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ARTICLES

PREVENTING GENOCIDE: JUSTICE AND CONFLICT RESOLUTION IN THE POST-COLD WAR WORLD

*John Shattuck**

What does our post-Cold War world look like? In a word, it promises freedom but is haunted by genocide.

Looking back from the spring of 1997, we seem a long way from the heady days of 1989, when changes that we had not expected to see in our lifetimes swept Europe in a matter of weeks. The euphoric sentiments of 1989 were expressed in Francis Fukuyama's celebrated essay "The End of History?"¹.

It is, of course, easy to deride Fukuyama's vision. As a recent New York article puts it, "[h]istory did end for a little while in 1989, but only for three years, the life span of most fads." Still, that fails to do justice to the deep hopes and ideals set free by the collapse of the Berlin Wall to shift the terms of relations between the rulers and the ruled throughout Europe and beyond.

POST COLD-WAR EVENTS SINCE 1989

So what has happened since 1989? First, the good news. The totalitarian monolith stretching across the Eurasian land mass has collapsed. Many of the countries of Central Europe are democra-

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1. Francis Fukuyama, *The End of History?* THE NATIONAL INTEREST 3-18 (Summer 1989).

cies, and democracy is also blooming in the Baltics. Although the future of the countries of the former Soviet Union is far less certain, they are all in various states of transition. On two separate occasions, voters in Russia have gone to the polls to express their desire for democratic change. Democratic strides have been made in Georgia and in the Ukraine where there has been a transfer of executive power through elections. It is true that the picture remains bleak in countries like Belarus, Tajikistan and Turkmenistan, but I think it is safe to say that, whatever the setbacks and however tentative the progress, democratic change is slowly occurring in many parts of the former Soviet Union.

In our own hemisphere, almost all the military dictatorships that caused such deep human suffering have been swept away by civilian governments. Despite continuing major human rights abuses and setbacks in countries such as Peru and Colombia, the conflicts in Nicaragua, Honduras, El Salvador, Chile, Argentina, Brazil and Uruguay are all now settled by the ballot-box rather than through resort to arms. In Guatemala, the process of national reconciliation reached a milestone with the signature of the final peace accord in December 1996, putting an end to the longest-running armed conflict and human rights nightmare in our hemisphere. The democratic process in Haiti that was restored with the return of President Aristide also reached a landmark with a peaceful transfer of presidential power through elections in 1996.

In Africa, the curse of apartheid has been removed from South Africa, and several other African countries are now making substantial democratic strides, despite setbacks in many parts of the continent.

In Asia we have seen democratic revolution in the Philippines, elections in Mongolia, and the emergence of pluralist politics in Thailand, Taiwan, and South Korea. Although the process has far to go, political reform has begun in Vietnam. China is a huge question mark but, even there, despite the severe repression of dissent, China's growing economic openness and halting engagement with the international community offer some hope over the long term for peaceful democratic change.

FORCES OF DISINTEGRATION

But there is another, far darker way of looking at the post-Cold War world. What we see through this darker lens may drive

us to conclude that the positive trend I have just outlined is no more than wishful thinking, and that far from witnessing the end of history, as Fukuyama would have it, we are watching an ever-accelerating repetition of the horrors of the past.

Indeed, our world seems at times to be both falling apart and coming together, as *forces of integration* in communications, commerce, transportation and finance—are confronted by *forces of disintegration* in the ethnic and religious conflicts we see throughout the post-Cold War world. These two sets of forces are to some extent related: People who see themselves thrown into dizzying and disorienting change have often sought refuge from an uncertain future in their national or ethnic or religious identity, and they have too often been spurred on to violence by political leaders seeking to enhance their power by exploiting insecurity and fanning the flames of communal violence.

Some observers, such as Samuel Huntington, have gone so far as to assert that increasing conflict between what he calls different “civilizations” will be the defining characteristic of future world politics. Huntington argues that not only has history *not* ended, but that we are left today with *nothing but history*; that historical tides of conflicting culture, religion and ethnicity which we cannot hope to control will increasingly hold sway over international relations.

I do not subscribe to the Huntington thesis, but it is undeniably the case that the end of the Cold War and the discrediting of authoritarian structures has presented us with a lethal mix of problems involving ethnic, religious, and other forms of group conflict. Typically, these situations involve cynical leaders who exploit extreme nationalism, weak or corrupt government institutions, and the absence of legal institutions capable of making power accountable.

In Bosnia and Rwanda we have seen most graphically where all of this can lead—to massive human rights abuse, and then the last stop, to genocide.

