

STATEMENT OF CHAIRMAN HENRY J. HYDE
"THE U.N. CRIMINAL TRIBUNALS FOR YUGOSLAVIA AND RWANDA:
INTERNATIONAL JUSTICE OR SHOW OF JUSTICE?"

February 28, 2002

The International Criminal Tribunals for the Former Yugoslavia and for Rwanda were established eight years ago to bring to justice perpetrators of genocide, war crimes, and crimes against humanity in the Former Yugoslavia and Rwanda.

These tribunals have enjoyed the strong support of the United States Congress and the United States Government. The Yugoslavia tribunal alone has received approximately \$20 million over the years in voluntary contributions from the United States—that is to say, contributions above and beyond what we have been required to contribute to the tribunal. And those required U.S. contributions have also been substantial; currently almost \$25 million per year for the Yugoslavia tribunal, and almost as much for the Rwanda tribunal. In addition, we have detailed to them some of our finest government lawyers—including our witness today from the Department of State, Ambassador Prosper—as well as criminal investigators and other experts.

Eight years into this exercise, I thought it appropriate to convene this hearing to assess how well the tribunals are doing. And I have to say that in preparing for this hearing I have learned of some unexpected problems.

We all know that in one of those strange turns of fate, the principal victims of the Rwandan genocide—the Tutsis—wound up in charge of the new government of that country. I would have expected the Tutsi government of Rwanda to be the strongest supporter anywhere of an international tribunal created to punish those who killed almost one million of their fellow Tutsis. But nothing could be further from the truth. Apparently, relations between the Rwandan government and the Rwandan tribunal have ranged from frosty to hostile over the years. This is a great mystery to me, and suggests that something is not as it should be with this tribunal.

In the case of the Yugoslav tribunal, we are all pleased that former Serbian President Slobodan Milosevic is now on trial for the crimes he appears to have committed. But serious questions have been asked about whether we helped or hindered the democratic evolution of Serbia by bringing Milosevic before the tribunal in the way that we did. And while we and our allies signaled a willingness to let democracy collapse in Serbia if Milosevic was not extradited, we have not been willing to run any risks ourselves to capture certain other well-known indicted war criminals in Bosnia, where we have both the capability and the legal authority to arrest them.

I realize that it is not fair to criticize the Yugoslav tribunal for decisions that have been made in Washington and other Western capitals. But I believe these inconsistencies are manifestations of an underlying problem. The Yugoslavia tribunal exists for a single purpose, and that is to dispense justice. Our interests in the former Yugoslavia go well beyond justice, however, to include peace and stability, national reconciliation, and democratic development.

The Yugoslav and Rwandan tribunals are the international embodiment of that slogan we often see on bumper stickers: "No peace without justice." The problem is that this slogan is demonstrably untrue. To see that this is so, we need only look at the situation today in such post-conflict societies as South Africa and El Salvador, where peace was restored not by prosecutors seeking to punish wrong-doers, but by truth and reconciliation commissions and general amnesties.

There are many other issues that I hope we can touch on today, such as whether the Yugoslavia tribunal has jurisdiction to prosecute Americans for our military actions in Kosovo in 1999, whether the tribunals could be better-managed, and the degree to which political considerations have colored prosecutorial and judicial decision-making within the tribunals. Finally, I think it might be interesting to explore the question why the United Nations is not seriously considering establishing similar tribunals to address war crimes in countries like Cambodia, Sierra Leone, and East Timor, and what that tells us about the perceived success of the two existing tribunals.

But I will stop here and recognize Mr. Lantos for any opening comments he may have.