

THE MATHEW O. TOBRINER MEMORIAL LECTURE*

Exposing Human Rights Abuses—A Help or Hindrance to Reconciliation?

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I. Introduction

For a number of reasons, I was deeply honored and delighted to have been invited to deliver this Mathew O. Tobriner Memorial Lecture. In the first place, it is a privilege to be associated in this way with a remarkable and beloved member of the Supreme Court of California. He was a creative judge who used the law to protect the individual citizen. That the law should be so used would seem obvious to most intelligent people. Yet, frequently the law itself can become a limiting factor in enabling rights to be exercised. The line between

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judicial activism, so necessary to ensure that the law and morality coincide, and judicial positivism, is a difficult one to draw. The activists on any judicial bench become controversial and will be accused of usurping the legislative function. The positivists will tend to tread safer paths and be less in the public arena. A good judiciary requires both kinds of judges. Too many activists would make the law, at best, uncertain and, at worst, capricious. Too many positivists would make the law static and unable to cope with a changing society.

Justice Tobriner, by all accounts, chose the more difficult path. His guide to the law, to quote the words of Professor Lawrence Tribe was: "the commitment to justice—to freedom, equality, and community." That his family and friends established this memorial to him in association with Hastings College of the Law is a manifestation of the esteem in which Justice Tobriner was held.

I also feel privileged in having this association with the law school and the opportunity it has given to me to meet with its faculty and students. I need hardly add how honored I am to join the list of eminent jurists who have delivered past Mathew O. Tobriner lectures.

II. Past Treatment of Human Rights Abuses

In the second half of the twentieth century, many countries have moved from repressive regimes to democratic governments. The causes of these changes have varied greatly. After the Second World War it was a consequence of the defeat of Nazi Germany. More recently, in Europe it has been the dismemberment of the Soviet Union. In South Africa it has been the victory of the anti-apartheid movement. In South America it has been the inability of military regimes to contain the demands for civil government.

In all of these countries the forces which led to change were complex and were both political and economic. However, there was one problem common to the emergent democratic societies: the problem of how to deal with those former leaders and their collaborators who were responsible for past human rights abuses. Were they to be punished or were they to be granted immunity? Was justice to be granted or denied to the victims? Was the very stability of a new and fragile democracy to be threatened by the endeavor to publicly record and acknowledge the past?

The abuses of the old regime were frequently perpetrated in secrecy and even when they were not, those really responsible denied the events themselves or at least their own complicity with regard to them.

The demand by victims for justice is a common human trait and governments ignore it at their peril. If justice is denied, then victims in many cases will seek their own revenge. They will take the law into their own hands. Where past human rights abuses have been egregious and have occurred over a long period of time, the call for justice and in its absence, revenge, are all the more persistent.

The choices facing a new democratic government are:

1. To grant immunity or indemnity for past criminal acts;
2. To allow a regular justice system to operate and for ordinary courts to try and sentence any persons proven guilty of criminal conduct prior or subsequent to the transition to democracy;
3. To establish a truth and reconciliation commission or its equivalent in order to enable confessions of guilt for past human rights abuses to be traded for indemnities; and
4. A modified form of truth commission where the most serious offenders remain subject to loss of office or even prosecution.

It is instructive to consider the experiences of some countries which have adopted one or other of these options.

A. Denmark

During the Nazi occupation of Denmark, a number of Danes, for various reasons, collaborated with the occupiers. A few did so out of conviction. Many did so out of fear. Whatever the reason, after the installation of the first post-war government, two significant steps were taken by the Danish Parliament. First, the principle of *nulla poena sine lege*¹ was abandoned to the extent of retroactively criminalizing acts of collaboration committed during the occupation. Second, the death penalty, which had been abolished in 1930, was reintroduced. These drastic steps were taken in response to tremendous public demand.

Other occupied countries had governments in exile which passed laws making collaboration with the Nazi occupiers a punishable offence. Post-war governments ratified those laws and so avoided the appearance of retroactive legislation. In Belgium, the highest civil supreme court upheld the validity of the laws made by the government in exile.

The purges, executions, stripping of social rights and other punishments which followed Nazi occupation in the 1940s are not well

1. Meaning, "no punishment without law." BLACK'S LAW DICTIONARY 1044, 1215, 1315, 1556 (4th ed. 1968).

remembered. It may well deserve new research in an endeavor to determine the part it played in the redemocratization of those countries.