We have seen that modern genocide of as many as a million people can occur in just a few weeks, without modern weapons, as it did in Rwanda. We have seen the enduring misery of the refugee camps, and the political consequences that are now being played out in the crisis wracking all of Central Africa. We have seen genocide in the heart of Europe, in Bosnia, made all the more ghastly by the destruction of the multicultural civilization symbolized by Sara-

jevo and the bridge at Mostar. And we have seen other, perhaps not genocidal, but deeply disturbing ethnic and religious conflicts—in Nagorno-Karabakh; in Chechnya, in Afghanistan, in Northern Ireland, in Liberia, in East Timor, and in Tibet, to name but a few.

One of the most stark aspects of all these conflicts is that they are directed against civilians who have no defense other than the principles of international law.

These conflicts defy easy solutions, but a coherent approach is urgently needed for dealing with them.

STRATEGY FOR PREVENTING GENOCIDE

In policy terms, we are beginning to understand how to create and use new tools to develop a strategy for preventing genocide and crimes against humanity. There are three broad elements of this strategy: First, early warning and prevention; second, active intervention; and third, justice and the rule of law. These three elements correspond to different stages in the development and resolution of post-Cold War conflicts. Let us examine each one in turn.

EARLY WARNING AND PREVENTION

How can we work to prevent the outbreak or recurrence of what has happened in Bosnia and Rwanda? The starting point must be early warning and preventive action. Human rights and refugee relief missions have often proved to be reliable bearers of early warning. Over the past four years, we have begun to institutionalize this capability through two key UN institutions: the Office of the U.N. High Commissioner for Human Rights created in 1993; and the Office of the U.N. High Commissioner for Refugees, which has been significantly expanded in scope in recent years. The two High Commissioners have established major field operations and early warning systems in Rwanda, Bosnia, Burundi, Georgia, Colombia, Cambodia, Vietnam, Haiti, Guatemala, and elsewhere. In Eastern Europe, the OSCE's High Commissioner for National Minorities has played a similar role.

PREVENTATIVE DIPLOMACY

Once forewarned of the possibility of new or renewed violent conflict, preventive diplomacy can take a number of forms. Measures like visa restrictions, arms restrictions, denial of access to inter-

national organizations and international financing, and economic sanctions can be deployed where appropriate to contain a conflict or to put pressure on the leaders who are stimulating it. That is the U.S. policy today toward Pale, Belgrade and Zagreb, all of which are harboring war criminals and disrupting the peace process in Bosnia.

MEDIATION

Sometimes conflicts can be stopped by mediation. This involves the deployment of multilateral missions, not only through the UN, but also through regional organizations like the OAS, the OAU and the OSCE. In Guatemala, El Salvador, and Haiti the UN has teamed up with the OAS to mount effective human rights field missions to help mediate an end to conflicts involving massive human rights abuses.

This kind of preventive diplomacy has often registered successes that go unreported. In Estonia, for example, the OSCE sponsored a series of local open forums in 1993 and 1994 that brought ethnic Estonians together with ethnic Russians and effectively defused the potential for ethnic conflict that existed in the years immediately following the breakup of the Soviet Union. This effort was backed by U.S. diplomacy, particularly the work of my late colleague Bob Frasure, who later gave his life trying to make peace in Bosnia.

CIVIL MILITARY RELATIONS

Closely related to these post-Cold War tools of preventive diplomacy are new efforts to promote stronger civil-military relations in countries with histories of human rights abuses by the military. Throughout Latin America military leadership is being brought under civilian democratic control. As part of this effort the United States is now requiring the vetting of military leadership to screen out human rights abusers as a condition of providing military training or assistance.

THE MEDIA

Finally, a significant new tool of preventive diplomacy is the media. In Belgrade and Pale, state-controlled media have been used by the instigators of genocide to fan the flames of ethnic con-

flict in Bosnia. This dirty work of hate radio and television is being countered by heroic local independent media, which are supported by the international community. These new "preventive media" outlets are communicating messages of reconciliation and broadcasting international war crimes trials. Sometimes more active steps are needed, such as those taken by NATO in 1997 to block broadcasts from Serb television in Pale calling for attacks on troops and civilian peace keepers.

ACTIVE INTERVENTION

When early warning and prevention fail, active intervention, including in some cases military intervention, becomes necessary, especially when large numbers of civilians are threatened by imminent human rights catastrophes like genocide.

