

**STATEMENT OF  
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AMBASSADOR-AT-LARGE FOR WAR CRIMES ISSUES  
UNITED STATES DEPARTMENT OF STATE**

**The U.N. Criminal Tribunals for Yugoslavia and Rwanda:  
International Justice or Show of Justice?**

BEFORE THE  
COMMITTEE ON INTERNATIONAL RELATIONS  
UNITED STATES HOUSE OF REPRESENTATIVES

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Mr. Chairman, members of the committee, I thank you for this opportunity to discuss the work of the United Nations International Criminal Tribunals for Rwanda and the Former Yugoslavia. This hearing comes at an important time in the history of the two Tribunals which have been in existence since the early nineties. This hearing also comes at a time when the world is making dramatic advances in achieving accountability for grave atrocities and war crimes.

Leaders throughout the world can no longer expect to employ their might ruthlessly and remain above the reach of the law. And citizens worldwide are starting to feel that they are no longer at the mercy of forces of brutality, or that justice is nothing more than an unattainable abstraction. States that protect human rights and guard against war criminals are now becoming the norm. The rule of law is beginning to prevail over evil.

Nowhere is this more evident than today in Trial Chamber III in The Hague. Slobodan Milosevic, who only a year and a half ago was president of the Federal Republic of Yugoslavia, is now answering for his actions. The examination of his individual responsibility will hopefully remove any misperception of collective guilt of law-abiding Serbs. The rule of law is also strengthened by the trials in Arusha, Tanzania where the first-ever judgment for genocide was handed down and where a former head of state plead guilty for his part in the massacres.

The United States remains proud of its leadership in supporting the two ad hoc Tribunals and will continue to do so in the future. Their work is important and has greatly contributed to justice for the victims of war crimes and to ending impunity for those who would orchestrate and commit genocide. To date, at the International Criminal Tribunal for the former Yugoslavia 117 have been indicted, 67 persons have been brought into custody, 26 have been convicted, 5 acquitted, 11 are currently standing trial, and one is awaiting the judgment of the court. At the International Criminal Tribunal for Rwanda, 76 have been indicted, 57 have been brought into custody, 8 have been convicted, one acquitted, and 17 are currently on trial.

These efforts show that the Tribunals are on the path to success. However, despite these achievements, we recognize that there have been problems that challenge the integrity of the process. In both Tribunals, at times, the professionalism of some of the personnel has been called into question with allegations of mismanagement and abuse. And in both Tribunals, the process, at times, has been costly, has lacked efficiency, has been too slow, and has been too removed from the everyday experience of the people and the victims.

To address these abuses, we aggressively engage both with the United Nations in New York and directly with the Tribunals. This engagement is producing results.

We are now seeing the UN headquarters and the Tribunals taking action to remedy these wrongs. The UN's Office of Internal Oversight Services has launched an investigation and will issue a report this spring. We successfully obtained approval for on-site auditors at both Tribunals last fall and expect them to be in place shortly. Additionally, the Tribunal for Rwanda is ahead of her sister Tribunal and has taken steps to cure a problem that has plagued both Tribunals: fee-splitting.

With new rules in place, the Tribunal for Rwanda has ongoing efforts to investigate abuses. Just recently, on February 6, the Tribunal dismissed a Scottish defense attorney after evidence of abuses were found and reported him to his home bar association for disciplinary action.

Mr. Chairman, the goal of this Administration is to see the Tribunals reach a successful conclusion. That means the Tribunals need to remain within the spirit of the founding resolutions and pursue those who bear the greatest responsibility. We recognize that the Tribunals were not established to judge each and every violation of law that occurred during the conflicts. And they were not designed to completely usurp the authority and, more importantly, the responsibility of sovereign states. In establishing these organs, the Security Council clearly envisioned the shared responsibility of local governments to adjudicate some of these serious violations. And it is this shared responsibility that will lead us to the successful conclusion we seek.

As a result, this Administration is calling for action. We have and are urging both Tribunals to begin to aggressively focus on the end-game and conclude their work by 2007-2008, a timeframe that we have stressed and to which officials from both Tribunals have referred.