B. Australia

In the aftermath of World War II, hundreds of thousands of European refugees were given refuge in Australia. Unknown to the authorities, amongst them were a substantial number of Nazi officers and collaborators. Some were identified in the early 1950s, and calls were made for the Australian government to investigate and charge the suspects as war criminals. The government of the day decided that it was time for reconstruction and reconciliation and that bygones should remain bygones. The calls from victims for justice went unheeded and remained muted for the following thirty years.

In 1986 a number of alleged Nazi war criminals were identified and became the subject of media interest. Renewed calls for investigation and war trials were made and mounted. This time political considerations moved the government to set up a war crimes investigation unit and to change domestic legislation to permit jury trials in the ordinary criminal courts of Australia. The unit was given substantial resources and competent investigators. They travelled all over the world, including Eastern Europe, in search of evidence and witnesses. Over 840 cases were investigated and eventually three indictments were issued. One was withdrawn when the accused suffered a heart attack. A second was dismissed following a preliminary hearing when aged Ukrainian witnesses were too ill to travel to Australia or to give evidence. The third resulted in an acquittal from the jury. In other cases it was far too late for successful prosecution. Essential witnesses had died years before and those who were still alive were in their 80s and 90s and memories had faded and were unreliable. Proof of guilt beyond a reasonable doubt was no longer possible, notwithstanding the best efforts of the war crimes unit. Nonetheless, the good faith of the Australian government and the resources it gave to the investigation unit satisfied those who had called for its creation. The lesson to be drawn from that reaction should not be overlooked.

C. Yugoslavia

In consequence of World War II, some 1.7 million Yugoslavs lost their lives—about ten percent of the total population. The largest number were civilians. At one death camp 100,000 were murdered. Not one criminal trial followed. There were a number of revenge murders. With one later exception there was immunity.

The exception was the case of Alojzije Stepinac, the Archbishop of Zagreb who ardently supported the pro-Nazi Ustasha forces and welcomed the independence of Croatia granted by Germany in 1941 as "a gift from God." He and many of his fellow priests, including Archbishop Saric of Sarajevo, continued to support the pro-Nazi forces in full knowledge of the massive scale killings of Serbs in Croatia.

It was only in September 1946 that Tito put Stepinac on trial. The real crimes of which he was guilty would have incriminated too many other Croats. It was a political trial, the main charge being that Stepinac welcomed the Ustasha government while Yugoslavia was still at war. After a long trial he was sentenced to sixteen years in prison. He served five years, refused to go into exile, and was thereafter kept under house arrest until his death in 1960.

One is compelled to wonder whether the circle of violence in Yugoslavia might have been halted if the terrible war crimes committed during World War II had been publicly exposed and the most guilty punished.

D. South America and Africa

It was a new form of terror that was introduced first in Guatemala in 1966—"disappearances." People were not killed by officials or at identifiable places, such as police stations, military headquarters, or death camps. They were kidnapped, tortured, and killed in secluded places by people who wore no uniforms. The sole purpose of the torture was to obtain information leading to the next series of disappearances. The purpose of the disappearances was to sow terror in the population, thereby ensuring obedience. A by-product was unaccountability and deniability on the part of the military leadership.

Disappearances became an international human rights concern in the mid-1980s. The first important investigation was the National Commission of Inquiry into Disappearances, established in October 1982 by the government of President Zuazo of Bolivia. Eight commissioners were drawn from across the political spectrum. However, its mandate was restricted and its resources meagre. One hundred fifty-five disappearances were investigated. Americas Watch described the initiative positively:

A single outcome of the process is that the search for truth and justice has been recognized, not only as a legitimate endeavor of human rights organizations, but as an obligation of the state.

However, it was the truth commission in Argentina which was the first to receive international attention. Argentina's military rulers could not hold onto power in the aftermath of their Falklands adventure. Before they agreed to step down in favor of a new democratically elected government, they granted themselves amnesty. In his election, campaign President Alfonsín undertook not to recognize the amnesty law, and after he was elected, he set up a truth commission to investigate past human rights abuses. He called it the "National Commission on the Disappeared." Both chambers of Congress nominated the ten commissioners who were chosen for their consistent support for human rights. The chairman was the author, Ernesto Sabato.

