

**U.S. AMBASSADOR FOR WAR CRIMES ISSUES DELIVERS REMARKS ON  
PREVENTION OF GENOCIDE AT CONFERENCE AT HOLOCAUST MUSEUM  
December 10, 1998**

SCHEFFER: I am very honored to have this opportunity today to address such a distinguished audience about measures to prevent genocide and other atrocities. I am particularly pleased to do so here, at the Holocaust Museum, in a week that recognizes the 50th anniversary of the Genocide Convention and of the Universal Declaration of Human Rights.

Our generation owes a debt to those who fought World War II and in its aftermath had the courage to frame principles of international conduct and law that redefined the meaning of human civilization. Our challenge today is no less daunting. For while my generation has not had to make the supreme sacrifices -- the millions of deaths and unprecedented destruction -- that gave birth to these two documents and are so nobly honored in this museum, we have a responsibility to defeat the demons of genocide and its companion in evil, crimes against humanity.

We also must bring to justice those who perpetrate such heinous acts. These "megacrimes" continued to engulf societies over the last half-century, and they have plagued the decade following the Cold War -- a decade that should have realized the full potential of the human spirit.

To better determine how to prevent genocide and other atrocities, we must know its origins. In contrast to the origins of the Holocaust, which centered on the rise of a highly disciplined military power fueled by the anti-Semitic principles of Nazism, our collective inability to prevent states from failing or collapsing in recent decades has been instrumental in the proliferation of atrocities.

In a recent report prepared for the U.S. government, two leading scholars -- Barbara Harff of the U.S. Naval Academy, and Ted Gurr of the University of Maryland -- describe the preconditions for genocide and politicide. They found that of the 36 episodes in which regimes have targeted ethnic, religious or political groups for destruction in whole or in part, 14 have occurred in Sub-Saharan Africa.

Atrocities almost always occur after a previous "state failure," usually an ethnic or revolutionary war. One in four state failures develops into genocide or politicide. The factors Harff and Gurr identified as being most closely related to occurrences of genocide and politicide between 1956 and 1996 are -- one, a ruling elite whose ethnicity is politically significant but not representative of the entire population; two, a ruling elite that adheres to an exclusionary ideology; three, a previous state failure; four, autocratic rule; five, and low trade openness.

Today a significant number of countries are vulnerable to an outbreak or continuation of atrocities in the near future. Many are located in Sub-Saharan Africa and include the Democratic Republic of the Congo, Rwanda, and Burundi. Sierra Leone, where mutilations and killings are sweeping the countryside, and Algeria, where massacres of civilians continue to terrorize that society, represent two emerging examples.

Killings in Afghanistan and Sri Lanka are of deep concern to us. The conflict in Kosovo this year has demonstrated not only the reality but also the potential for much greater death and destruction.

At the end of World War II, the survivors said "never again." The international community should have meant it. Genocide must not be the destiny of every generation. Nor, for that matter, must crimes against humanity or widespread war crimes be inevitable. The would-be perpetrators of atrocities must be put on public notice that the future is not theirs to dictate.

If we look back at this decade, the record of prevention is decidedly mixed. As I reported to the Committee of Conscience at the Holocaust Museum last April, it has taken some time for the U.S. government to come to grips with the essential need to react quickly to the commission of genocide and crimes against humanity, as indeed, they continue to challenge the political will of the international community far beyond our own shores. Determining whether genocide or widespread or systematic crimes against humanity have occurred requires us first to try to find out what are the facts. Identifying genocide as it unfolds is no simple endeavor despite its obvious character when viewed in retrospect.

Media accounts must be weighed with diplomatic observations, intelligence reports, and reporting by human rights NGOs. Nor is it possible, usually, to ascertain easily, in real time, the necessary intent required by the Genocide Convention to establish the crime of genocide.

The United States hesitated in 1992 during the worst atrocities of the Bosnian conflict. From 1993 to 1995, we encountered many obstacles to acting decisively in Bosnia. In the meantime, tens of thousands of civilians perished, including at Srebrenica. The agony that preceded the U.S.-led Dayton peace agreement of 1995 must serve as a lesson for the future.

