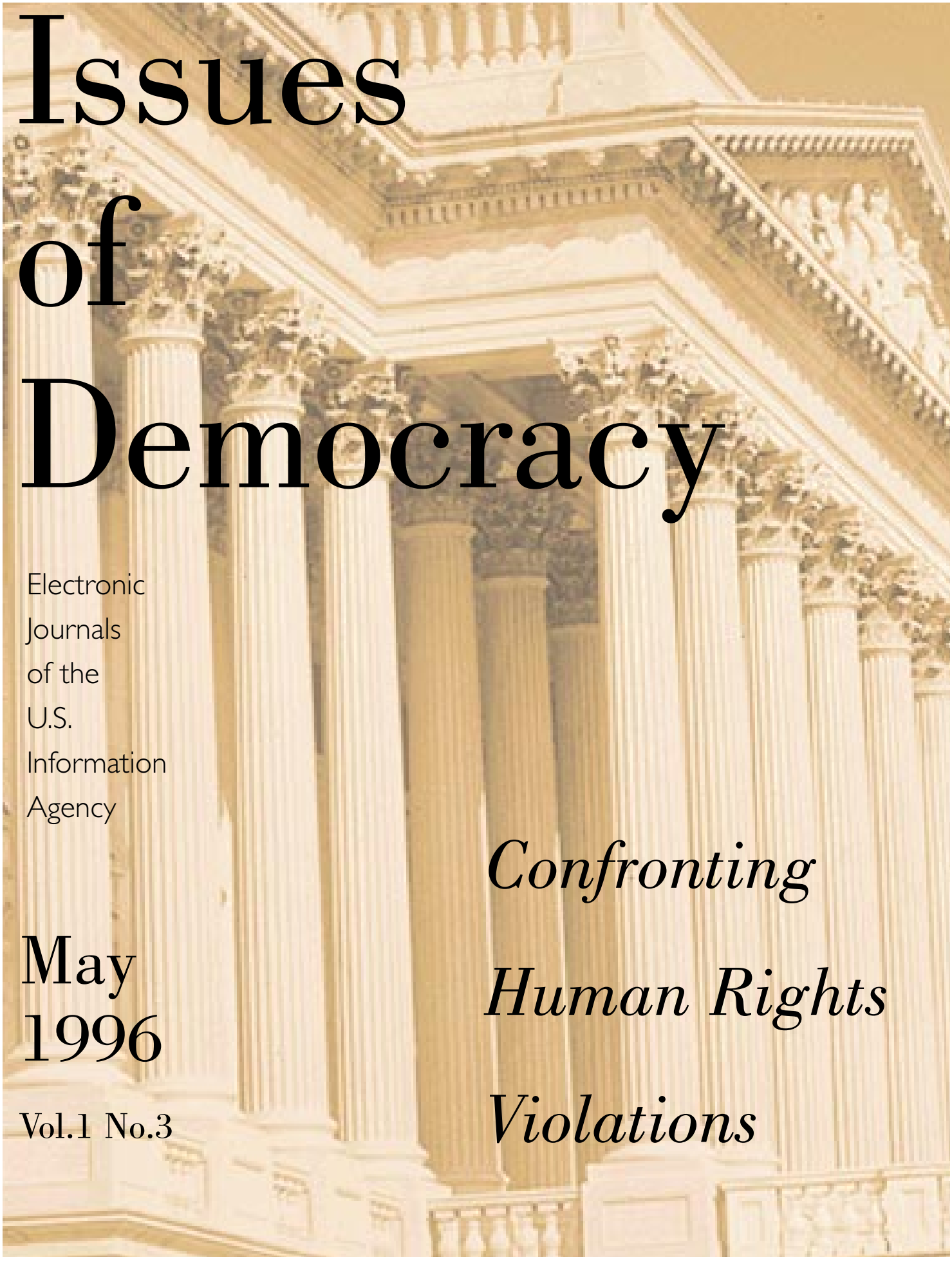

Issues of Democracy

Electronic Journals of the U.S. Information Agency

May 1996

Vol.1 No.3

Confronting Human Rights Violations

Welcome to *Issues of Democracy*

This is the third in the Electronic Journals series of the United States Information Agency (USIA). Issues of Democracy is published by USIA's Office of Thematic Programs and edited by its Democracy and Human Rights Team for USIA's international audience.

Accountability for war crimes and human rights violations is the central topic for this edition. The 50th anniversary of the war crimes trials that followed the end of World War II provides opportunity for reflection on what has become one of the most pressing international issues of our time.

Scores of wars and conflicts have occurred during the past half century. Until recently, however, no persons accused of war crimes and human rights violations had been prosecuted under international law since the war crimes trials in Nuremberg and Tokyo. The situation changed with the formation of the war crimes tribunals for the former Yugoslavia and Rwanda.

This journal discusses the precedent set by the Nuremberg and Tokyo war crimes trials, the status of the tribunals for the former Yugoslavia and Rwanda, and some of the ways in which other nations are seeking to achieve accountability for major human rights violations. Our intention is to provide a variety of views and perspectives, not all of which necessarily represent official U.S. government policy.

The Democracy and Human Rights Team welcomes comments and/or suggestions. Readers may send e-mail messages to *ejdemos@usia.gov* or write to: Editor, Issues of Democracy (I/TDHR)
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Issues of Democracy

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USIA's electronic journals, published and transmitted worldwide at two-week intervals, examine major issues facing the United States and the International Community. The journals—*Economic Perspectives, Global Issues, Issues of Democracy, U.S. Foreign Policy Agenda,* and *U.S. Society and Values*—provide analysis, commentary, and background information in their thematic areas. French and Spanish language versions appear one week after the English. The opinions expressed in the journals do not necessarily reflect the views or policies of the U.S. Government. Articles may be reproduced and translated unless there are copyright restrictions cited somewhere on the articles. ✲ Current or back issues of the journals can be found on the U.S. Information Service (USIS) Home Page on the World Wide Web at "http://www.usia.gov/journals/journals.htm". They are available in several electronic formats to facilitate viewing on-line, transferring, downloading, and printing. Comments are welcome at your local USIS post or at the editorial offices: Editor, Issues of Democracy (I/TDHR), U.S. Information Agency, 301 4th Street, S.W., Washington, D.C. 20547, United States of America.

Bringing Violators to Justice

An American View

An interview with John Shattuck, U.S. Assistant Secretary of State for Democracy, Human Rights, and Labor

America's top human rights authority says the only way to end the violence in Bosnia is to bring to justice those responsible for unleashing it.

John Shattuck has been U.S. Assistant Secretary of State for Democracy, Human Rights, and Labor since 1993. Recently he discussed international efforts to promote human rights in an interview with U.S. Information Agency writer Rick Marshall. Below are excerpts from that interview focussing on Bosnia and the work of the International War Crimes Tribunal.

From 1984 to 1993, Shattuck was vice president of Harvard University, during which time he also taught human rights and civil liberties law at the Harvard Law School and served as senior associate in the program on science, technology, and public policy at the John F. Kennedy School of Government. From 1976 to 1984, he was executive director of the Washington, D.C., office of the American Civil Liberties Union, overseeing relations with the U.S. Congress and government agencies. He served as counsel to the Union from 1971 to

1976, litigating in areas of privacy, government secrecy, and political surveillance.

Shattuck received a law degree from Yale Law School, a master's degree with first-class honors in international law and jurisprudence from Cambridge University, and a bachelor's degree from Yale College.

Above: John Shattuck, left, with the Commander of the NATO force, U.S. Adm. Leighton Smith in northern Bosnia, February 1996.

Question. One of the most important conferences on human rights in recent history took place in Vienna in 1993. What was the significance of what happened there?

Shattuck. In 1993, the World Conference on Human Rights re-emphasized that there are no cultural, religious, or other barriers that should stand in the way of the universal enjoyment of basic human rights. No one, no matter what country he or she lives in, should be subjected to torture simply because of the cultural or religious traditions of that country. No one should be subjected to arbitrary execution. No one should be subjected to mass rape as a tool of so-called ethnic cleansing, just because of religious differences in a country. This is what universality is all about.

Probably no situation better illustrates this issue than the crisis in Bosnia, where the fundamental rights of the person were massively violated in a setting in which cultural, ethnic, and religious differences became excuses for human rights violations. This is why universality is so important.

Those governments that claim that they can be exempt from basic principles of human rights because they have different cultures or different historical traditions simply fly in the face of basic human experience at the end of the 20th century, when there is so much global interconnectedness. Obviously, we should celebrate differences—different countries, different cultures, different religions—and we should protect those differences. But those differences can never be an excuse for torturing, killing, raping, or otherwise fundamentally violating a person's rights and freedoms; for putting them in prison for long periods of time without a trial or without finding some guilt in due process; or for preventing them from speaking or engaging in basic freedoms of expression.

The Vienna Declaration made clear by its very language that human rights are not only universal but are a legitimate subject for international organizations and institutions. This is why any effort to prevent the United Nations Human Rights Commission—which meets annually to review the human rights records of countries around the world—from scrutinizing the record of a country is a violation of the principle of legitimate inquiry into human rights, which is what the Vienna Declaration is all about. This is why it was so important in 1995 that the commission rejected the effort of a large country—

China—to block consideration of its human rights record. This is also why it is so important to build new institutions to improve human rights in Bosnia or Rwanda or any other place where universal values have been fundamentally shattered.

What Vienna did, I think, was show that adherence to human rights must be more than rhetoric. It involves implementation as well, whether through international institutions or through domestic institutions. This is why the Human Rights Commission is so important; this is why the human rights ombudsman is so important in Bosnia; this is why the War Crimes Tribunal and many other institutions that are built to advance human rights protections are so important for Rwanda and Bosnia. This is the spirit of Vienna.

Q. How do you see the events in Bosnia and the creation of the International War Crimes Tribunal in the context of the historical evolution of human rights?