The Commission investigated 8,960 cases, and its report, called "Nunca Mas" (or "Never Again"), was widely circulated in Argentina. A two hour documentary based on its contents was broadcast on national television. Prosecutions followed. Two past presidents and military leaders were put on trial. When prosecutions were threatened against the middle ranks of the military, there was a threatened coup and the prosecutions were called off. That was a lesson taken to heart throughout South America.

An unsuccessful attempt to expose the past in Uruguay then followed. The mandate given to the Uruguay truth commission was limited and it was given grossly insufficient resources. (A similar fate followed in Zimbabwe, Uganda and the Philippines for the same reasons).

I come now to Chile. In March 1990, President Aylwin came to power. However, he shared his power with the military which until then had ruled alone. Aylwin appointed a "National Commission for Truth and Reconciliation." Its mandate was limited to the investigation of deaths and disappearances. Its independent commissioners worked with commendable and unusual speed. In barely nine months they thoroughly investigated 3,400 cases. One of its most impressive commissioners, Jose Zalaquet, delivered the Tobriner Memorial Lecture two years ago. Over the past year he has also played a constructive role in South Africa as it grapples with its own past.

The Chilean Commission regarded as its primary role the determination of what had happened. Through investigation of these cases, it succeeded in its mission. Its report was made public in February 1990, and in a television broadcast, President Aylwin apologized on behalf of the state for the human rights abuses committed by his predecessors. However, the public debate that followed was short-lived. Three political assassinations halted it. President Aylwin's govern-

ment, nevertheless, carried out many of the recommendations of the commissioners. In particular, it created the "National Corporation for Reparation and Reconciliation," which was given adequate funding and was able to operate effectively. By all accounts, the Chilean Commission materially assisted that nation to put an unhappy past behind it and allow its people to get on with building a better future.

In El Salvador, a bitter civil war left the country divided. The peace accords, unusually, provided for the United Nations to create a commission to investigate serious acts of violence that occurred after 1980. The U.N. was able to do its work and in its report, it named over forty people found responsible for serious violations of human rights. The Salvadorian military rejected the report as illegal and within five days of its release, a general amnesty was passed by the legislature.

Yet, another kind of truth commission was set up for Rwanda in 1992. It consisted only of members of international non-governmental organizations. It was mandated in terms of an agreement, the Arusha accords, which was part of the transitional peace agreement between its two main tribal groups, the Hutu and the Tutsi. The report achieved wide publicity both inside and outside Rwanda. It uncovered many human rights abuses. It had an immediate effect on the policies of the two European powers most involved in Rwanda, Belgium and France. Any further or lasting effect was unfortunately preempted by the eruption of genocidal violence which overtook the country in April of last year.

A truth commission in my own country, South Africa, has been the subject of a major debate during the past two years. It is very tempting for the Government of National Unity, to put the past behind it and to get on with building a democratic, non-racial society. That was understandably the stance of the previous governing party of Mr. F.W. de Klerk. Obviously, it was also the demand of the security forces, in the ranks of which are many of the perpetrators of past human rights violations which were sponsored directly or indirectly by apartheid governments.

From October 1991 to October 1994, I headed the "Standing Commission of Inquiry regarding Public Violence and Intimidation" which was set up by the De Klerk government in terms of the National Peace Accord of September 1991. Under that Accord, for the first time the African National Congress and other liberation and democratic organizations were party to the composition of an official commission of inquiry. The Commission received the support of the

major political parties. It also had the vocal support of the United Nations and a number of its member states. It was able to throw light on, and apportion blame for, many of the acts of serious violence which accompanied the peace process. In particular, the Commission uncovered third force activities from within the military and the national police. Yet, it did nothing more than scratch the surface.

There can be no doubt that in South Africa, what had the outward appearance of tribal or political violence in many cases was the result of provocation inspired by elements in the white dominated security forces. To his great credit, without the full and active support of the former President de Klerk, my Commission could not have uncovered what it did. Without government support, the substantial resources required would simply not have been available to it.

