Justices Schiwek and Choate append a joint dissenting opinion.

1. The International Court of Justice has jurisdiction in this case for the time period of 1992 until 1995. Reasons for decision are:

    a. Article 36(1) of the Statute of the International Court of Justice, which allows the Court to adjudicate in "all matters specifically provided for in the Charter of the United Nations of in treaties and conventions in force".
    b. Article 38 of the Rules of the Court and Article 40(1) of the Statute of the International Court of Justice requires the submission of an application as Croatia has done.
    c. Yugoslavia signed the Convention on the Prevention and Punishment of the Crime of Genocide on December 11, 1948 and ratified it on August 29, 1950.
    d. Article 34(1)(a) Vienna Convention on the Succession of States in Respect of Treaties, which Yugoslavia signed and as a "break-away" state, Croatia is bound by.
    e. The ICJ agrees to recognize Croatia as an independent state since June 25, 1991, but to have jurisdiction the state must be internationally recognized which occurred with the recognition by the United Nations on May 22, 1992.
    f. The Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty is not relevant to the case as the ICJ has ruled Croatia as a separate state as of May 22, 1992.

2. We dissent from the majority opinion concerning the charge of genocide. Reasons for decision are:

    a. The definition of "genocide" as provided by the Convention on the Prevention and Punishment of the Crime of Genocide found in Article II (a-d) includes the provisions for the "intent to destroy" specifically in regards to "physical

destruction" of a group. In the opinion of the dissenting Justices, the crime of "genocide" is a qualification in relation to the crime of ethnic cleansing. We believe that "ethnic cleansing" is an act of "purifying" a territory or an area in that territory of a particular national, ethnic, racial, or religious group. Whereas "genocide" comes about when this procedure is escalated because of resistance to a new intention of completely annihilating the group.

b. United Nations General Assembly Resolution 47/121 and 49/43 are not pertinent to the legal interpretation for this case.
c. In this particular case, we find that though horrible crimes were committed by the Croatian Serbs, perhaps with the support of the Serbian/Montenegran government, against the ethnic Croats as well as other groups within Croatia, this was not severe enough to warrant a charge of "genocide".
d. In regards to the charge of "ethnic cleansing", we agree with the majority opinion.
e. We recommend that "ethnic cleansing" be defined and specified as an international crime for which states can be prosecuted.

3. We also dissent from the majority opinion concerning reparations. The reasons are:

a. The International Court of Justice is not the correct institution for punishment especially unspecified punishment through reparations. Therefore, this is an issue which would be better addressed by the International Criminal Court.
b. We do not wish to satisfy the demands of the applicant at the expense of the respondent and in the process upset the balance between these two adversaries. There is a difference between "law" and "justice". We believe that there is no law that leads us find that Croatia is due reparations. We believe that Croatia bears some degree of culpability for the human tragedies within the former Yugoslavia. The ICJ exists to provide justice for all states.