But we must also recognize that implementation of the Dayton agreement serves powerfully to prevent further carnage in Bosnia and Herzegovina today. This year we witnessed a rampage of death and destruction in Kosovo that we had sought to prevent through diplomacy and built a NATO consensus to confront. We are working very hard diplomatically and militarily to create stability in Kosovo and permit its suffering population some safety.

In Central Africa, particularly the Democratic Republic of the Congo, Burundi and Rwanda, we know that genocide is a clear and present danger.

One year ago, Secretary of State Madeleine Albright said in Addis Ababa that "we and the international community should have been more active in the early stages of the atrocities in Rwanda in 1994, and called them what they were -- genocide." In March of this year, President Clinton acknowledged, while visiting Kigali, that the international community, together with nations in Africa, must bear its share of responsibility for the genocide of 1994.

He said, "We did not act quickly enough after the killing began. We should not have allowed the refugee camps to become safe havens for the killers. We did not immediately call these crimes by their rightful name: genocide."

These are important statements. They were intended not only as efforts to set the record straight but also to establish a new U.S. policy so that we can minimize and, we fervently hope, deter the actual occurrence of genocide and other atrocities in the coming years. While we need to identify genocide as soon as we can, we also need to ensure that any such description of heinous crimes does not trivialize the crime of genocide or ignore the severity of crimes against humanity, both of which should be regarded with outrage by civilized peoples.

The U.S. government has been of the opinion since 1993 that genocide occurred in Bosnia and Herzegovina. For Rwanda, we reached this conclusion in May of 1994.

There also needs to be a better understanding of Article II of the Genocide Convention. Under Article II, states parties confirm that genocide, whether committed in time of peace or war, is a crime under international law that they undertake to prevent and punish. The U.S. Senate, in ratifying the Genocide Convention, understood this to express the general purpose and intent of the States Parties, without adding any independent or specific obligation to the Genocide Convention.

A state party may choose from among a range of measures -- diplomatic pressure, economic sanctions, judicial initiatives or the use of military force -- to "undertake" to prevent or punish genocide. But the state party's choice is necessarily discretionary. No government should be intimidated into doing nothing by the requirements of Article II; rather, every government should view it as an opportunity to react responsibly if and as genocide occurs.

Our experience with genocide points to some important lessons.

We need to heed the warning signs of genocide. Officially directed massacres of civilians of whatever numbers cannot be tolerated, for the organizers of genocide must not believe that more widespread killing will be ignored.

"Neutrality" in the face of genocide is unacceptable and must never be used to cripple or delay our collective response to genocide.

The international community must respond quickly to confront genocidal actions. The consequences of genocide are not only the horrific killings themselves but the massive refugee flows, economic collapse, and political divisions that tear asunder the societies that fall victim to genocide. The international community will pay a far higher price coping with the aftermath of genocide than if it were prepared to defeat genocide in its earliest stages.

I have focused on genocide. History, however, teaches us that we have to be prepared to respond to situations of widespread or systematic killing, rape, or other abuses--and that those deserve the same moral condemnation, criminal prosecution, and efforts to prevent and to punish that we give to the crime of genocide.

Crimes against humanity can occur--and have occurred--in situations where the specific requirements of genocide have not been met. We must not underestimate their significance.

The president said in Kigali last March that he was directing his administration "to improve, with the international community, our system for identifying and spotlighting nations in danger of genocidal behavior, so that we can assure worldwide awareness of impending threats."

This morning the president announced at the White House the establishment of a genocide early warning system in the U.S. Government. The core of the system will be the Atrocities Prevention Interagency Working Group, which I have the honor to lead. It will strengthen our capabilities to detect and analyze the warning signs of genocide and make recommendations for possible countermeasures. The group will enable our policy makers to understand better what is occurring at the earliest possible stage and be better prepared to consider possible responses to stem the tide of killing.

Our diplomatic and intelligence communities will collect and analyze information with a keen perspective on the warning signals of these heinous crimes against humankind.

SCHEFFER: At the State Department, Secretary Albright has just established the War Crimes and Atrocities Analysis Division in the Bureau of Intelligence and Research. This new division works closely with my office -- namely, the Office of War Crimes Issues -- and with the intelligence community to improve the collection, analysis, and dissemination of all-source reporting on war crimes, crimes against humanity, and genocide. The Atrocities Prevention Interagency Working Group will use this expanded and better organized information base to consider effective preventive measures.