A. Clearly, the situation in Bosnia calls upon all the imagination of diplomats, military specialists, and economic specialists. The challenge of rebuilding a fundamentally shattered society that has, in essence, been destroyed by massive violations of human rights—worse than anything seen in Europe since the end of the Second World War—is enormous. It is a challenge of vision and of practical implementation. The vision must have at its heart rebuilding the understanding that any society needs to be able to function, the understanding that there are certain basic values that hold people together. The integrity of the person, the right not to be tortured or executed or raped, the right to stay on your own property and in your own house without being forced out—these are among the rights that have been so fundamentally violated in Bosnia by cynical leaders who have fanned the flames of ethnic and religious misunderstanding. The value system at the center of the Bosnia effort is very important; it is the universal value of human rights.

I think it is important to emphasize that all countries in the United Nations Security Council have seen the Bosnian crisis in the same way—ultimately, as a catastrophe of the violation of fundamental human values. China, Russia, the United States, the European countries, members of the Security Council from other states—all have joined together in seeing this as an attack on fundamental human values and human rights.

The implementation side of this calls upon the international community to create new institutions to rebuild the values that have been shattered, institutions of justice such as the International War Crimes Tribunal, which was established by the Security Council three years ago, not only for Bosnia but for Rwanda, another country that was devastated in much the same way. The new institutional structures for rebuilding Bosnia will provide for the rights of refugees to return to their homes, will create a framework for resolving human rights disputes as the [United Nations] Human Rights Commission does, and will set up the election process mandated by the Dayton Peace Accords that were signed by all the parties.

What has been learned so painfully over the past four years is the need for a strong international commitment to back up this institution-building and the reinforcement of human rights. That is what the NATO Implementation Force is all

about, with its 60,000 members. Having pulled the warring factions apart and assured that the zone of separation is protected, that force is now turning its attention to assisting in the civilian implementation of human rights protections, as well as other aspects of the peace accord.

We have in Bosnia both a tremendous challenge and a great example of what can be done when the world community pulls together to address the shattering of universally held values.

I think Bosnia is the test of the late 20th century for human rights. There are other tests as well, but Bosnia is a very powerful example. Human rights are not just rhetoric, nor are they just universally held values. The human rights system has to be implemented on the ground. To overcome the horror of genocide, it takes new institutions that we have perhaps never had before—human rights enforcement mechanisms that are part of a process of reconciliation and peace. These human rights institutions will emphasize justice as much as they will reconciliation. It is difficult to end the spiral of violence that grips a society like Bosnia when that violence is unleashed by criminal elements who are claiming leadership. The only way to end the violence is to bring to justice those responsible for unleashing it, or at least to begin the process of bringing them to justice—isolating them as the International War Crimes Tribunal is doing, turning them into pariahs within the international community. They can't travel anywhere without fear of being arrested, and ultimately they must be arrested and brought to justice. Otherwise, the violence is likely to continue.

Q. The "Dayton II" conference in Rome this past February considered some basic principles about the War Crimes Tribunal. What exactly was decided?

A. At the Rome conference, all of the parties—Bosnia, the Serb Republic, Croatia—recommitted themselves to the principles of the Dayton Peace Accords and went further than that in some areas; that is, they developed a new set of principles about the arrest of indicted war criminals, involving the International War Crimes Tribunal rather than just domestic authorities.

One of the temptations at this point by all the parties is basically to round up, without much evidence, large numbers of people and put them in prison, charged with war crimes. Clearly, the prosecution of war crimes is essential to the peace process; but it is also essential to ensure that certain standards of evidence are used when people are arrested for war crimes. It was agreed in Rome that any arrest for war crimes would occur only after the War Crimes Tribunal had determined that an international standard of evidence had been met. This prevents the round-up of large numbers of people in retaliation for acts that might have been done by other parties.

Also in Rome, there was good progress in terms of the willingness of all the parties to give the tribunal access to all persons and places where the evidence of war crimes, including mass graves sites, was present. There was also a commitment to ensure a secure environment, through IFOR [NATO's Implementation Force] for performing investigative tasks.

The issue of prisoners and missing persons was also considered in more detail than it had been during the Dayton peace

negotiations, and the parties committed themselves to promptly releasing any remaining prisoners, including persons being held in forced labor camps. Again, IFOR was assigned the task of providing a secure environment for the prisoner release effort and for completing the search for missing persons. The International Committee of the Red Cross is the principal agency involved.

The parties are also beginning to look toward the election [in Bosnia] that will take place this year. The Organization for Security and Cooperation in Europe has begun to deploy human rights and elections monitors to determine when conditions are right for the election to take place. An international police task force, which is really a very important element of implementation, will work with local authorities in some of the more difficult areas.

I spent a lot of time in Bosnia in 1995 and early 1996, in the Bosnian-Serb areas, getting a first-hand view of the evidence of the massive war crimes that had been committed in Srebenica, in the concentration camp that had been set up in Omarska, and in a suspected mass grave site in a mine in Ljubija in northwestern Bosnia. I was able to work both with IFOR and with the local authorities—it is very important that local authorities facilitate this kind of mission, the line authority in this case being the Bosnian-Serb authority—and the authorities in Belgrade, all of whom provided unrestricted access to me in these human rights missions. I also took investigators from the International War Crimes Tribunal into Srebenica so they could begin their investigations. This was known to the Bosnian Serbs and they allowed it to happen, which I consider to be very significant.

A continuing and challenging issue is that a large number of indicted war criminals remain at large. They continue to play a very dangerous and disruptive role in the peace process, which is why it's so important to bring them to justice. If IFOR encounters them, it will arrest them under the new rules that it developed. It will not pursue them, but if it encounters them at any point or comes into contact with them, it will detain them.

The most powerful example of what had happened was a warehouse at Kravica, where mass executions had taken place. I had been told of this in July 1995, by survivors. The warehouse was exactly as they described it. It had had massive mortar rounds fired into it. It showed evidence that hand grenades had been thrown into it. This place held up to 2,000 civilian males for two nights. The most graphic and chilling example of the genocidal killings that occurred there was the blood on the ceiling, about 30 feet [10 meters] off the ground. It was still there, six months after the events took place. There was a hole in the warehouse where a bulldozer had driven in to collect the bodies with a forklift. It was extremely graphic, and the fact that it was just as described by the survivors made it even more powerful evidence.

This is what the War Crimes Tribunal investigators came to see with me. It was off in the snow, in the middle of nowhere, far from the line of confrontation; it was not anything that had happened in the heat of battle. It happened when criminal conduct had been aimed at refugees fleeing from Srebenica.

A Commitment to Human Dignity, Democracy, and Peace

by

President

Bill Clinton

President Bill Clinton reviews the role and value of war tribunals and says democracy is essential to the strengthening of human rights. This article is adapted from a speech the President made last October at the University of Connecticut in connection with the opening of the Dodd Center, dedicated to the late Senator Tom Dodd, who was a prosecutor at the Nuremberg War Crimes trials.

At Nuremberg, the international community declared that those responsible for crimes against humanity will be held accountable without the usual defenses afforded to people in times of war. The very existence of the Tribunal was a triumph for justice and for humanity and for the proposition that there must be limits even in wartime. Flush with victory, outraged by the evil of the Nazi death camps, the Allies easily could have simply lashed out in revenge. But the terrible struggle of World War II was a struggle for the very soul of humankind. To deny its oppressors the rights they had stripped from their victims would have been to win the war but to lose the larger struggle. The Allies understood that the only answer to inhumanity is justice. And as Senator Dodd said, three of the defendants were actually acquitted, even in that tumultuous, passionate environment.

In the years since Nuremberg, the hope that convicting those guilty of making

aggressive war would deter future wars and prevent future crimes against humanity, including genocide, frankly, has gone unfulfilled too often. From 1945 until the present day, wars between and within nations, including practices which were found to be illegal at Nuremberg, have cost more than 20 million lives. The wrongs Justice [Robert] Jackson [a prosecutor at the Nuremberg trials] hoped would end, have not been repeated on the scale of Nazi Germany, in the way that they did it, but they have been repeated and repeated on a scale that still staggers the imagination.

Still, Nuremberg was a crucial first step. It rendered a clear verdict on atrocities. It placed human rights on a higher ground. It set a timeless precedent by stripping away convenient excuses for abominable conduct. Now it falls to our generation to make good on its promise: to put into practice the principle that those who violate universal human rights must be called to account for those actions.

This mission demands the abiding commitment of all people. And like many of the other challenges of our time, it requires the power of our Nation's example and the strength of our leadership, first, because America was founded on the proposition that all God's children have the right to life, liberty, and the pursuit of happiness. These are values that define us as a nation, but they are not unique to our experience. All over the world, from Russia to South Africa, from Poland to Cambodia, people have been willing to fight and to die for them.

Second, we have to do it because, while fascism and communism are dead or discredited, the forces of hatred and intolerance live on as they will for as long as human beings are permitted to exist on this planet Earth. Today, it is ethnic violence, religious strife, terrorism. These threats confront our generation in a way that still would spread darkness over light, disintegration over integration, chaos over community. Our purpose is to fight them, to defeat them, to support and sustain the powerful worldwide aspirations of democracy, dignity, and freedom.

And finally, we must do it because, in the aftermath of the cold war, we are the world's only superpower. We have to do it because while we seek to do everything we possibly can in the world in cooperation with other nations, they find it difficult to proceed in cooperation if we are not there as a partner and very often as a leader.

With our purpose and with our position comes the responsibility to help shine the light of justice on those who would deny to others their most basic human rights. We have an obligation to carry forward the lessons of Nuremberg. That is why we strongly support the United Nations War Crimes Tribunals for the former Yugoslavia and for Rwanda.

The goals of these tribunals are straightforward: to punish those responsible for genocide, war crimes, and crimes against humanity; to deter future such crimes; and to help nations that were torn apart by violence begin the process of healing and reconciliation.

The tribunal for the former Yugoslavia has made excellent progress. It has collected volumes of evidence of atrocities, including the establishment of death camps, mass executions, and systematic campaigns of rape and terror. This evidence is the basis for the indictments the tribunal already has issued....These indictments are not negotiable. Those

accused of war crimes, crimes against humanity, and genocide must be brought to justice. They must be tried and, if found guilty, they must be held accountable. Some people are concerned that pursuing peace in Bosnia and prosecuting war criminals are incompatible goals. But I believe they are wrong. There must be peace for justice to prevail, but there must be justice when peace prevails.