We are calling on the regional states to do their part: to cooperate fully with the Tribunals' investigations and prosecutions. We are aggressively engaging the Federal Republic of Yugoslavia, Bosnia-Herzegovina, and Croatia at the highest levels to remind them of their international obligation to transfer all at-large indictees to The Hague. This is an obligation that must be honored. It is an obligation that must be fulfilled.

Not until accused architects of genocide such as Radovan Karadzic and Ratko Mladic go to The Hague will we be at the doorstep of normalization in the Balkans. These individuals cannot out-wait the pursuit of justice and will not remain beyond the reach of the law. We have the requisite patience and are committed to holding them to answer before the Tribunal.

We are engaging the Government of the Democratic Republic of the Congo and other states, pressing for the genocidaires, wanted for the 1994 massacres in Rwanda, to be apprehended and transferred to the UN Tribunal. Not until these organizers are brought to justice will peace in the Great Lakes Region of Africa begin to take hold and a true healing process begin.

We are soliciting our allies to enlist them in this cause. We have restated our commitment and determination to use the breadth of means at the disposal of the U.S. government to see the indictees of both of these Tribunals brought to justice in a timely fashion.

We are also pressing the governments in the former Yugoslavia to accept their responsibility, and are working with the government in Rwanda, to hold accountable the mid and lower level perpetrators. The lower level perpetrators in both of these regions do not get a free pass. We do not want to see an

abandonment of the state responsibility and are encouraging appropriate domestic judicial and administrative action.

The United States stands prepared to assist the states in rebuilding their shattered judicial systems to make them capable of dispensing truth-based justice and establishing systematic respect for the rule of law. As part of this commitment, we are jointly exploring creative approaches such as the Rwandan gacaca system that is designed to deal with the seemingly untouchable mass of offenders.

Mr. Chairman, in your letter requesting me to testify on these matters you asked me to address the future of these efforts. Since taking post as ambassador-at-large for war crimes issues I have often been asked what kind of future we see. I have been asked whether September 11th has changed our views toward a permanent International Criminal Court - it has not.

As with the previous U.S. Administration, we oppose the Rome treaty and will not send it to the United States Senate for advice and consent to ratification. We are steadfast in our belief that the United States cannot support a court that lacks the essential safeguards to avoid a politicization of justice.

We also believe that the ICC treaty is just that, a treaty. It does not and should not have jurisdiction over a non-party state. This does not mean that we intend to forgo our historical position of leadership in the pursuit of accountability and justice on the world stage. We remain committed.

We will continue to seek a world where every state fulfills its responsibility to safeguard the law. When war crimes do occur, we look first to a state's domestic system for action. We believe, as I testified last fall before the United States Senate Committee on the Judiciary, that:

The international practice should be to support sovereign states seeking justice domestically when it is feasible and would be credible, as we are trying to do in Sierra Leone and Cambodia. International tribunals are not and should not be the courts of first redress, but of last resort. When domestic justice is not possible for egregious war crimes due to a failed state or a dysfunctional judicial system, the international community may through the Security Council or by consent, step in on an ad hoc basis...

Our goal should be and this Administration's policy is to encourage states to pursue credible justice rather than abdicating the responsibility. Because justice and the administration of justice are a cornerstone of any democracy, pursuing accountability for war crimes while respecting the rule of law by a sovereign state must be encouraged at all times.

In the years ahead, the United States will continue to lead the fight to end impunity for genocide, crimes against humanity, and war crimes. We will help create the political will. We will continue to seek to bring justice as close as feasibly and credibly possible to the victims in order to create a sense of ownership and involvement. In our work with the Rwanda and Yugoslav Tribunals, the Special Court for Sierra Leone, and elsewhere, we will stress that all parties have a responsibility on the road to justice.

For this noble cause to be successful, for justice to endure, the international community, the Tribunals, and the regional states must coordinate, accept their role and individual responsibility, and go down this arduous road together. With our strong support of these efforts, we will continue to overcome obstacles,

achieve accountability for the perpetrators, and secure the rule of law. In passing milestones and creating an environment where there is not a dependency on international mechanisms we will bring justice to the victims and restore confidence in domestic institutions in societies throughout the world.