We also will work with other governments to ensure that information on emerging atrocities is known as quickly as possible so that effective collective responses can be more likely, and rapid.

I want to acknowledge that there have been impressive academic and think tank studies on preventive measures for genocide and other atrocities. I imagine authors of some of these studies are in this audience. We can learn much from these documents as the President's initiative is fully implemented in the months ahead. We also know that an enormous amount of critical information on the warning signs of genocide and on the atrocities themselves is generated by courageous individuals working with non-governmental organizations and by brave journalists who risk their lives in conflict areas. Their input will be central to our own collection efforts and analysis of events.

We must be realistic. The United States cannot promise effective responses in every case. There is no cookie-cutter approach to the complex madness of atrocities. Nor is the United States necessarily prepared to go it alone unless our national security or other critical concerns are at stake. This is a challenge for all nations.

We must improve the international community's capability to react multinationally and rapidly to these crimes. Any law-abiding and humane government is exceedingly cautious about putting its military forces at risk, particularly when the risk is not associated with the defense of its people or its allies.

But we will not be intimidated by the perpetrators of these heinous crimes, wherever these crimes may be committed. And we will expect other governments to pay heed and work toward prevention of atrocities.

In that spirit, I am pleased to report that next week at the White House we will launch consultations with the Government of Rwanda about the International Coalition Against Genocide that President Clinton helped create during the Entebbe Summit for Peace and Prosperity earlier this year. The coalition will foster international coordination in support of efforts within the Great Lakes region of Africa to -- enforce anti-genocide measures; provide a forum for high-level deliberations on long-term efforts to prevent genocide in the future; revive the U.N. Arms Flow Commission; accelerate programs to bring criminals against humanity to justice and to develop durable justice systems that are credible, impartial, and effective; and ensure international support for the findings of the OAU Eminent Personalities Study of the Rwanda Genocide and the Surrounding Events.

A full administration team will engage in these discussions, and we will work hard with others to build the coalition in the upcoming year.

Another pledge that Secretary Albright and the president made during their trips to Africa was the launching of the Great Lakes Justice Initiative.

The purpose of the initiative is to help create throughout the Great Lakes region judicial systems that are impartial, credible, and effective. We believe such judicial systems can stand as preventive shields against atrocities and, through greater respect for the rule of law, deter crimes against humanity. A few weeks ago during a visit to Rwanda, I notified the government of a \$5 million down payment on Great Lakes Justice Initiative projects in that country.

These projects are designed to manage the staggering caseload of 130,000 genocide suspects in Rwanda and other domestic justice requirements in that tortured land. If further genocide in Rwanda is ever to be prevented, this huge number of incarcerated suspects must be brought to justice or rehabilitated so that Rwandan society can begin to heal. No one can walk through Rwandan crowded prisons, as I have, and leave confident of that society's internal stability.

We also are focusing our attention on military justice in Rwanda. U.S. support for military justice training programs has been well received by the Rwandan military. The better educated Rwandan officers are on the laws of war and international humanitarian law, the more likely are the prospects of a well-disciplined Rwandan army in the field.

I also found encouraging a new desire by the leadership of the Rwandan army to have its troops instructed in human rights law and for their performance to be better scrutinized.

Justice and accountability are bulwarks against genocide. The administration's strong support for justice and accountability will continue. The International Criminal Tribunals for the Former Yugoslavia and Rwanda must fulfill their mandates, however long that takes.

Their legitimacy has been long established. Their duty to bring justice to the merchants of evil in those societies must be our collective duty as well.

U.S. financial, diplomatic, logistical, and enforcement support for each tribunal is second to none and shall not waiver. In accordance with the president's pledge, we are working on witness contributions to support the Yugoslav war crimes tribunal, including for investigations in Kosovo, and are planning use of voluntary funds to educate Rwandans country-wide about the work of the International Criminal Tribunal for Rwanda.

The arrest last week of General Krstic in the U.S. sector of Bosnia and his transfer to The Hague to stand trial before the Yugoslav war crimes tribunal demonstrated U.S. resolve to see that all persons indicted by the tribunal will be brought to justice.

Krstic is indicted for genocide, crimes against humanity, and war crimes. He commanded the Drina Corps, the Bosnian Serb military unit that captured Srebrenica. At least 7,000 Bosnian Muslim men were killed after the fall of Srebrenica. Many were hunted down by Krstic's forces, captured and then killed.