The debate over a truth commission in South Africa came into sharp focus in light of the closing words of the transitional constitution, under which the government is now ruling. It is there provided:

This Constitution provides an historic bridge between the past of a deeply divided society characterized by strife, conflict, untold suffering and injustice, and a future founded on the recognition of human rights, democracy and peaceful co-existence and development opportunities for all South Africans, irrespective of color, race, class, belief or sex. The pursuit of national unity, the well-being of all South African citizens and peace require reconciliation between the people of South Africa and the reconstruction of society. The adoption of this Constitution lays the secure foundation for the people of South Africa to transcend the divisions and strife of the past, which generated gross violations of human rights, the transgression of humanitarian principles in violent conflicts and a legacy of hatred, fear, guilt and revenge. These can now be addressed on the basis that there is a need for understanding but not for vengeance, a need for reparation but not for retaliation. In order to advance such reconciliation and reconstruction amnesty shall be granted in respect of acts, omissions and offenses associated with political objectives and committed in the course of the conflicts of the past. To this end Parliament . . . shall adopt a law determining a firm cut-off date, which shall be a date after 8 October 1990 and before 6 December 1993, and providing for the mechanisms, criteria and procedures, including tribunals, if any, through which such amnesty should be dealt with at any time after the law has been passed.

The government has now published the terms of legislation under which a truth commission will be established. The legislation is due to come before parliament during February 1995. It now has the support, not only of the African National Congress of President Mandela,

but also that of the National Party of Deputy President de Klerk. It is to be called the "Commission for Truth Reconciliation." Unfortunately, it remains anathema to the Inkatha Freedom Party of Mr. Buthelezi, the white right wing Freedom Front and the security forces.

The legislation provides for a commission to be appointed by the Government of National Unity. It will have three committees. One to consider applications for amnesty by those confessing to have committed human rights abuses, whether from within the security forces or the liberation movement. Amnesty will only be granted in respect of offenses admitted by the persons applying for it.

A second committee will investigate past human rights abuses committed between 1960 and 1993. Those investigations will be triggered by information furnished to the Commission. Powers of subpoena and search and seizure are provided in the draft legislation. The third committee will consider the payment of reparations by the state to defined categories of victims.

Apart from the relevance of a truth and reconciliation commission for the victims of apartheid, in my opinion, a further vital consequence could be the flushing out from office in the security forces persons who were themselves guilty of serious human rights violations or who collaborated with those who were so guilty. If that does not happen, at least some of the undemocratic practices by which apartheid laws were enforced are likely to continue. The new government is likely to find itself compromised if it does not swiftly install a clean, reliable, and loyal administration.

III. The Lessons to be Learnt from Truth Commissions

Many lessons can be learned from these experiences of national commissions in Europe, Latin America, and Africa. The first and most important is the deep need of victims for acknowledgement. They cannot forget what has happened to them and cannot get on with building the future until their calls for justice have been answered. The worse the violations and the longer the time during which they were committed, the louder are their calls. Forgiveness cannot be granted without knowledge; and without forgiveness, there cannot be any meaningful reconciliation. The only hope of breaking cycles of violence is by public acknowledgement of such violence and the exposure of those responsible for it. The other lesson is the danger of generalizing. A solution successful in one country may fail in another. The correct approach to the past will depend upon a myriad of political, economic, and cultural forces which all operate and inter-

act with each other. However, to ignore or gloss over serious human rights abuses is a dangerous enterprise and sooner or later a heavy price will be paid by any society which allows that to happen.

IV. International Criminal Tribunals

Few human rights activists would have predicted that in 1993 and 1994 the Security Council of the United Nations would establish two *ad hoc* international criminal tribunals—for the former Yugoslavia and for Rwanda. It was widely believed by international lawyers that such an international tribunal would only come into being by way of treaty—a time-consuming procedure. Yet, the Security Council took the short cut by using its wide powers under Chapter VII of the United Nations Charter. The use of these powers depends on the Council determining that there is a threat to international peace. An important consequence of using Chapter VII is that the statutes creating the two tribunals are binding upon all member states. The Security Council could take action, including the imposition of sanctions, against members failing to comply with their provisions.

The creation of the “Tribunal for the Former Yugoslavia” was the result of a number of factors. First, the abhorrence of a stunned world at the implementation in the 1990s of a policy of “ethnic cleansing.” Second, the events that took place in Europe. And, third, access to the atrocities by television cameras and journalists. Who can forget the first dramatic and shocking photographs of the skin and bones of camp inmates in Bosnia? And the first newspaper articles on the crimes committed in the death camps of Prijedor? In the end, the demands from human rights groups could not be resisted by the major powers. The Security Council resolutions on the Tribunal were unanimous.