In recent weeks, the combination of American leadership, NATO's resolve, the international community's diplomatic determination: these elements have brought us closer to a settlement in Bosnia than at any time since the war began there 4 years ago. So let me repeat again what I have said consistently for over 2 years: If and when the parties do make peace, the United States, through NATO, must help to secure it.

Only NATO can strongly and effectively implement a settlement. And the United States, as NATO's leader, must do its part and join our troops to those of our allies in such an operation. If you…accept the fact that not only our values but our position as the world's only superpower impose upon us an obligation to carry through, then the conclusion is inevitable: We must help to secure a peace if a peace can be reached in Bosnia. We will not send our troops into combat. We will not ask them to keep a peace that cannot be maintained. But we must use our power to secure a peace and to implement the agreement.

We have an opportunity and a responsibility to help resolve this, the most difficult security challenge in the heart of Europe since World War II. When His Holiness the Pope was here just a few days ago, we spent a little over a half an hour alone, and we talked of many things. But in the end, he said, "Mr. President, I am not a young man. I have a long memory. This century began with a war in Sarajevo. We must not let this century end with a war in Sarajevo."

No peace will endure for long without justice. For only justice can break finally the cycle of violence and retribution that fuels war and crimes against humanity. Only justice can lift the burden of collective guilt. It weighs upon a society where unspeakable acts of destruction have occurred. Only justice can assign responsibility to the guilty and allow everyone else to get on with the hard work of rebuilding and reconciliation. So as the United States leads the international effort to forge a lasting peace in Bosnia, the War Crimes Tribunal must carry on its work to find justice.

The United States is contributing more than $16 million in funds and services to that tribunal and to the one regarding Rwanda. We have 20 prosecutors, investigators, and other personnel on the staffs. And at the United Nations, we have led the effort to secure adequate funding for these tribunals. And we continue to press others to make voluntary contributions. We do this because we believe doing it is part of acting on the lessons that Senator Dodd and others taught us at Nuremberg.

By successfully prosecuting war criminals in the former Yugoslavia and Rwanda, we can send a strong signal to those who would use the cover of war to commit terrible atrocities that they cannot escape the consequences of such actions. And a signal will come across even more loudly and clearly if nations all around the world who value freedom and tolerance

establish a permanent international court to prosecute, with the support of the United Nations Security Council, serious violations of humanitarian law. This, it seems to me, would be the ultimate tribute to the people who did such important work at Nuremberg, a permanent international court to prosecute such violations. And we are working today at the United Nations to see whether it can be done.

But my fellow Americans and my fellow citizens of the world, let me also say that our commitment to punish these crimes against humanity must be matched by our commitment to prevent them in the first place. As we work to support these tribunals, let's not forget what our ultimate goal is. Our ultimate goal must be to render them completely obsolete because such things no longer occur.

Accountability is a powerful deterrent, but it isn't enough. It doesn't get to the root cause of such atrocities. Only a profound change in the nature of societies can begin to reach the heart of the matter. And I believe the basis of that profound change is democracy.

Democracy is the best guarantor of human rights—not a perfect one, to be sure; you can see that in the history of the United States—but it is still the system that demands respect for the individual, and it requires responsibility from the individual to thrive. Democracy cannot eliminate all violations of human rights or outlaw human frailty, nor does promoting democracy relieve us of the obligation to press others who do not operate democracies to respect human rights. But more than any other system of government we know, democracy protects those rights, defends the victims of their abuse, punishes the perpetrators, and prevents a downward spiral of revenge.

So promoting democracy does more than advance our ideals. It reinforces our interests. Where the rule of law prevails, where governments are held accountable, where ideas and information flow freely, economic development and political stability are more likely to take hold and human rights are more likely to thrive. History teaches us that democracies are less likely to go to war, less likely to traffic in terrorism and more likely to stand against the forces of hatred and destruction, more likely to become good partners in diplomacy and trade. So promoting democracy and defending human rights is good for the world and good for America.

On this very day one year ago, an American-led multinational force returned the duly elected President of Haiti, Jean Bertrand Aristide, to his country. The anniversary we celebrate today was the culmination of a 3-year effort by the United States and the international community to remove the dictators and restore democracy. Because we backed diplomacy with the force of our military, the dictators finally did step down. And Haiti's democrats stepped back into their rightful place.

Our actions ended a reign of terror that did violence not only to innocent Haitians but to the values and the principles of the civilized world. We renewed hope in Haiti's future where once there was only despair. We upheld the reliability of our own commitments and the commitments that others make to us. We sent a powerful message to the would-be despots in the region: Democracy in the Americas cannot be overthrown with impunity.

We have seen extraordinary progress in this year. The democratic government

has been restored. Human rights are its purpose, not its disgrace. Violence has subsided, though not ended altogether. Peaceful elections have occurred. Reform is underway. A new civilian police force has already more than 1,000 officers on the street. A growing private sector is beginning to generate jobs and opportunity. After so much blood and terror, the people of Haiti have resumed their long journey to security and prosperity with dignity.

There is a lot of work to do. Haiti is still the poorest nation in our hemisphere, and that is a breeding ground for the things we all come here to condemn today. Its democratic institutions are fragile, and all those years of vicious oppression have left scars and some still thirsting for revenge.

For reform to take root and to endure, trust must be fully established not only between the Government and the people but among the people of Haiti themselves. President Aristide understands that when he says no to violence, yes to justice; no to vengeance, yes to reconciliation.

This is very important. Assigning individual responsibilities for crimes of the past is also important there. Haiti now has a national commission for truth and justice, launching investigations of past human rights abuses. And with our support, Haiti is improving the effectiveness, accessibility, and accountability of its own justice system, again, to prevent future violations as well as to punish those which occur.

The people of Haiti know it's up to them to safeguard their freedom. But we know, as President Kennedy said, that democracy is never a final achievement. And just as the American people, after 200 years, are continually struggling to perfect our own democracy, we must and we will stand with the people of Haiti as they struggle to build their own.

And let me say one final thing about this. I thank Senator Dodd and Ambassador Dodd for their concern with freedom, democracy, and getting rid of the horrible human rights abuses that have occurred in the past throughout the Americas. The First Lady is in South America today—or she would be here with me—partly because of the path that has been blazed by the Dodd family in this generation to stand up for democracy, so that every single country of the Americas, save one, now has a democratically elected leader. And human rights abuses and the kinds of crimes that Senator Thomas Dodd stood up against at Nuremberg are dramatically, dramatically reduced because of that process and this family's leadership.

In closing, let me say that, for all of the work we might do through tribunals to bring the guilty to account, it is our daily commitment to the ideals of human dignity, democracy, and peace that has been and will continue to be the source of our strength in the world and our capacity to work with others to prevent such terrible things from occurring in the first place.

We will continue to defend the values we believe make life worth living. We will continue to defend the proposition that all people, without regard to their nationality, their race, their ethnic group, their religion, their gender, should have the chance to live free, should have the chance to make the most of their God-given potential. For too long, all across the globe, women and their children, in particular, were denied these human rights. Those were the rights for which the First Lady spoke so forcefully in China at the

Women's Conference and for which the United States will work hard in the years ahead….

If we have an obligation to stand up for what is right, to advance what is right, to lift up human potential, we must be able to fulfill that obligation.

If there is one last lesson of this day, I believe it should be that prosperity for the United States is not the most important thing and not an end in itself. We should seek it only, only, as a means to enhance the human spirit, to enhance human dignity, to enhance the ability of every person in our country and those whom we have the means to help around the world to become the people God meant for them to be. If we can remember that, then we can be faithful to the generation that won World War II, to the outstanding leaders who established the important precedents at Nuremberg, and to the mission and the spirit of the Dodd Center.

Thank you, and God bless you all.

A Call for Reasoned Justice

by

Stephen G. Breyer

That legal measures to protect basic human liberties have been established around the world is due in large measure to the precedent-setting work of American jurist Robert Jackson, a prosecutor at the Nuremberg trials. In an April 16, 1996 speech in Washington, U.S. Supreme Court Justice Stephen G. Breyer recalled Jackson's legacy.

The law of the United States sets aside today, Yom Hashoah, as a Day of Remembrance—of the Holocaust. On Yom Hashoah 1996, we recall that fifty years ago another member of the court on which I sit, Justice Robert Jackson, joined representatives of other nations, as a prosecutor, at Nuremberg. That city, Jackson said, though chosen for the trial because of its comparatively well-functioning physical facilities, was then "in terrible shape, there being no telephone communications, the streets full of rubble, with some 20,000 dead bodies reported to be still in it and the smell of death hovering over it, no public transportation of any kind, no shops, no commerce, no lights, the water system in bad shape." The courthouse had been "damaged." Its courtroom was "not large." Over one door was "an hour glass." Over another was "a large plaque of the Ten Commandments"—a sole survivor. In the dock, 21 leaders of Hitler's Thousand Year Reich faced prosecution.

Justice Jackson described the Nuremberg Trial as "the most important trial that could be imagined." He described his own work there as the most important "experience of my life," "infinitely more important than my work on the Supreme Court, or…anything that I did as Attorney General." This afternoon, speaking to you as an American Jew, a judge, a member of the Supreme Court, I should like briefly to explain why I think that he was right.

First, as a lawyer, Robert Jackson understood the importance of collecting evidence. Collecting evidence? one might respond. What need to collect evidence in a city where, only twenty years before, the law itself, in the form of Nuremberg Decrees, had segregated Jews into ghettos, placed them in forced labor, expelled them from their professions, expropriated their property, and forbid them all cultural life, press, theaters, and schools…."Evidence," one might then have exclaimed. "Just open your eyes and look around you."

But the Torah tells us: There grew up a generation that "knew not Joseph." That is the danger. And Jackson was determined to compile a record that would not leave… any other future generation with the slightest doubt. "We must establish incredible events by credible evidence," he said. And, he realized that, for this purpose, the prosecution's 33 live witnesses were of secondary importance. Rather, the prosecutors built what Jackson called "a drab case," which did not "appeal to the press" or the public, but it was an irrefutable case. It was built of documents of the defendants' "own making," the "authenticity of which" could not be, and was not, "challenged."