Krstic was promoted after the assault on Srebrenica. He is a major indictee who is now in custody in The Hague. His colleagues, Radovan Karadzic and Ratko

Mladic, will one day join him there. We wish they had the courage to voluntarily surrender. But one way or another, they will be brought to justice. A total of 35 indictees have been taken into custody in The Hague since its establishment. Currently, 27 indictees are in custody there and 29 indictees remain at large. One indictee is out on bail.

Additional trial judges were recently elected by the UN General Assembly for each tribunal.

The arrest record of the Rwanda war crimes tribunal is extremely impressive, and the number of indictees in custody, now 31, is certain to rise. The recent convictions on genocide charges of Akeyesu and Kambanda have shown the world that this business of international justice really can work and, we hope, help prevent further heinous crimes.

The administration is pleased that Congress recently adopted legislation that authorizes Secretary Albright to offer rewards for information about persons indicted by the Yugoslav war crimes tribunal.

She has authority for \$15 million in FY 1999 and up to a maximum of \$5 million per reward for information leading to the arrest or conviction of an indictee.

Substantial increases for the budgets of both war crimes tribunals are now under consideration by the UN General Assembly. We support such increases because of the larger case load -- which indicates greater success by each tribunal -- and the investigative work that remains to be completed.

International justice is expensive, and we need to continue to meet the challenge of how to fund it from both public and private sources.

There will be other challenges of justice in our time. The last quarter has left a trail of death and destruction that remains unaccounted for. Cambodia under the Pol Pot regime, Iraq under Saddam Hussein's regime, the atrocities in Burundi and the Democratic Republic of the Congo, the killings in Afghanistan -- these are but some of those challenges.

The international community may need to consider additional ad hoc international criminal tribunals or other measures of accountability in the near future. We cannot leave the 20th century with the stench of these crimes trailing our children into the next millennium.

It may seem paradoxical, then, that the United States has not supported the Rome treaty on a permanent international criminal court. As head of the U.S. delegation to the UN talks on an international criminal court, I was deeply disappointed with the final text of the treaty.

While important U.S. objectives were achieved in the treaty, a few fundamental provisions were unacceptable. Since 1995, the question for the Clinton Administration has never been whether there should be such a court but rather what kind of court it should be in order to operate efficiently, effectively, and appropriately within a global system that requires our constant vigilance to protect international peace and security.

Before the General Assembly in 1997, the President sought the establishment of an appropriate international criminal court by the end of this century.

The United States has special responsibilities and special exposure to political controversy over our actions. This cannot be taken lightly when issues of international peace and security are at stake. The illogical consequence of one provision in the treaty, particularly for non-parties to the treaty, will be to limit severely those lawful but highly controversial and inherently risky interventions that the advocates of human rights and of world peace so desperately seek from the United States and other military powers.

This is particularly true of efforts to prevent or stop genocide or crimes against humanity. There will be significant new legal and political risks to such interventions, which up to this point have been mostly shielded from politically motivated charges.

Two days ago the United States joined consensus in the UN General Assembly to adopt a resolution that authorizes the work of the Preparatory Commission on the international criminal court in 1999. We joined consensus in significant part because there will be an opportunity during the Preparatory Commission for a serious discussion on ways to enhance the effectiveness and acceptance of the Court among governments.

To be fruitful that effort should enable a process to unfold resulting in a treaty that can attract our support and that of other governments representing large and diverse parts of the global population. We believe the effectiveness and acceptance of the court will depend to a significant degree on the definition of the court's jurisdiction and whether the court addresses the fundamental concerns of a wide range of governments. We also believe that the problems with the Rome treaty are solvable.

The stakes for international justice and for international peace and security are too great to accept anything else but a serious effort to put this permanent court on the right footing from the beginning. The advantages that can be derived from strong United States support for the international criminal court greatly outweigh any theoretical benefit derived from jurisdictional provisions that may not be effective, are objectionable under international law, and run the risk of dividing governments on an issue, international justice, that will be difficult enough to achieve if we are in a position to act together.

The political will for international justice is clear. Now we must ensure that we can meet this enormous challenge in practice. The United States stands prepared to work with other governments to create the most effective and most acceptable international criminal court as quickly as possible.