As the preeminent global power, the U.S. has unique moral and political responsibilities in the world. It also has a great national interest in international stability. But the U.S. cannot act alone. International—and especially regional—coalitions must play the central role in settling major conflicts, and it is our responsibility to galvanize and support these coalitions. It is axiomatic that the greater the number of countries that are involved in military intervention to contain a conflict—whether through the auspices of the UN, through regional organizations like NATO, the OAS, the OAU, and the OSCE, or through *ad hoc* coalitions of the willing—the greater the resources that can be mobilized, the greater the legitimacy of the peacemaking effort, and the greater the likelihood of success.

And there have been successes. In El Salvador, Guatemala and Haiti, the U.S. worked with the UN, the OAS, and regional leaders to build a peace process. And UN and African leaders effectively brokered the settlement of conflicts and the transition to democracy in Mozambique and Namibia.

But these success stories are overshadowed by the massive failures of early international intervention in Bosnia and Rwanda, the two signature conflicts of the post-Cold War World.

THE LESSONS OF BOSNIA AND RWANDA

Several major lessons stand out from the Bosnia and Rwanda experiences:

The first lesson is a stark one: Traditional peacekeeping with limited rules of engagement is completely inadequate when a post-Cold War conflict escalates to genocide. The failure of UN peacekeeping in Bosnia and Rwanda was largely a failure of international will to respond by force to acts of blatant aggression and massive violations of international humanitarian law. By contrast, the US-led multinational force deployed in Haiti in 1994 and the NATO force deployed in Bosnia in 1995 were authorized to respond directly to renewed aggression or to violent attacks on civilians. We now know that in these situations intervention requires peacemaking as well as peacekeeping, by well-trained forces under rules of engagement that are up to the task.

The second lesson of our experience with genocide in Rwanda and Bosnia is an equally painful one: We now know that humanitarian relief sometimes can actually fuel a conflict, and that food and refugee assistance without active intervention can be a recipe for disaster. International refugee workers in Rwanda found themselves inadvertently supporting thousands of Hutu genocidists who used their camps to hide and plan further attacks on Tutsis in Rwanda and Zaire; and in Bosnia, relief shipments were often diverted to support the architects of ongoing ethnic cleansing.

The third lesson of post-Cold War conflict is that we need to define the criteria for military intervention. I suggest the following as a start: The prospect of success in containing the conflict through intervention should be high; the danger of regional instability if the conflict is not contained should be great; and the likelihood that a massive number of civilian deaths will occur if there is no intervention should be evident. Applying these criteria to real conflicts points toward active military intervention in Bosnia, Rwanda and Haiti, where all these criteria are met, but not, for example, in Tibet, where they are not.

JUSTICE AND THE RULE OF LAW

The final lesson of Bosnia and Rwanda is the lesson of this conference. It is a very simple lesson, but one that peacemakers seem to learn with great difficulty, and that is that peace—real peace—is not possible without justice, real justice, particularly when it was genocide and crimes against humanity that shattered the peace in the first instance. This is true for several reasons.

First, and above all, those guilty of war crimes must be punished or exposed if the victims and their survivors are to be reconciled with their countrymen and with the new governmental authority. I will never forget the tears of anguish I saw from the women of Srebrenica as they pleaded with me for help in obtaining information about their husbands who had mysteriously disappeared. They were not asking for revenge, but they were desperate for truth.

Beyond truth, only individual justice can help remove the stigma of guilt by association, which, if left unaddressed, will merely serve to perpetuate continuing cycles of violence. Not all, or even most Serbs, Croats, or Hutus were guilty of genocide or crimes against humanity. Affixing individual responsibility is the only way to make that clear.

Finally, accountability for the perpetrator of genocide is the only effective warning to others who might be tempted to engage in similar acts in the future.

For all these reasons the U.S. has been the strongest political and logistical supporter of the UN War Crimes Tribunals for the Former Yugoslavia and for Rwanda.

WAR CRIMES TRIBUNALS

As we know very well from all that has been said here today, both Tribunals are alive, if not entirely well, and both are beset by challenges. Under the outstanding leadership of Justice Arbour, the Yugoslav Tribunal has rendered verdicts and begun a process of addressing the most serious crimes against humanity committed in the Balkan conflict. The major challenge which the international community must meet if the Tribunal is to be judged a success is to bring about the arrest of all those indicted who remain at large. So long as Radovan Karadzic and other indicted war criminals continue to be free there can be no lasting peace in Bosnia.

The Rwanda Tribunal has had considerable success in gaining custody of those indicted as principal perpetrators of the Rwandan genocide. Twenty-one defendants, including some of the top planners, the leader of the genocide, and the director of Rwandan hate-radio are all now in a UN prison in Tanzania. But the Rwanda Tribunal has been plagued by major administrative problems that

have seriously impeded its effectiveness. Hopefully, these are now being solved under Justice Arbour's leadership.

