The convention addresses intent, and stipulates that to eliminate people—in whole or in part—constitute genocide. Among other acts covered by the convention, crimes of genocide include "(a) killing members of the group; (b) causing serious bodily or mental harm to members of the group; (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;"

In the former Yugoslavia, acts of genocide have been perpetrated through the abhorrent policy of ethnic cleansing—that is, making areas ethnically homogeneous by expelling entire segments of the Kosovar population and destroying the very fabric of a people.

Ethnic cleansing does not require the elimination of all ethnic Albanians: it may target specific elements of the community that make the group—as a group—sustainable. The abduction the execution of the intelligentsia, including public officials, lawyers, doctors and political leaders, for example, is part of a pattern of ethnic cleansing and could constitute genocide, as could getting a particular segment of the population such as young men. It is clear from the refugees who have been interviewed that these acts are being systematically committed in Kosovo.

An often overlooked but important element of the 1948 convention is that an individual can be indigenous not only for committing genocide, but also for conspiring to commit genocide, inciting the public to commit genocide, attempting to commit genocide or for complicity in genocide. The latter is that criminal responsibility extends far beyond those who actually perform the physical acts resulting in genocide. In short, the political architects such as Milosevic are as responsible as the forces that carry out this butchery. There is no immunity from genocide.

Prosecuting Milosevic will require relying on a legal strategy based on the concept of "imputed command responsibility." Under this theory, Milosevic could be held responsible for the conduct of his subordinates, for example, if he knew or had reason to know that crimes were about to be committed and he failed to take preventive measures to punish those about to commit crimes.

Since it is unlikely that Milosevic has allowed documentary evidence to be preserved that would link him to atrocities in Kosovo, the prosecutor's office will have to rely heavily on circumstantial evidence to build its case. This means identifying a consistent "pattern of conduct" that links Milosevic to similar illegal acts, to the officers and staff involved, or to the logistics involved in carrying out atrocities. The very fact that atrocities have been so widespread, flagrant, grotesque and similar in nature makes it near certain that Milosevic knew of them; despite his recent protestations to the contrary, it defies logic to suggest that he could be unaware of what his forces are doing.

What will the consequences be if the Yugoslav president is indicted? First an indictment would send a clear message that the international community will not be deterred by the千分之百 or have contact with a war criminal. It is current U.S. policy not to negotiate with indicted war crimes suspects. And so it should be. Milosevic should be stripped of international statute except as a fugitive from justice. This might, in turn, open an avenue for SERBS to once again distance themselves from regime. Second, an indictment would likely result in an ex parte hearing in which the prosecutor's office could present its case in open court—without Milosevic being there. By establishing a public record of Milosevic's role in the crimes committed, such a hearing would be cathartic for both victims and witnesses, and also for citizens of the United States. Third, an indictment of Milosevic in the former Republic of Yugoslavia would reinforce the position that Milosevic is responsible for crimes committed by his subordinates.

When I watched the buses of new arrivals enter the Stenkovec camp, I saw a small girl's face pressed against the window. Her hollow eyes seemed to stare at no one. History was being repeated. In his opening statement at the Nuremberg trials in 1945, Chief prosecutor Robert H. Jackson said, "The wrongs which we seek to condemn and punish have been so calculated, so malignant, and so devastating that civilization cannot tolerate their being ignored, because it cannot survive their being repeated." Jackson was expressing the hope that law would somehow redeem the next generation and that such a thing would not only not happen but again be allowed. Today, we must hold personally liable those individuals who commit atrocities in the former Yugoslavia. To negotiate settlement makes a mockery of the hope that civil war and the inhumanity that has accompanied it will lead to justice, and justice will depend on accountability. Failing to indict Milosevic in the hope that he can deliver a negotiated settlement makes a mockery of the words "Never Again."

The Health Information Privacy Act of 1999

HON. HENRY A. WAXMAN
of California

Tuesday, May 25, 1999

Mr. WAXMAN. Mr. Speaker, I am pleased to join Reps. GARY CONDIT, ED MARKEY, JOHN DINGELL, SHERROD BROWN, JIM TURNER, and the other colleagues in introducing the Health Information Privacy Act of 1999. There is an urgent need for Congress to enact legislation to protect the privacy of medical records. We have worked hard to develop a consensus approach to achieve this goal.

Health records contain some of our most personal information. Unfortunately, there is no comprehensive federal law that protects the privacy of medical records. As a result, we face a constant threat of serious privacy intrusions. Our records can be bought and sold for commercial gain, used by employers, and used to deny us insurance. There have been numerous disturbing reports of such inappropriate use and disclosure of health information.

When individual have inadequate control over their health information, our health care system as a whole suffers. For example, a recent survey by the California HealthCare Foundation found that one out of every seven adults has done something "out of the ordinary" to keep health information confidential, including steps such as giving inaccurate information to their providers or avoiding care altogether.

The Health Information Privacy Act would protect the privacy of health information and ensure that individuals have appropriate control over their health records. It is based on three fundamental principles. First, health information should not be collected, used or disclosed without the authorization or knowledge of the individual, except in narrow circumstances where there is an overriding public interest. Second, individuals should have fundamental rights regarding their health records, such as the right to access, copy, and amend their records, and the opportunity to seek protection for especially sensitive information. Third, federal legislation should provide a "floor," not a "ceiling," so that states and the Secretary of Health and Human Services can establish additional protections as appropriate.

Congress faces an August 21 deadline for passing comprehensive legislation to protect the privacy of health information. I am very pleased to have come together with Mr. CONDIT, Mr. MARKEY, Mr. DINGELL, Mr. BROWN, and my colleagues to introduce this commonsense legislation. These members have been leaders in health care and privacy issues for years. As a result of their expertise and insight, I believe we have produced a consensus bill that colleagues with a wide spectrum of perspective can support.

A recent editorial in The Los Angeles Times exhorted Congress to "fulfill its promise to pass the nation's first medical privacy bill." It called for legislators in both houses to "embrace [this] compromise language" that my colleagues and I have drafted.

I hope that my colleagues will join me in cosponsoring this legislation, and I look forward to working with them to ensure that Congress meets its responsibility to address this important issue.

Proposing Legislation to Award a Congressional Gold Medal to Rev. Theodore Hesburgh, C.S.C.

HON. TIM ROEMER
of Indiana

Tuesday, May 25, 1999

Mr. ROEMER. Mr. Speaker, I rise today to introduce legislation to award a Congressional Gold Medal to Rev. Theodore Hesburgh, C.S.C. I introduce this bill with Representatives PETER KING, JOHN LEWIS, PETE VISCLOSKY, MARK SOUDER, ANNE NORTHUP and 85 original cosponsors in the U.S. House of Representatives. It is my understanding that a companion bill will be introduced in the U.S. Senate later today.

This bipartisan legislation recognizes Father Hesburgh for his many outstanding contributions to the United States and the global community. The bill authorizes the President to award a gold medal to Father Hesburgh on behalf of the United States Congress. It also authorizes the U.S. Mint to strike and sell duplicates to the public.

The public service career of Father Hesburgh, president emeritus of the University of Notre Dame, is as distinguished as his many educational contributions. Over the years, he has held 15 Presidential appointments and he has remained a national leader.