Get out here." Bujar's mother Hava walked out first to speak to Zoran. All the men, women, and children went down to the basement of the house. I heard Zoran scream out in Serbian "Where is Bujar? Get him out here now!". Bujar walked out and addressed Zoran in Albanian saying "What do you want?" We were all still on our way down, I was looking for my children, and everyone was saying "Hurry, hurry!" I heard two gunshots, and Bujar's wife Flora cried out, "They just shot my Bujar!"

The terrible feeling that we felt is indescribable. Everyone was running for the back door. We were all confused, and barefoot as there was no time to put shoes on. We were running out of the back door and towards our house when I saw that we had been surrounded. There were so many men,

police and civilians everywhere. I recognized the man who stopped my husband. His name was Miscovic and he was the owner of the "Boss Hotel". One of the policemen grabbed Faton by the hand, and his mother Fatima tried to stand between the policeman and her son. The same thing happened when they grabbed Nexhmedin. His wife Lirije, who was 8 months pregnant, tried to step in between them.

I remember seeing an empty yellow truck parked on the front lawn of our house, and the body of a large man lying face down next to it. I heard Misovic say to Nexhat "Raise your hands in the air." When he did so, Misovic shot him in the back, three times. I remember Nexhmedin and his wife Lirije running when they saw what happened to my husband Nexhat. Nexhmedin was pulling his wife by the hand and one of the men in civilian clothing was yelling out in Serbian "Shoot! What are you waiting for?"

At that moment the shooting began, and it would not stop. We started running in all directions. Majlinda along with my two sons went one way, and I went another way. We stopped at a place which used to be an Albanian coffee shop and found three other Berisha families. All the women and children from our house were there, and Majlinda with my two sons arrived from another direction very shortly. I noticed that Altin was bleeding and I asked him what happened. He told me that they shot him on the hand and on the leg, but asked me not to worry. The Serbians had been shooting at my children while they were running away. Altin's heart was beating extremely fast, and his face was completely pale.

The police came to the cafe and screamed at us in Serbian telling us to go inside. We had just gone inside and were sitting down when they walked in and started shooting at us. I was shot on the right shoulder and fell to the ground. When they finished shooting us the police officers walked back outside. I could hear them speaking, but I could not make out exactly what they were saying. Some of the people were still alive, not even wounded. I don't know how they survived. There were about 40 to 50 people there, mostly women and children. There were only four men.

My children Majlinda and Redon were not wounded. Redon kept telling Majlinda, "I want to go to mom." I took Redon from Majlinda and I took a bottle of milk which I had stashed in my trousers and gave it to Redon.

The soldiers must have heard us speaking because they came to the door and threw a hand grenade into the room. I turned around to look at my children. I saw my son Redon sitting there covered in blood, still holding his bottle of milk. I saw Majlinda and half of her head was missing. I saw Sebahat with most of her head blown off. I slowly reached for my youngest son Redon and touched him with my feet, but he was dead. The soldiers did not come in. Sebahate's two children, Ismet and Eron, were still alive. They were crying. Ismet, the three-year-old, was crying, calling out everyone's name and asking for water. He kept saying "Mom my leg is hurting."

I heard the Serbian soldiers talking, and one of them said something about placing our bodies on a truck. Vjollca and Altin's heads were close to mine so I managed to tell them that they should act dead. Then the Serbians came in again. They were shooting at us with something. They hit Eron and then they hit me on the right thigh. The shot went through my leg and hit Eron too. Eron did not move anymore. I think he died right then and there. Later I realized that I had been hit in the stomach as well, but had not felt it at the time.

The soldiers came into the room and started to load the bodies onto a truck. I remember that I could still hear people moaning. While they dragged my body by the leg and arm I kept my eyes closed and my mouth slightly open so that I could breathe. I remember that as they were dragging me one of the men said in Serbian "Fuck life. What kind of life is this? I can't handle this anymore." The other man who was dragging me replied "Hurry, hurry. We have got to clean this place up."

They placed me on a stretcher and wanted to take two gold chains from around my neck. After they found the latch and were able to unlock the necklaces, they threw my body onto the back of the truck. I landed on top of a pile of bodies and my daughter Majlinda's body was thrown on top of me. Once they were done, the soldiers pulled the curtain of the truck shut, and the truck started to move.

I could hardly breathe from the smell of blood and dead bodies. When I looked around, I saw the body of my son Altin and called out to see if he was still alive, but then I saw that his head was split in half. His eyes and mouth were still open.

Vjollca must have heard me speak. She raised her head and said, "Shyhret are you still alive?" I replied that I was. I asked if Gramoz was still alive and she answered "Yes." I suggested that we jump from the truck. Vjollca said, "No we shouldn't jump because the truck is going too fast, but we should dig our way out from the dirt once they bury us and escape." I said "If they bury us, all of these bodies will be over us and then they will place dirt on top of them. There is no way that we will be able to get out."

I told Vjollca that we should jump from the back of the truck and not from the sides because they would be able to see us in the mirrors. There was a tear in the truck's curtain on the back, so I checked to see if there was anyone following us. I was injured so severely that I did not think twice, I just jumped. I injured my forehead during the fall. Later I realized that I had jumped out in the village Malsia e Re and I was on the main road from Suva Reka to Prizren.

An old man whom I met later in Kukas told me that he had seen me fall from the truck and that he told two young men to run over and take me into a car. They drove me to a house nearby and placed me in the front yard. The two young men drove me to a village called Grejkoc where I received medical treatment. Later two cars with KLA soldiers arrived and transferred me to the village Budakova. The doctor who treated me there recognized me because we used to catch the same bus. He treated my wounds, all twelve of them that were on my body.

People told me that Vjollca and Gramoz did survive and are still in Kosovo. When the soldiers picked me up in Grejkoc, I asked them if they would follow the truck that I had rolled off of and find out where they buried the bodies of my family. Five days later a soldier came and told me that there were two mass graves in the area of Ljubizhda and that the soldiers had marked the graves.

I call on the United States Congress to address the impunity for war crimes and human rights abuses committed in Kosovo by taking action to demand justice for the victims.