The prosecutors brought to Nuremberg 100,000 captured German documents; they examined millions of feet of captured moving picture film; they produced 25,000 captured still photographs, "together with Hitler's personal photographer who took most of them." The prosecutors decided not to ask any defendant to testify against another defendant, lest anyone believe that one defendant's hope for leniency led him to exaggerate another's crimes. But they permitted each defendant to call witnesses, to testify in his own behalf, to make an additional statement not under oath, and to present documentary evidence. The very point was to say to these defendants: What have you to say when faced with our case—a case that you, not we, have made, resting on your own words and confessed deeds? What is your response? The answer, after more than 10 months and 17,000 transcript pages, was, in respect to 19 of the defendants, that there was no answer. There was no response. There was nothing to say.

As a result, the evidence is there, in Jackson's words, "with such authenticity and in such detail that there can be no responsible denial of these crimes in the future and no tradition of martyrdom of the Nazi leaders can arise among informed people." Future generations need only open their eyes and read.

Second, as a judge, Robert Jackson understood the value of precedent—what [American jurist Benjamin] Cardozo called "the power of the beaten path." He hoped to create a precedent that, he said, would make "explicit and unambiguous" what previously had been "implicit" in the law, "that to persecute, oppress, or do violence to individuals or minorities on political, racial, or religious grounds…is an inter-

national crime…for the commission [of which]…individuals are responsible" and can be punished. He hoped to forge from the victorious nations' several different legal systems a single workable system that, in this instance, would serve as the voice of human decency. He hoped to create a "model of forensic fairness" that even a defeated nation would perceive as fair.

Did he succeed? At the least, three-quarters of the German nation at the time said they found the trial "fair" and "just." More importantly, there is cause for optimism about the larger objectives. Consider how concern for the protection of basic human liberties grew dramatically in the United States, in Europe, and then further abroad in the half century after World War II. Consider the development of what is now a near consensus that legal institutions—written constitutions, bills of rights, fair procedures, an independent judiciary—should play a role, sometimes an important role, in the protection of human liberty. Consider that, today, a half century after Nuremberg (and history does not count 50 years as long), nations feel that they cannot simply ignore the most barbarous acts of other nations; nor, for that matter, as recent events show, can those who commit those acts ignore the ever more real possibility that they will be held accountable and brought to justice under law. We are drawn to follow a path once beaten.

Third…Jackson believed that the Nuremberg trials represented a human effort to fulfill a basic human aspiration—"humanity's aspiration to do justice." He enunciated this effort in his opening statement to the Tribunal. He began: "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. That four great nations, flushed with victory and stung with injury, stay the hand of vengeance and voluntarily submit their captive enemies to the judgment of the law is one of the most significant tributes that Power ever has paid to Reason."

To understand the significance of this statement, it is important to understand what it is not. Nuremberg does not purport to be humanity's answer to the cataclysmic events the opening statement goes on to describe. A visit to the Holocaust Museum [in Washington, D.C.]—or, for some, to the corridors of memory—makes clear that not even Jackson's fine sentences, eloquent though they are, can compensate for the events that provoked them. But that is only because, against the background of what did occur, almost any human statement would ring hollow. A museum visit leads many, including myself, to react, not with words, but with silence. We think: There are no words. There is no compensating deed. There can be no vengeance. Nor is any happy ending possible. We emerge deeply depressed about the potential for evil that human beings possess.

It is at this point, perhaps, that Nuremberg can help, for it reminds us that the Holocaust story is not the whole story; it reminds us of those human aspirations that remain a cause for optimism. It reminds us that after barbarism came a call for reasoned justice.

To end the Holocaust story with a fair trial, an emblem of that justice, is to remind the listener of what Aeschylus wrote 2,500 years ago, in his *Eumenides*

—where Justice overcoming the avenging furies, humanity's barbaric selves, promises Athens that her seat, the seat of Justice, "shall be a wall, a bulwark of salvation, wide as your land, as your imperial state; none mightier in the habitable world." It is to repeat the Book of Deuteronomy's injunction to the Jewish People: "Justice, justice shall you pursue."

And if I emphasize the role of Nuremberg in a story of the Holocaust, that is not simply because Justice Jackson himself hoped that the trial "would commend itself to posterity." Rather, it is because our role—the role of almost all of us—today in relation to the Holocaust is not simply to learn from it, but also to tell it, and to retell it, to ourselves, to our children, and to future generations.

Those who were lost said, "Remember us." To do that, to remember and to repeat the story, is to preserve the past; it is to learn from the past, it is to instruct and to warn the future. It is to help… [future generations]…by leading them to understand the very worst of which human nature is capable. But, it is also to tell that small part of the story that will also remind them of one human virtue—humanity's "aspiration to do justice." It is to help us say, with the Psalmist, "Justice and Law are the foundations of Your Throne."

War Crimes on Trial

by

Neil J. Kritz

Neil J. Kritz is a Senior Scholar on the Rule of Law at the United States Institute of Peace. In the following article, he assesses the legacy of the Nuremberg trials as the international community attempts to bring perpetrators of war crimes in Bosnia and Rwanda to justice. The opinions expressed in this article are the author's and do not necessarily represent the views of the United States Institute of Peace or the U.S. Government.

Emsud Bahonjic and Fidele Kayabugoyi never met. They came from very different backgrounds and cultures, and were separated by more than 3,500 miles. History will remember them, however, for what they have in common: both were brutally and sadistically killed because of their respective Bosnian Moslem and Rwandan Tutsi ethnicity, victims of genocide, "ethnic cleansing," and related mass crimes in their countries. How their respective societies and the world deal with the killers of these two men, and with the many other perpetrators of these odious crimes in the former Yugoslavia and Rwanda, may have significant consequences for the long-term peace of their ravaged lands.

How can peace and reconciliation be achieved after atrocities such as these? What role, constructive or otherwise, might prosecution of war crimes play in putting these societies back together? Some would suggest that the best way to reconcile is to

leave the past in the past. They argue that war crimes prosecutions will most likely be show trials unbefitting a sincere effort to establish peace and democracy, that a public review of wartime atrocities will inflame passions and hatreds rather than calming them, that shattered societies should focus their limited human and material resources on the urgent task of economic reconstruction—building a brighter tomorrow—rather than diverting those limited resources to dwell on the sins of yesterday.

If the goal in these countries, however, is something more than a tenuous, temporary pause in the violence, dealing in a clear and determined manner with war crimes and genocide is essential. To assume that individuals and groups who have been the victims of hideous atrocities will simply forget about them or expunge their feelings without some form of accounting, some semblance of justice, is to misunderstand human psychology and to leave in place the seeds of future conflict. What is true of individuals emerging from massive abuse and trauma is no less true of nations: mechanisms are needed to confront and reckon with that past, facilitating closure rather than repression. Otherwise, the past can be expected to haunt and infect the present and future. Victims may harbor deep resentments that, if not addressed through a process of justice, may ultimately be dealt with through one of vengeance. A public airing and condemnation of these crimes may be the best way to draw a line between times past and present, lest the public perceive the new order as simply more of the same. Dealing with the grievances and the grieving, accountability and forgiveness, and the rehabilitation of victims and perpetrators will be a painful and delicate process. It will take time—certainly longer than the time allotted for technical tasks like the separation and reduction of military forces. But doing nothing in response to war crimes and related atrocities adds to the injury of victims, perpetuates a culture of impunity that can only encourage future abuses, and contributes to the likelihood of vigilante justice and retribution.

In this context, war crimes prosecutions can serve several functions. They provide victims with a sense of justice and catharsis—a sense that their grievances have been addressed and can more easily be put to rest, rather than smoldering in anticipation of the next round of conflict. In addition, they can establish a new dynamic in society, an understanding that aggressors and those who attempt to abuse the rights of others will henceforth be held accountable. Perhaps most importantly for purposes of long-term reconciliation, this approach makes the statement that specific individuals—not entire ethnic or religious or political groups—committed atrocities for which they need to be held accountable. In so doing, it rejects the dangerous culture of collective guilt and retribution that often produces further cycles of resentment and violence.

In both Rwanda and Bosnia, the repatriation of massive numbers of refugees is integrally related to the question of justice and accountability. Nearly two years after the genocide in Rwanda, close to two million Hutus, the ethnic group identified with initiating the killings, remain in refugee camps in neighboring countries. Recent interviews in those camps confirm that the primary obstacle to their return home is the

refugees' fear as to what kind of justice will greet their return.

International Prosecution of War Crimes

When war crimes trials are undertaken, are they better conducted by an international tribunal—like those in Nuremberg and Tokyo[1] or those for the former Yugoslavia and Rwanda—or by the local courts of the country concerned? There are sound policy reasons for each approach.

An international tribunal is better positioned to convey a clear message that the international community will not tolerate such atrocities, hopefully deterring future carnage of this sort both in the country in question and worldwide. It is more likely to be staffed by experts able to apply and interpret evolving international standards in a sometimes murky field of the law. It can do more to advance the development and enforcement of international criminal norms. Relative to the often shattered judicial system of a country emerging from genocide or other mass atrocities, an international tribunal is more likely to have the necessary human and material resources at its disposal. It can more readily function—and be perceived as functioning—on the basis of independence and impartiality rather than retribution. Finally, where the majority of senior planners and perpetrators of these atrocities have left the territory where the crimes were committed (as is the case in both Rwanda and Bosnia), an international tribunal stands a greater chance than local courts of obtaining their physical custody and extradition.

The most important precedent for international treatment of war crimes is, of course, the post-World War II trials at Nuremberg. The prosecution of Nazi atrocities before the International Military Tribunal and the subsequent Nuremberg tribunals established several key principles which continue to influence international conduct. Among these are the notions that the human rights of individuals and groups are a matter of international concern; that the international community's interest in preventing or punishing offenses against humanity committed within states qualifies any concept of national sovereignty; that not just states but individuals can be held accountable under international law for their role in genocide and other atrocities; and that "following orders" is no defense to such accountability.

