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“All the Missing Souls: A Personal History of the War Crimes Tribunals,” by David Scheffer

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The years from 1993 to 2001, when Bill Clinton occupied the White House, were the formative period in the contemporary development of international justice. Before then, there had been no international war crimes tribunals since the Nuremberg and Tokyo trials in the aftermath of World War II. By the end of this time, international courts were hearing cases on war crimes in the former Yugoslavia and Rwanda, negotiations on tribunals for Sierra Leone and Cambodia were far advanced, and the International Criminal Court was nearing its launch.

Throughout this time, David Scheffer was the Clinton administration’s point man on international justice. His book “All the Missing Souls” is a revealing and valuable record of the U.S. role in the effort to entrench accountability for mass atrocities as a central principle in international affairs.

During Clinton’s first term, Scheffer was senior adviser and counsel to Madeleine Albright, who was then ambassador to the United Nations. After Albright became secretary of state in 1997, Scheffer was appointed as the first U.S. ambassador for war crimes issues. The creation of this position testifies to the growing profile that the prevention and punishment of genocide, crimes against humanity and war crimes came to assume in U.S. foreign policy during the 1990s. But, as Scheffer shows in his detailed account, the process of getting the world’s great powers to make a real effort to enforce accountability for international crimes was anything but smooth.

The horrific violence unleashed against civilians in the former Yugoslavia and in Rwanda, combined with new expectations about an international role in policing war crimes after the Cold War, was enough to bring the U.N. Security Council to endorse the creation of war crimes tribunals for these countries. But this hardly amounted to a settled commitment to make international justice truly meaningful, either across the U.S. government or internationally. The launch of the Yugoslav tribunal was delayed for months as countries engaged in political horse-trading over the choice of a prosecutor. After a prosecutor was finally appointed, Scheffer had to fight doggedly within the Washington bureaucracy to persuade disdainful defense and intelligence officials to gather and deliver evidence to him. “Real men don’t do this,” one intelligence analyst told him.

Scheffer gives an instructive account of the political and diplomatic intricacies involved in transforming the tribunals from abstract ideals into effective institutions. Working to

support an international court for Rwanda, the United States had a series of difficult negotiations with the country's post-genocide, Tutsi-led government, which could not accept that the ringleaders of the genocide would not face the death penalty, or that the tribunal might also investigate the new rulers' actions after seizing power. Later discussions with the Cambodian government over a court to prosecute mass killings by the Khmer Rouge regime in the 1970s were equally fraught, leading to an imperfect tribunal subject to Cambodian influence that Scheffer nevertheless defends as a blow against impunity.

In Bosnia, the work of the tribunal was handicapped by what Scheffer calls the "unbearable timidity" of the United States and its European allies in using their peacekeeping forces to track down and arrest indicted suspects. He is particularly scathing about the failure of French authorities to move against former Bosnian Serb leader [Radovan Karadzic](#), who was thought to be in their sector. Finally, Scheffer suggests, French pressure may have led Albright to remove him from the effort to capture Karadzic.

Scheffer writes bluntly about the people he believes stood in the way of the tribunals' success, displaying an assertive single-mindedness that probably equipped him well to push the cause of international justice in an administration where it was often seen as a low priority. At the same time, he criticizes himself for failing to recognize sooner that the genocide in Rwanda required a response outside the fixed procedures of normal policymaking.

Scheffer's narrative treats each conflict separately, but two larger issues emerge from his account. First is the complexity of pursuing justice while also trying to bring an end to conflict, particularly when the United States and its allies are not willing or able to deploy a large number of forces to fight on the ground. Provisions on war crimes in the Dayton peace agreement that ended the Bosnian war were watered down to ensure a deal; Scheffer admits it would have been unrealistic to hope for a guarantee of full cooperation with the Yugoslav war crimes tribunal by all parties, but he still claims that the agreement could have gone further than it did. In Sierra Leone, he argues, an initially permissive approach to amnesties for war criminals only prolonged the conflict.

The second issue relates to the position of the United States as a country that has been at the forefront of efforts to prosecute war criminals internationally but bristles at any suggestion that an international tribunal could sit in judgment of its own citizens. The centerpiece of Scheffer's book is a long and vivid account of the negotiations to set up a permanent International Criminal Court, in which he was forced by the administration to pursue a hopeless quest to ensure that the emerging court could never gain jurisdiction over any American suspect. "I appeared as the guardian of impunity rather than its slayer," he writes. Although Clinton agreed to sign the court's founding statute on the final day of his presidency, the United States has not ratified the statute and remains outside the court.

The ambivalent attitude of the world's most powerful country to international justice, and the relationship between accountability and peace, remain unsettled questions today.

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