Both tribunals are struggling to fulfill their missions and maintain their international support. Despite their flaws I believe they represent the beginnings of an attempt to develop an international legal approach to controlling global disorder.

In this endeavor, we are moving in uncharted territory, because not even the Nuremberg Tribunal tried to bring justice to ongoing conflicts as a way of trying to end them.

CONCLUSION

What does humanitarian law and justice mean to Americans?

Because the United States is an open society, with a robust judiciary, a rich civic culture and, with all its flaws, a compelling democracy, it is often hard for the American people to grasp why it is important that they should work for the rule of law around the world, why their tax dollars should support War Crimes Tribunals for the Former Yugoslavia and Rwanda.

But in the end I am convinced that Americans believe that moral leadership should remain at the heart of our foreign policy. In the case of international justice, they know that our own national interest dictates that we exercise both moral and practical leadership to fight genocide and crimes against humanity, because the slogan, "never again," is too powerful to be allowed to become hollow.

What lessons can be learned from our experience in dealing with the new conflicts of the post-Cold War world? I draw three conclusions.

First, the good news: Early intervention (for example, in the Baltics, or in Macedonia) is far more cost-effective than later intervention (for example, in Bosnia) particularly when it occurs before a conflict has crossed the threshold of sustained armed violence. This is so because the parties are more amenable to intervention at early stages; the costs of peacekeeping are far lower; there are fewer political and military risks; and it is less likely that force or sanctions will be needed.

My second conclusion, however, is that it is hard to get the attention of the world in the early stages of a conflict, and often, only possible to do so after disaster has occurred. This is so because low-level political conflicts have difficulty competing with real cri-

ses for the time of the international community. Here, the role of the media is crucial. As many have said, CNN got us into Somalia, and CNN got us out.

My third conclusion is that there is "conflict resolution paradox." That is to say, when the parties to a conflict are most likely to allow outsiders to help resolve it, the international community is least likely to get engaged, but when the international community gets engaged and intervention becomes more likely, the parties become more resistant to intervention. In Bosnia that is why an ounce of prevention in 1992 would have been worth many pounds of cure later on.

But I have a dream that we can overcome this paradox. That dream is to apply what we have learned since the end of the Cold War about the nature of conflicts that have turned to genocide and crimes against humanity, and to build a series of new international institutions to help stop them. In addition to the two War Crimes Tribunals and an International Criminal Court, what I have in mind is an International Institute for Conflict Resolution. The Institute would be based in the UN and centered regionally; it would draw on the experiences of leaders and technicians who have worked successfully to resolve conflicts - for example, in South Africa, the Baltic states, Guatemala, El Salvador, and Namibia; and it would provide a forum for addressing more difficult continuing conflicts - for example, Yugoslavia and Rwanda.

At the heart of this Institute would be a training facility that would integrate the civilian and military aspects of conflict resolution and prepare peacekeepers to operate under a common set of guidelines and rules of engagement.

The Institute would serve as a source of support for the War Crimes Tribunals and other international institutions of justice and accountability that are such crucial elements of conflict resolution.

I envision that the Institute would have four regional centers operating under the joint auspices of the UN and regional organizations in the Americas, in Africa, in Central Europe, and in Asia.

There could be no more important gift to the 21st century from the bloodiest century in history than a commitment to learn from its failures and mistakes, to try to contain conflicts *before* they turn to genocide, and to bring to justice those who commit this most horrendous of all crimes.

1998 is the Fiftieth Anniversary of the Universal Declaration of Human Rights. There could be no better way to breathe new life into that powerful symbol of the world's collective hopes and dreams than to renew the world's commitment to arrest and prosecute indicted war criminals, and to create an International Institute for Conflict Resolution.

In Montgomery, Alabama there is a monument to all those who have struggled for civil rights in America. It is a simple slab of granite over which flows an eternal stream of water. Inscribed above is Martin Luther King's favorite verse from the Bible, "Let justice roll down like water, and righteousness like an ever-flowing stream." Before the 20th century ends, we should build a strong base of support for all those engaged in the resolution of genocidal conflicts and the prosecution of crimes against all humanity. We should do so in the way best expressed by Vaclav Havel, one of the spiritual fathers of all that is most promising in our post-Cold War world. Havel put it this way:

I am not an optimist because I am not sure that everything ends well. Nor am I a pessimist, because I am not sure everything ends badly. Instead, I am a realist who carries hope, and hope is the belief that freedom has meaning . . . and that liberty is always worth the struggle.