Many expected the momentum generated by Nuremberg to result in the prompt creation of a more permanent international court for the prosecution of war crimes and related atrocities. The 1948 Genocide Convention reflected this assumption, providing for trials "by such international penal tribunal as may have jurisdiction." The immediate entry into the Cold War, however, froze any prospects for such a development for the next four decades.

In May 1993, responding to overwhelming evidence of "ethnic cleansing" and genocidal activity in the ongoing war in the former Yugoslavia, the United Nations Security Council voted to create the first international war crimes tribunal since those at Nuremberg and Tokyo. The Security Council established the "International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991" in the explicit

belief that accountability would "contribute to the restoration and maintenance of peace." The tribunal has its seat in the Hague. It is comprised of eleven judges from as many countries, divided into two trial chambers and an appellate chamber.

The Yugoslavia tribunal is in several ways an improvement on the Nuremberg model. Its rules of procedure incorporate positive developments over the past 50 years with respect to the rights of criminal defendants under international law. To the extent that Nuremberg was perceived as a prosecution of World War II's losing parties by the victors, the current tribunal is nothing of the sort. As noted above, it is a truly international exercise, and the countries which supply its judges, prosecutors, and staff are not parties to the conflict. In addition, it is committed to the investigation and prosecution of war crimes committed by persons from each side in the war.

Considering that almost 50 years passed between the Nuremberg and Yugoslavia tribunals, the next major institutional development occurred in rapid succession. In November 1994, "convinced that in the particular circumstances of Rwanda, the prosecution of persons responsible for serious violations of international humanitarian law would…contribute to the process of national reconciliation and to the restoration and maintenance of peace," the Security Council voted to create an International Criminal Tribunal for Rwanda. Not surprisingly, the structure and mandate of the new tribunal closely tracked that of its counterpart for the former Yugoslavia. To maximize the efficient sharing of resources, avoid conflicting legal approaches, and minimize start-up time, the two tribunals share their chief prosecutor and their appellate chamber; their respective rules of evidence and procedure are virtually identical. A deputy prosecutor directs a small team of investigators and criminal attorneys in the Rwandan capital of Kigali; the actual trials will take place at the tribunal's seat in Arusha, Tanzania.

These two tribunals are playing a truly historic role, expanding the horizons for the international treatment of war crimes and establishing important precedents. They have been functioning from the outset under significant constraints.

In his final report to the Secretary of the Army on the Nuremberg proceedings, chief prosecutor Telford Taylor noted that after the initial military tribunal trial, the need to organize new structures, administration, and staffing for the twelve trials to follow delayed the war crimes program by almost a year. The delay had its cost. "If the trials…had started and been finished a year earlier," observed Taylor, "it might well have been possible to bring their lessons home to the public at large far more effectively." These words still ring true half a century later. Delays in funding, staffing and organization of the two international tribunals for the former Yugoslavia and Rwanda have undercut their impact to date—it took a year-and-a-half for the Yugoslavia tribunal to issue its first indictment.

This will hopefully change in the next several weeks as the first trials get underway. In the period following the

Dayton Agreement,[2] the Yugoslavia tribunal has garnered increased public support and attention and has made some impressive gains.

The end of the Cold War, combined with the establishment of the two ad hoc tribunals, provided significant impetus for resurrecting the long-dormant discussion regarding creation of a permanent international criminal authority. In 1993, at the request of the UN General Assembly, the International Law Commission produced a detailed draft statute for such a court, which it further refined in 1994. A preparatory committee established by the General Assembly just completed a three-week consideration of the issue, and it will resume its deliberations in August 1996. While there are a number of important issues still to be ironed out—e.g., the role of the Security Council as a gatekeeper for referral of cases to the court; possible jurisdiction over such crimes as terrorism, aggression, and drug-trafficking; the authority of the prosecutor to initiate investigations; and questions of extradition and of procedure—there is a broad consensus that the court would have jurisdiction over individuals for the core crimes of genocide, war crimes, and crimes against humanity. Establishment of this body would, of course, obviate the need for further ad hoc tribunals and would significantly reduce the delays which have hampered the commencement of these tribunals. By 1997 or more likely 1998, the process can be expected to move to the next stage: a plenipotentiary conference for the final drafting and adoption of a treaty establishing this international criminal court.

The Domestic Component

Prosecution of war crimes before domestic courts can also serve some important purposes. It can enhance the legitimacy and credibility of a fragile new government, demonstrating its determination to hold individuals accountable for their crimes. Because these trials tend to be high profile proceedings which receive significant attention from the local population and foreign observers, they can provide an important focus for rebuilding the domestic judiciary and criminal justice system, establishing the courts as a credible forum for the redress of grievances in a nonviolent manner. Finally, as noted in 1994 by the UN Commission of Experts appointed to investigate the Rwandan genocide, domestic courts can be more sensitive to the nuances of local culture and resulting decisions "could be of greater and more immediate symbolic force because verdicts would be rendered by courts familiar to the local community."

In addition, not all cases of war crimes will result in the creation of another international judicial entity. Atrocities committed by the Mengistu regime in Ethiopia, for example, are today being handled by a Special Prosecutor's Office established for this purpose by the new government. Various countries have provided technical and financial assistance to this process, but a separate international body was not deemed necessary.

Finally, even where an international tribunal has been established to prosecute war crimes, an additional factor motivating separate local efforts at justice is the sheer pressure of numbers. For reasons of both practicality and policy, the international tribunals for Rwanda and the former Yugoslavia can be expected to limit their

prosecutions to a relatively small number of people. By way of contrast, the Nuremberg operation had vastly more substantial resources than its two contemporary progenies. At peak staffing in 1947, for example, the Nuremberg proceedings employed the services of nearly 900 allied personnel and about an equal number of Germans.

The authorities at Nuremberg had virtual control of the field of operations and sources of evidence, and the prosecution team had the benefit of paper trails not matched in the Yugoslav and Rwandan cases. Even with these advantages, the Nuremberg trials ultimately involved the prosecution of some 200 defendants, grouped into thirteen cases and lasting four years. If the two current international tribunals combined ultimately prosecute this many cases, it will be an enormous success.

This means that, even if the international bodies achieve their maximum effectiveness, thousands of additional cases of war crimes and related atrocities will be left untouched. In the case of the former Yugoslavia, the Bosnian state commission on war crimes currently has some 20,000 cases in its files, and various Bosnian officials suggested to the author in recent interviews that as many as 5,000 may be appropriate for domestic prosecution. Croat and Serb authorities each have their war crimes cases as well. After the foreign troops are gone, after the international tribunals have completed their operations, local government, judiciary, and society will still need to deal with this legacy and these people—whether by prosecution or otherwise.

The charters of the two international tribunals recognize this domestic component, providing that they share concurrent jurisdiction with national courts over the crimes in question.[3] (It is worth noting that the draft statute for the permanent international criminal court also stresses this domestic component, declaring the international body to be "complementary to national criminal justice systems in cases where such trial procedures may not be available or may be ineffective.") The Bosnian government has already designated six special judicial panels around the country, and one appellate panel in Sarajevo, to deal exclusively with war crimes and genocide cases. The Rwandan challenge has been more complicated, as explained below. In each of the countries involved, implementation of their national war crimes program will be influenced by their perception of the degree to which the international community is serious and committed to supporting the work of the international tribunals. In each case, how they handle the question will have significant consequences for the viability of both peace and the rule of law.

Managing the Numbers

Where prosecutions are undertaken, how widely should the net be cast? There is a growing consensus in international law that, at least for the most heinous violations of human rights and international humanitarian law, a sweeping amnesty is impermissible. International law does not, however, demand the prosecution of every individual implicated in the atrocities. A symbolic or representative number of prosecutions of those most culpable may satisfy international obligations, especially where an overly extensive trial program

will threaten the stability of the country. This approach has been adopted, for example, in Argentina, Ethiopia, and in some of the countries of Central and Eastern Europe in dealing with the legacy of massive human rights abuses by their ousted regimes.

In several cases ranging from Nuremberg to Ethiopia, given the large number of potential defendants, an effort has been made to distinguish three categories of culpability and design different approaches for each. Roughly, these classifications break down into (a) the leaders, those who gave the orders to commit war crimes, and those, who actually carried out the worst offenses (inevitably the smallest category numerically); (b) those who perpetrated abuses not rising to the first category; and (c) those whose offenses were minimal. The severity of treatment follows accordingly. The Dayton accords concluding the war in the former Yugoslavia more or less adopt this approach. In the first category, the warring parties commit themselves to provide full cooperation and assistance to the international tribunal as it prosecutes those who perpetrated the most heinous offenses. In the second tier of culpability, the accords characterize as a confidence-building measure the obligation of the parties to immediately undertake "the prosecution, dismissal or transfer, as appropriate, of persons in military, paramilitary, and police forces, and other public servants, responsible for serious violations of the basic rights of persons belonging to ethnic or minority groups."[4] Finally, those charged with any crime related to the conflict "other than a serious violation of international humanitarian law" are guaranteed amnesty for their offenses.[5] While the early post-war period has exhibited some serious challenges in the implementation of these provisions, the basic framework they create is a sound one.

The Rwandan case demonstrates the need for pragmatism to temper an absolutist approach to prosecution. In one of the most horrific genocidal massacres in recent memory, up to one million Rwandan Tutsis and moderate Hutus were brutally slaughtered in just 14 weeks in 1994. Throughout their first year in office, many senior members of the new government insisted that every person who participated in the atrocities should be prosecuted and punished. This approach, however, would put more than 100,000 Rwandans in the dock, a situation that would be wholly unmanageable and certainly destabilizing to the transition. As of April 1996, although no formal charges have yet been filed, some 70,000 Rwandans are detained in prisons built to house a fraction of that number on allegations of involvement in the genocide. To compound the problem, the criminal justice system of Rwanda was decimated during the genocide, with some 95% of the country's lawyers and judges either killed or currently in exile, or prison. Justice for war crimes in Rwanda requires a creative approach that takes into account the staggeringly large number of potential cases and the overwhelmingly small number of available personnel to process them.