With hindsight, it was inevitable that bureaucratic delays would accompany the establishment of a brand new kind of United Nations organ. The first financial dispute related to whether the cost of the Tribunal should be at the expense of the regular budget or the peace-keeping budget—in other words, which countries should bear the main financial burden. That dispute still remains unresolved. The cost of staffing and housing the tribunal at the Hague was difficult to estimate and also became the cause of delays.

The driving machine of the Tribunal is the Office of the Prosecutor. Under the Tribunal Statute, the Prosecutor must be appointed by the Security Council. It made such an appointment in September 1993—Mr. Ramon Escovar-Salom of Venezuela. He did not take up

office but resigned in February 1994 to become his country's Minister of the Interior. It took another five months and eight rejected nominees, before my own appointment was approved by a unanimous Security Council. In the meantime, an Acting Deputy Prosecutor was appointed—Graham Blewitt, who had been the head of the Australian War Crimes Unit. Mr. Blewitt proceeded with the difficult task of recruiting and appointing a suitable international team of lawyers and investigators. That is a task which cannot speedily be completed. Senior appointees need to be interviewed. Successful applicants have to make arrangements to be released from current commitments and be relocated to the Hague.

The most difficult and important task with which my colleagues and I were required to wrestle was that of establishing a prosecution policy. We were faced with a mass of information including the thousands of pages of allegations collected and collated by the Commission of Experts which had been appointed by the Security Council in October 1992, and reports from governments and international and national nongovernmental organizations.

This first international tribunal clearly had not been established in order to try the persons who were at the bottom of the chain of command responsible for violations of international humanitarian law. The Tribunal has two trial chambers and can try a relatively small number of cases. It was determined, therefore, that we should indict only those who were the most guilty and against whom sufficient reliable evidence was available. And the evidence has to be sufficient not only to give rise to a *prima facie* case, but sufficient to make it likely that guilt will be proven beyond a reasonable doubt. It was decided further that having regard to the enormity of the offenses, the worst known to humanity, the people who planned and ordered the commission of the crimes were more guilty than those who were ordered to commit them.

The problem is that witnesses to the events and available documentary material concerning them are not sufficient to establish who ordered them. A paper trail, such as that which assisted the prosecutors at Nuremberg, has not been discovered in respect of the former Yugoslavia. Collaborators have not come forward to inculcate their peers, let alone their commanders. It was decided, therefore, initially to investigate indictments against regional leaders who could be positively identified by victims and other eye witnesses.

In pursuance of that policy, ethnic cleansing in the region of Prijedor became an early subject of inquiry. A leader of that region,

identified by numerous witnesses, is Dusan Tadic. According to some of the witnesses, Tadic collaborated in the ethnic cleansing of Prijedor and the rapes, torture and murder of Muslim and other non-Serb camp inmates. Tadic is being held in a German prison, having been arrested and charged under German law with crimes against humanity. Because the crimes allegedly committed by Tadic were part of the wider Prijedor investigation, in November 1994 I sought an order from a trial chamber of the tribunal for the German courts to defer to the jurisdiction of the Tribunal. The order was made and the surrender of Tadic will be requested after an indictment against him has been issued and confirmed. Under the statute of the Tribunal, the German government is obliged to comply with the order of the Tribunal and, indeed, that government has acknowledged this.

The investigation by my office into the violations of international humanitarian law in the former Yugoslavia is the most extensive criminal investigation ever undertaken. It is made all the more difficult by reason that the war has been ongoing in Bosnia. Because of the increase in hostilities in October 1994, our investigators were compelled to suspend one investigation and return to the Hague.

I would be surprised if people in high office in the former Yugoslavia are not now taking notice of the Tribunal and modifying their conduct in consequence. Some unofficial reports support that conclusion.

In light of the massive scale of murders which took place in Rwanda between April and June 1994, the then new government of Rwanda requested the Security Council to establish a second international tribunal under Chapter VII of the United Nations Charter. The Security Council did so, although in the end Rwanda cast the only negative vote. It did that not because it no longer sought the Tribunal, but because of objections to some of the terms of the Tribunal Statute. I am happy to say that during a visit to Rwanda in December 1994, I was assured by the leaders of the country of the government's full cooperation with the Tribunal.