Legislation presently under consideration by the Rwandan government would create four levels of culpability for the genocide: (1) the planners and leaders of the genocide, those in positions of authority who fostered these crimes, and killers of more than 50 people—all subject to full prosecution and punishment; (2) others

who killed; (3) those who committed other crimes against the person, such as rape; and (4) those who committed offenses against property. Persons in categories (2) and (3) who voluntarily provide a full confession of their crimes, information on accomplices or co-conspirators, and, importantly, an apology to the victims of their crimes will benefit from an expedited process and a significantly reduced schedule of penalties. Those in category (4) will not be subject to any criminal penalties.

Other Alternatives

Criminal trials are the most obvious way of reckoning with genocide and similar atrocities. Depending on the particular conditions in a country, however, justice for these crimes may entail a variety of alternative or supplemental approaches. In Spain, both sides fully ackowledged their sins (no one has done so in Bosnia) and then granted each other a mutual amnesty. In Greece, hundreds of soldiers and officers were prosecuted for torture of former prisoners. In South Africa, amnesty will be granted on a case-by-case basis to those who committed abuses, but only after the individual offenders apply for that amnesty and provide detailed confessions of their crimes. In countries like Chile and El Salvador, "truth commissions" have produced a national historical accounting as a form of justice. In the Czech Republic, Lithuania and post-communist Germany, administrative purges have temporarily removed those affiliated with past abuses from positions in the public sector. An effort at justice may also involve official recognition and rehabilitation of victims.

The Broader Impact

The way accountability for mass atrocities is handled may be relevant beyond the borders of the country in question; it may also have consequences for future, seemingly unrelated conflicts in other parts of the world. When asked whether he was concerned about the international community holding him accountable for his diabolical campaign of genocide, Adolph Hitler infamously scoffed, "Who remembers the Armenians?" referring to the victims of a genocide only 25 years earlier for which no one had been brought to book. In pursuing their campaign of ethnic cleansing and genocide, Bosnian Serb leaders were asked the same question, and more than once pointed to the fact that the Khmer Rouge leadership has never been prosecuted or punished for the atrocities they committed in Cambodia in the 1970s.

One of the many reasons advanced for creation of the Rwanda tribunal was the need to demonstrate that the international community would not tolerate such atrocities, deterring future carnage not only in Rwanda but notably in Burundi, where renewed ethnic violence was beginning to escalate. If the international community had promptly established the Rwanda tribunal and provided it with adequate personnel and resources—if the tribunal had been born as a robust entity with the wherewithal to aggressively pursue its mandate—it would almost certainly have given pause to those inclined toward extremist violence in neighboring Burundi. Unfortunately, the message of warning to Rwanda's southern twin has been relatively anemic. Rwandans and Burundians have each taken note of the enormous delays in getting the tribunal even partially staffed, financed, and operational, and

Burundi has sadly slipped deeper into violence and chaos. The UN Secretary-General urges preparations for intervention by a multilateral military force. When the international community now asks what could have been done to avoid this slide, a close look at the adequacy of support for the Rwanda tribunal provides at least part of the answer. Hopefully, as the tribunal's first trials finally get underway in the coming weeks, they will still be able to serve a constructive role in the Burundian context.

Some analysts and diplomats will no doubt continue to suggest that justice for genocide and other mass abuses is a luxury that post-traumatic societies can ill afford; they will still argue that peace is best achieved by simply closing the door on past wrongs. But there were thousands and thousands like Emsud Bahonjic and Fidele Kayabugoyi, and they are survived by millions of relatives and friends who will tell you otherwise. They will demand justice sooner or later; the challenge is to achieve that justice in a manner that best facilitates a durable peace.

FOOTNOTES

1. German and Japanese leaders were tried and convicted of war crimes by international tribunals in Nuremberg and Tokyo, 1945-48.
2. The Agreement was signed by the warring parties in Bosnia in the Midwestern city of Dayton, Ohio, in November 1995. It includes a commitment by the signatories to full cooperation with the War Crimes Tribunal.
3. The statutes of the two entities go on to provide the international tribunals with primacy over national courts.
4. Dayton Agreement, Annex 7, Article I, Paragraph 3(e).
5. Id., Annex 7, Article VI. Recognizing the connection between justice issues and refugee repatriation, the Dayton Agreement places much of this language in its section on refugees.

New Documents Shed Light on Khmer Rouge Genocide

by

Paul Malamud

Before war criminals can be brought to account, evidence must be gathered and made available to the public and to legal experts. In this article, USIA staff writer Paul Malamud writes about Yale University's Cambodian Genocide Program, which is using modern communications and computer technology to bring to light the crimes of the Pol Pot regime of the 1970s. The opinions expressed in this article do not necessarily represent the views of the U.S. Government.

In 1975, following decades of chaos and war in Southeast Asia, the Khmer Rouge, a Marxist guerrilla group, took over Cambodia and ruled the country for four years.

The new leaders began to exterminate large numbers of Cambodian civilians in a bizarre attempt to create an ideologically "perfect" society. People of all ages and ethnic groups were tortured and killed. By 1979 when the Pol Pot regime was finally ousted, between one and a half and two million people had been tortured, murdered, or worked or starved to death.

Two decades later, the genocide committed by the Pol Pot regime has resurfaced—in the form of thousands of documents, photographs, and other evidence that is being collected and put into a computer database at Yale University in New Haven, Connecticut. Portions of this computerized database will soon be available on the Internet and CD-ROM—and may serve as the basis for future war

crimes tribunals.

The newly assembled database will soon be made available to the people of Cambodia, and to researchers around the world. It will enable them to identify both victims and war criminals—and may help bring the latter group to judgment.

Asked what historical evidence leads to the conclusion of genocide, Professor Ben Kiernan, the head of Yale's Cambodian Genocide Program, said "the large percentage of the population that died within a short period of time, or were killed—about twenty to twenty-five percent of the population in four years," which amounts to about 1.7 million people.

"What strikes me most about it," Kiernan said in an interview, "is the way the violence escalated over time, and continued to accelerate long after the regime was in stable control of the political and military and economic aspects of the country's life."

In spite of total control "the regime then continued to go after increasingly broad categories of people; not only ethnic minorities, but specific political or religious groups in the Khmer majority. The peasants of the country also suffered in large numbers as well as city people."

The first mandate of Yale's Cambodian Genocide Program is to assemble a massive computerized database containing primary and secondary source material pertaining to the years of Khmer Rouge rule in Cambodia—a task made forbidding by the vast amount of data that continues to pour in.

The second mandate is to train Cambodians themselves in modern international criminal law; the third is to prepare new, in-depth histories of what went on at the time, including studies of the Khmer Rouge chain of command.

Ultimately, according to Kiernan, all this data will be deposited in Cambodia itself—at the Documentation Center of Cambodia—so the families of victims can do their own research.

In addition, he says, portions of the data, including photographs of anonymous victims, will be made available on the Internet, in the hope that survivors can provide the names of these unidentified victims.

In 1994, the U.S. Congress enacted the Cambodian Genocide Justice Act, which provided for the establishment of a U.S. Department of State Office of Cambodian Genocide Investigations. The law required this office to contract with private "individuals and organizations" to make preparations to bring the perpetrators of this genocide to justice.

After competitive bidding, Yale University was selected to begin the work, and established Yale's Cambodian Genocide Program, co-sponsored by the Yale Center for International and Area Studies and by the Yale Law School's Orville H. Schell, Jr., Center for International Human Rights.

Asked why it is worth the attempt to expose the crimes of Pol Pot and his followers at this date, Kiernan said: "Apart from the desire of the Cambodian people for justice, I think there is an international interest, a long-term interest of the rest of the world, in having these crimes accounted for; a signal sent to anyone considering doing something similar that they will be brought to account too."

The databases, according to Yale University, will include computerized

maps of prison sites and victim graveyards; a database of the Cambodian elite of the time, many of whom were killed; a database of the Khmer Rouge leadership; thousands of photographs of victims before their execution; archives of original documents of the Pol Pot regime; and a comprehensive bibliography.

Two American legal scholars, Jason Abrams and Steven Ratner, have completed a U.S. State Department-funded study concluding that the Khmer Rouge regime was indeed guilty of crimes against humanity, and suggesting various kinds of commissions or tribunals.

Kiernan said he felt "fairly confident that some legal or quasi-legal body will be established to provide some form of accountability for what happened in the Khmer Rouge period." The Abrams and Ratner report concludes "there is a prima facie case that genocide, crimes against humanity and war crimes were all committed by the Khmer Rouge."

The report, according to Kiernan, "recommends certain preferred options for redress," including "a truth commission or a commission of inquiry which would not involve convictions or sentences for people—especially in absentia—but such forums could lead to a more formal legal process later."

Kiernan said that Abrams and Ratner have recommended to the State Department "that the prosecutions or investigations or judgments should be restricted to the top leadership responsible for national policy (in those days); and to individuals at a lower level who are responsible for heinous crimes such as mass murders or running extermination centers."

Kiernan also noted "the recent strong commitment by the King of Cambodia, Norodom Sihanouk, who in the last couple of months has made several statements in favor of a tribunal" and the fact that "the first and the second Cambodian prime ministers both strongly support the Cambodian Genocide Program here at Yale."

Random brutality followed the Khmer Rouge takeover, Kiernan explained, but "the spontaneity that had been evident in the brutality in the first year or two was quickly overshadowed by the increasing centralized planning of the killing."

An example: "By 1978, there was an evacuation of the entire Eastern zone (of Cambodia)—pretty much the same way Phnom Penh had been evacuated four years before.

"Hundreds and hundreds of thousands of peasants were shipped out of the East of the country and sent to the Northwest and they were given a uniform which consisted often of blue clothing, including a blue checkered scarf with an unusual blue color, and they had to wear these.

"They were not informed, but they soon found out that this was a sign that they were marked for discrimination and slaughter. That is what happened to hundreds of thousands of them."

So much new material has come in the past six months, Kiernan says, his group will be hard-pressed even to catalogue it. However, he says, the program is well under way and should enable "the Documentation Center of Cambodia to continue and to function autonomously. It will enable Cambodians to conduct their own research and investigate their history

themselves in 1997 and for an indefinite period after that.

"What we hope to achieve by putting these 5,000 or so photographs of victims on the Internet," he emphasized, "is to have them identified by people who know them. We hope that people will be able to key in the names of the persons they recognize in a blank field which will be available in the database, so the information can be collected and made available to others—for example, information about who was arrested and taken to the Tuol Sleng (torture center) and disappeared —and 20,000 people did.

"We also wish to be able to provide assistance to any tribunal or truth commission that might be established. We would hope to do that from the United States as well as from Cambodia.

"In the Cambodian genocide," Kiernan has concluded, "the majority of the victims were Khmer—of the majority ethnic group—but the ethnic minorities suffered in much greater numbers proportionately.

"The fuel of that regime," he notes, "was not only ideological but racial. The accusation most often leveled against targets who were from the ethnic majority was that they were, for instance, 'Khmer bodies with Vietnamese minds.'

"The racialist discourse was decisive —it was an important factor of the ideology of the regime. They were also power-hungry. They were never satisfied, even with total political, military, and economic power. They didn't want anybody to have any freedom. It was perhaps history's strongest example of such a regime in such a short time—ambitious not only to abolish money, abolish cities, as well as kill such large numbers of people. I think this was fueled by an ideological belief that it was possible to run a society that is completely controlled from the top down. They assumed that, and I think they were proved wrong."

Professor Kiernan's latest book on the topic, *The Pol Pot Regime*, has just been published by Yale University Press.

Issues of Democracy, USIA Electronic Journals, Vol. 1, No. 3., May 1996

South Africa's Truth Commission Grapples with Human Rights Past

by

Jim Fisher-Thompson

On April 15, 1996, South Africa's Truth and Reconciliation Commission opened its first public hearings on apartheid-era human rights abuses. USIA staff writer Jim Fisher-Thompson relates the views of a South African diplomat and an American legal scholar towards the commission's mandates. The opinions expressed in this article do not necessarily represent the views of the U.S. Government.

It was "a long dusty road" that took Daniel Ngwepe from his tiny village in South Africa to the glitter and challenges of the diplomatic circuit of Washington. But it has been a journey filled with hope rather than bitterness over the injustices that ruled most of the diplomat's life.

Ngwepe, who is the press attache at the South African Embassy in the U.S. capital, said in an interview that the hardships of his life were fairly typical for non-white South Africans who had to live with racial separation under the apartheid system for more than 40 years.

For example, his mother and father were never able to marry, Ngwepe explained. "They had to live and work in different parts of the country and were never able to come together as a family. I was raised by my grandmother in her village while my mother worked for a white family in Pretoria. I only saw her twice a year when she was allowed to return home for family visits."

But many non-whites in South Africa suffered even greater violations of their basic human rights, said Ngwepe, and in order to deal with the past, the new multi-racial government of South Africa has instituted The Truth And Reconciliation Commission.

The South African official explained that the commission will have as "its main objective the fostering of national unity and reconciliation, or what we Africans call 'ubuntu.' As President Nelson Mandela said, 'Let us build national unity. We may not be able to forget, but let us forgive.'"

In order to foster that spirit, Ngwepe explained, South Africans have "agreed to look into the past. Because for us to look ahead, we have to know what happened before."

Therefore, he explained, the commission will begin looking into crimes committed during a 33-year period. Its task will be threefold: To investigate the crimes, offer compensation to some victims, and amnesty to some perpetrators in exchange for truthful confessions.

Ngwepe emphasized that all complaints will be heard and considered by the commission, including those made against black opposition groups, such as the African National Congress (ANC). The commission will operate for two years, investigating what occurred between March 1960, the month of the Sharpville police massacre of 59 blacks, and December 1993, when the transitional government was established. The human rights group "Africa Watch" says as many as 80,000 South Africans, mainly blacks, were detained and tortured during that period.

The truth commission consists of 16 members and is chaired by Archbishop Desmond Tutu, the Anglican Archbishop of Cape Town and a Nobel Prize laureate.

The commission emphasizes rehabilitation, Ngwepe explained, the welcoming back into the community of those who admit their crimes and show remorse. This is consistent with the spirit of ubuntu, which considers "the person's total humanity and relationship to his community rather than purely acts of law-breaking by the individual."

The process will be marked by an absence of vengeance, Ngwepe explained. "The minister of justice made it very clear in a speech he gave last year that there wasn't to be witch-hunting or retaliation of any kind," he said. "Rather, the aim is to find the truth and allow disclosures of past events as the first step in a healing process. Persons who are prepared to disclose what they've done can then ask for amnesty, and if it is granted, may receive immunity from any prosecution for their crimes."

A recent editorial in the *The Washington Post* newspaper said the former white apartheid regime of South Africa operated under a "skewed moral code" which could never acknowledge "the secret hit squads, the torture [and] the fomenting of black-on-black violence." The editorial went on to note that "if the Truth Commission can document these crimes and force the perpetrators to acknowledge them, it will perform a great service for South Africa and its future."

Deterrence is an important part of the process of dealing with human rights violations, according to Professor Diane F. Orentlicher, who teaches international law at American University in Washington.

Orentlicher, who is also director of the War Crimes Research Project, said in an interview that "one of the major concerns of the international community is the issue of accountability. It's important that there be a deterrence against massive human rights crimes in the future."

That is why international tribunals, such as the one established by the United Nations at the Hague focusing on Bosnian war crimes, is so important, she said. "We want to make sure that the message is sent to tyrants all over the world: 'Don't even think about committing genocide or other human rights violations. At some point you will come up to a reckoning and you're not going to get away with it because there will be nowhere to hide.' "

Orentlicher said that the establishment of mechanisms that deal with massive injustices of the past "draw a line between the past and the future which is critical to a successful political transition process." She added that there is a "catharsis in giving persons the opportunity to tell their stories to a government official and have him really care about their case."

However, "the real innovation" of the South African truth commission, Orentlicher said, is "the procedure for persons linked to a past crime to qualify for an amnesty, earned by confessing."

This is an experiment that has not been tried in any other country, Orentlicher pointed out, and "it will accomplish one thing—those who confess will at least provide an answer of what happened to victims of apartheid violence."

Orenlicher stressed that "it is extremely difficult to carry around a template for universal justice, but there is certainly an international consensus now that a regime or government that practiced genocide or the wholesale violation of human rights of a particular group should face an authoritative judicial process."

The problem, she noted, is that "every society has to find ways that are appropriate for its people to address the atrocities of the recent past, and I think it is right for countries to seek a measure of accountability that is appropriate to their own culture."

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Truth Commssions in Latin America

by

Eric Green

Several Latin American countries have established truth commissions in the aftermath of civil wars or internal unrest. USIA staff writer Eric Green reports the views of scholar Mark Falcoff on the experiences of Argentina and Chile. The opinions expressed in this article do not necessarily represent the views of the U.S. Government.

In the opinion of Latin American scholar Mark Falcoff, truth commissions and similar bodies may serve as an "exercise in purging the national consciousness" concerning a country's previous record of human rights abuses.

Falcoff, the author of books about the Chilean and Argentine political experiences, says that writing about the role of truth commissions is inherently controversial because it involves judging who is to blame for systematic violations of human rights. While it may be agreed that the efforts of truth commissions are worthwhile in pursuing the protection of human rights, Falcoff pointed out that their sometimes mixed results reflect the difficulty of the task and the often adversarial and hostile environment in which they have to work.

In a recent interview, Falcoff, resident scholar at the American Enterprise Institute in Washington, noted that the overall results of truth commissions in Chile and Argentina played out very

differently. Argentina's truth commission, Falcoff said, set out to investigate mass murders and "disappearances" following the "humiliation" of losing a war against Great Britain in 1982 over the Malvinas (Falkland) Islands. That loss, Falcoff said, "may have done more to advance the cause of human rights in that country than any other single thing."

After the war, Falcoff said, there was "an orgy of recrimination" about the uncounted thousands of people who were abducted, tortured, and killed by revolutionary and counterrevolutionary forces between 1970 and 1983.

"This may [sound] very cynical," Falcoff said, "but I think it is quite accurate to say there was kind of a displaced anger at the military for having lost the war."

The human rights situation in Argentina, he said, "has improved because you have a civilian elected government, a quite free press, and the political culture of the country has changed significantly" since the Falklands War.

In his writings about Argentina, Falcoff has noted the "polemical minefield" of trying to judge the Argentine human rights situation since 1970. The abuses occurred, Falcoff said in a 1988 article, "in conjunction with or with the approval of members of the clergy, judiciary, press, business, and intellectual and labor communities."

The U.S. government, reporting to Congress in early 1977 on the state of human rights in Argentina, found that some 2,000 Argentines were killed between 1973 and 1976 alone. By contrast, Falcoff said, the country's truth commission, called the National Commission on Disappeared Persons and appointed by President Raul Alfonsin in 1983, found only 600 such instances prior to a 1976 coup when the armed forces seized power and initiated blanket repression.

Nor was there any consensus after the collapse of the military government in 1983 on the number of victims; estimates ranged widely, Falcoff said. The Argentine Permanent Assembly on Human Rights, which Falcoff said was an organization known to be close to the Communist Party, claimed 6,500 such cases between 1976–1979. Falcoff said a special commission of the New York City Bar Association that visited Argentina in 1979 put the number at 10,000, while Amnesty International estimated between 15,000 and 20,000.

Falcoff went on to say that he has "no reason to doubt" the Argentine National Commission report's official figure of 9,000 cases from 1976 to 1983. But Falcoff said one of his problems with the report, called "Never Again," released in 1985, is what it leaves out. The report, he said, "essentially says that everything evil that happened in Argentina came after the coup in 1976, "which is not true."

Falcoff also was critical of the concluding chapters of the report. That section, he said, blames everything bad for what happened in Argentina on the United States, but says "nothing at all about the role of the Argentine government in disappearances" before the military coup in 1976. Leaving out incriminating information was purposely done, he suggested, in order not to offend the Peronist party in Argentina, a powerful force in the country at the time the report was written.

Turning to Chile, Falcoff said that country's truth commission covering human rights violations between 1973

and 1990 was, for the most part, "fair, accurate, and proper."

Chile's National Commission on Truth and Reconciliation issued a report outlining the abuses of the military government headed by Gen. Augusto Pinochet. The circumstances were different from those of Argentina, he said.