In order to ensure consistency of procedures, practices and approaches between the two Tribunals, the Appeal Chamber of the Tribunal for the former Yugoslavia is also the Appeal Chamber for the Rwanda Tribunal. For the same reason, I also was appointed as the Prosecutor Rwanda.

The task of the Prosecutor in the case of Rwanda is less complex than that in relation to the former Yugoslavia. Events in only one country during one calendar year are involved and the perpetrators

are known. The evidence to establish their guilt must be sought. One can immediately investigate the criminal conduct of the former regime, many of the members of which have left Rwanda and are in other African and some European countries. For that reason, in particular, it is appropriate that an international tribunal should have been established. Without one, there is a greater likelihood that the perpetrators of a genocide would not be brought to justice.

The Rwandan government's top priority is to enable the approximately two million refugees in Zaire, Burundi, Kenya and elsewhere to return to their homes. And correctly so, for they constitute a threat to Rwanda's security. To achieve that goal, the government recognizes the necessity for Rwanda's own courts to try and punish those former leaders and their collaborators who have not left Rwanda. In my opinion, it is of crucial importance that the United Nations and the international community should also assist Rwanda to rebuild its justice system which, at present, is practically non-existent. Important initiatives to do so are already in progress.

V. Conclusion

Whether justice is done nationally or internationally, the benefits and goals are similar. Indeed the acknowledgement of grave violations of human rights from an international tribunal is calculated to mean even more to victims than one from a municipal court or commission. The major difference, however, lies in the field of deterrence. As I have already suggested, the fact that the Security Council has been prepared to use Chapter VII of the United Nations Charter to establish *ad hoc* criminal tribunals must send a clear message to would-be violators in other parts of the world that they may not get away with grave violations of international humanitarian law. They may be brought to account if they set foot outside their own country. For that is the effect of the procedures adopted by the Tribunals.

Although no trials will be held in the absence of the accused, the nonappearance before the Tribunal of an accused person has serious consequences. In particular, on the basis of evidence led before a trial chamber, the indictment of the Prosecutor can be reconfirmed by the panel of the judges. If they do so, they will issue an international warrant of arrest for transmission to Interpol. And, if the nonappearance is the consequence of a default by a state member of the United Nations, that would be reported by the President of the Tribunal to the Security Council. It, in turn, would be entitled to adopt measures, including sanctions, against the recalcitrant government. In effect, an

accused person will have been publicly labelled as a potential war criminal and made liable to arrest in virtually every country of the world—not an enviable position and one in which it would be difficult, if not impossible, to hold high public office in her or his own country.

In both the former Yugoslavia and Rwanda there have been cycles of violence for many decades. The violations became more and more egregious. If international justice can break those cycles of violence and allow the people of those countries to become reconciled, then an important new peacekeeping initiative will have been taken. A procedure holding out tremendous hope for many other countries. A hope, too, that a permanent international criminal court will at long last be set up and thereby make international humanitarian law a living and effective bulwark against the most horrible crimes known to humanity.

Any country ignores grave violations of human rights at its peril. The larger the number of victims, the greater the risk of hatred and revenge becoming a cancer which will lead sooner or later to civil strife. The manner in which the violations are handled, whether perpetrators are punished, lose office, or are granted indemnities are issues which will depend on political considerations which will differ from country to country. Whatever the solution, the international community does have a direct interest. That is the consequence of the recognition since the Second World War of crimes against humanity. That is the moral and legal underpinning for international criminal justice. The international community has an additional interest in that internal civil strife invariably has serious consequences for neighboring countries and especially so in respect of refugees.

Justice is very much a part of a peace process. It will often be spurned and avoided by political leaders who were themselves guilty in the past. However, it is in the interests of international peace that crimes against humanity are properly investigated and punished—whether by national or international courts. Acknowledgement of what happened to the victims is not only morally desirable—it can be an effective insurance against the repetition of those violations in the future.

We are now on the threshold of a new era in the development of international humanitarian law. It needs the support and encouragement of all moral and rational people in every country of the world. At the end of the Second World War, the international community said, “Never again,” and with that resolve the United Nations was established. But it has happened again and again on four continents.

There is only one means of ensuring that genocides and crimes against humanity will cease, and that is by having an effective and efficient deterrent—the punishment of those who abuse power, especially state power, against innocent men, women, and children. In short, international humanitarian law must not remain purely an aspiration. It must become an enforceable and universal reality.