For one thing, Falcoff said, Chile's military had not been humiliated in a war as had Argentina's. Rather than assigning blame, Falcoff said, the truth commission did a "fairly decent job" reporting objectively on the facts. The military agreed to a compromise on the truth commission that allowed for maximum candor on the number of deaths that occurred in the 17 years under Pinochet rule, along with "who died and under what circumstances," Falcoff said.

At the same time, Falcoff said, the report made no comment on whether the deaths were or were not justified. That judgment, he said, was left to the "individual discretion" of a person's political point of view. Falcoff said he doubts that truth commissions, as such, have much impact in preventing military coups and subsequent repression against those who oppose them.

Those involved in coups, he said, "don't think about being thrown in the slammer 15 years from now." Coups, he said, occur for social, political, cultural, and historic reasons; coup leaders are not going to fear the consequences of being brought to justice.

However, Falcoff said, those plotting a coup might think twice in those countries where "there is a strong tradition of the rule of law and less inclination to break with institutional normality."

Falcoff said he wanted to limit his interview comments about truth commissions to Argentina and Chile, the two countries he has studied extensively. However, he did note the controversial nature of the subject in El Salvador where the United Nations-sponsored Commission on the Truth blamed military officials for the bulk of human rights violations in that country.

The U.N. report, entitled "From Madness to Hope," received documented information on about 15,000 cases of human rights violations committed from 1980-1991 covering the period of the country's civil war, in which an estimated 75,000 people died.

Commenting in January 1995 on the value of the truth commission in El Salvador, as well as other truth commissions in Nicaragua, Haiti, Guatemala, and Mexico, Secretary of State Warren Christopher said that such bodies "contribute to reconciliation in countries that have suffered devastating civil wars or internal unrest."

The State Department said in a later report that truth commissions and similar bodies represent "new and diverse ways" of providing accountability for human rights abuses, which can lead to a negotiated settlement of a conflict.

The report quoted President Clinton as saying that in "societies where the rule of law prevails, where governments are held accountable to their people and where ideas and information freely circulate, we are more likely to find economic development and political stability."

Issues of Democracy, USIA Electronic Journals, Vol. 1, No. 3., May 1996

Speakers and Specialists

USIA programs in the area of democracy and human rights take many forms, including rule of law, administration of justice, civic education, civil society, good governance, elections, and civilian control of the military. Listed here are some recent speakers and specialists who addressed these themes.

Charles Quigley, Steve Fleischman, David Dorn, James Galloway, and Jack Hoar—American educators from the Center for Civic Education and the American Federation of Teachers—presented a series of workshops in April for Bosnian teachers on the fundamentals of a democratic society and teaching political tolerance. Their efforts in civic education initiated a communications network among Bosnian educators.

Tony Blankley, press secretary for U.S. House Speaker Newt Gingrich, participated in a digital video conference in April with British journalists and officials. He addressed issues of the presidential elections, the role of the speaker in American political life, and the political policies of the republican party.

Joseph Montville, director of the Program for Preventive Diplomacy at the Center for Strategic and International Studies, traveled to Ecuador in April to participate in a conference on "people-to-people diplomacy," co-sponsored by Ecuador's leading daily, El Universo. Montville stressed the need of citizen contacts in overcoming international disputes.

In February, **Martha Crenshaw** of Wesleyan University, carried out a series of lectures and consultations in Sri Lanka on conflict resolution. In the wake of renewed terrorist activity in the region, Crenshaw discussed democratic methods to end civil conflicts. Her visit gave her the opportunity to explore these issues with key parliamentarians, opposition leaders, foreign ministry staff, numerous academics, and the former Sri Lankan president.

In an April telepress conference with Rangoon, Burma, **James Wilson** of UCLA engaged more than seventy academics, lawyers, journalists, and political activists in a discussion based on his book, *American Government.* Wilson's book, recently translated into Burmese by USIA, offers a clear picture of American government and politics.

Marilyn Murray, a clinical psychologist from Akron, Ohio, and **Elisabeth Dreyfuss** of the Grassroots Leadership Development Program in Ohio, traveled to Dar es Salaam, Tanzania in April to participate in a week-long conflict-resolution seminar, accompanied by former U.S. Ambassador and Chairman of the Institute for Multi-Track Diplomacy, **John McDonald**. The three experts' backgrounds in different aspects of conflict resolution provided a comprehensive look at a peace process.

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Article Alert

What's New in Democracy and Human Rights

Carbonneau, Tom. "Arbitral Justice: The Demise of Due Process in American Law [with responses]" (*The World & I,* vol. 11., no. 4, April 1996, pp. 299-325)

Carbonneau argues that after the passing of the U.S. Arbitration Act of 1925, arbitration has begun to replace the rule of law found in U.S. courts. He expresses concern that citizens will turn to arbitration because of its cost and speed and lose protections found in the court system. Carbonneau sees a danger to court systems as potentially very important legal decisions will be made outside a legal court system. In separate sections, professors William Park and Douglas Abrams respond to Carbonneau's arguments.

Cochran, Wendell. "The Boys On the 'Net" (*American Journalism Review*, vol. 18, no.3, April 1996, pp. 40-42)

"A political reporter who's not on-line is behind the curve," says Jeffrey Weiss, a *Dallas Morning News* reporter. In fact, most newspapers have assigned their reporters to write specifically on what is happening in the electronic world of campaigns, that is, what's happening on the World Wide Web of the Internet. Cochran, who teaches journalism at American University, reports that not only news organizations are using the Web, however. All the major presidential candidates have their own Web sites, as well as the Democratic and Repubican parties. And, say political experts, in the future, electronic mail or e-mail will become the choice for political fundraising.

Heller, Scott. "Bowling Alone: A Harvard Professor Examines America's Dwindling Sense of Community" (*The Chronicle of Higher Education*, vol. 41, no. 25, March 1, 1996, pp. A10, A12)

Recently, Robert D. Putnam, a professor of government and international affairs at Harvard University, wrote a much acclaimed essay on how Americans are less and less likely to join groups of any kind, a trend that he argued may be connected to a widespread distrust of political and other institutions. The author briefly discusses Putnam's "Bowling Alone" essay and why its message has resonated in American society.

Hernandez, Debra Gersh. "Courtroom Cameras Debated" (*Editor & Publisher*, vol. 129, no. 7, February 17, 1996, pp. 11–13, 46)

Although cameras have been used to record trials in U.S. courts for years, some say they lengthen trials, lead to a circus-like atmosphere, affect the prosecution of a trial and the public's perception of the trial process. Others respond that the camera is less obtrusive and that the trial would not vary significantly in the absence of the camera.

Hernandez weighs these arguments, noting that the U.S. Constitution encourages public involvement in civil actions such as trials.

Hernandez, Debra Gersh. "Covering Election Campaigns" (*Editor & Publisher,* vol. 129, no. 8, February 24, 1996, pp. 12–13)

"A lot has been said about improving media coverage of campaigns but, judging by the criticism, little may have been accomplished," writes Hernandez. She looks at the media's failure to keep its promise to improve campaign coverage after the 1988 presidential elections. S. Robert Lichter, co-director of the Center for Media and Public Affairs, comments, "What we've seen is journalism trying to move front and center to take over the campaign from the candidates at a time when the public is calling for exactly the opposite."

Jacobs, Charles. "Slavery: Worldwide Evil" (*The World & I,* vol. 11, no. 4, April 1996, pp. 110–119)

Jacobs, of the American Anti-Slavery Group, wants Americans to focus on the 200 million people worldwide living in bondage. He hopes the examples he gives of forced child labor, sex slavery, and the sorts of debt bondage resulting from intense poverty will activate American indignation. The democracies focus on infringement of rights by governments; Jacobs argues we should intervene in economic slavery as well.

Posner, Richard A. "Juries On Trial" (*Commentary,* vol. 99, no. 3, March 1995, pp. 49-52)

"In recent years, a series of highly publicized criminal trials in which obviously guilty defendants were acquitted by juries…has made the American jury a controversial institution," writes Posner, chief judge of the U.S. Court of Appeals for the Seventh Circuit and a senior lecturer at the University of Chicago Law School. He examines the growing controversy over the jury system through a discussion of two well-written and informative books on the subject: Stephen J. Adler's *The Jury* (Times Books) and Jeffrey Abramson's *We, The Jury* (Basic Books).

Samuels, David. "Presidential Shrimp" (*Harper's Magazine,* vol. 292, no. 1750, March 1996, pp. 45-52)

The credibility or viability of Bob Dole's presidential campaign could be gauged by the candidate's financial strength in fund-raising efforts even before the first primary vote had been cast, says Samuels. He takes a look at Dole's high-powered fund-raising, including a December fund-raiser held in Boston to honor the Doles' twentieth wedding anniversary. There, guests who contributed $1,000 a plate to dine in an "anonymous" ballroom, hoped to help Dole and perhaps meet potential business clients. Samuels characterizes Dole as Ahab-like in his inexorable pursuit of the presidency.

Turner, William Bennett. "What Part of 'No Law' Don't You Understand?" (*Wired,* vol. 4, no. 3, March 1996, pp. 104–112)

In view of what the U.S. Supreme Court has said, "some thoughtful observers of new technology have proposed constitutional amendments to ensure that government does not censor, manage, or restrict electronic communications." But constitutional scholar and attorney William Bennett Turner asserts that there is no need for a new First Amendment for digital communication. He argues that adherence to the bedrock principles of First Amendment interpretation that have developed over the first two centuries of the republic will suffice.

Valentine, Victoria. "Change Agent" (*Emerge,* vol. 7, no. 5, March 1996, pp. 30–36)

After ten years in the U.S. Congress, including a stint as chairman of the Congressional Black Caucus, Kweisi Mfume made one of the biggest changes in his life—becoming the new president and chief executive officer of the crisis-riddled, financially strapped NAACP. The author profiles Mfume and whether he will be able to renew the Black community's interest and confidence in the NAACP—to recapture its role as the foremost civil rights organization.

The annotations above are part of a more comprehensive Article Alert offered on the home page of the U.S. Information Service.