

EVAP Ep. 4: Ambassador Stephen Rapp

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SPEAKERS

Jaclyn Streitfeld-Hall, Ambassador Stephen Rapp

- J** Jaclyn Streitfeld-Hall 00:12
Welcome to Expert Voices on Atrocity Prevention, by the Global Centre for the Responsibility to Protect. I'm Jaclyn Streitfeld-Hall, Research Director at the Global Centre. This podcast features one-on-one conversations with practitioners from the fields of human rights, conflict prevention and atrocity prevention. These conversations will give us a glimpse of the personal and professional side of how practitioners approach human rights protection and atrocity prevention, allowing us to explore challenges, identify best practices, and share lessons learned on how we can protect populations more effectively. In today's episode, I'll be talking with Ambassador Stephen Rapp. Ambassador Rapp is currently a fellow at the US Holocaust Memorial Museum Center for the Prevention of Genocide, and a Senior Fellow at Oxford University. He previously served as a Senior Trial Attorney and Chief of Prosecutions at the International Criminal Tribunal for Rwanda and as a Prosecutor of the Special Court for Sierra Leone. During the administration of President Barack Obama, he served as US Ambassador-at-large for Global Criminal Justice. Thank you for joining us today, Ambassador Rapp.
- A** Ambassador Stephen Rapp 01:18
Very good to be with you.



Jaclyn Streitfeld-Hall 01:19

Ambassador, you've had an extensive career in international justice. What initially drew you to working in this field?



Ambassador Stephen Rapp 01:27

Well, I think it goes to my own past, you know, sort of an association that when I was involved in politics, and in my early legal career, I've always associated with the underdog, people that were victimized often by the economy and also by crime. I've been a victim myself at 21 of a particularly vicious crime, which I've been lucky to survive. Nonetheless, I spent most of my early career as a defense attorney, sometimes representing people who were a little like the folks that victimized me; but you know, strongly believed, in that situation, in using the tools of the law there to achieve justice. I was fascinated by what had happened after World War Two and read a lot about it, particularly the Nuremberg trials and holding Nazis to account, and later during the Cold War where sometimes the US was, I thought, on the wrong side, associating with dictators that were committing torture and genocide in Guatemala, and so called "Dirty War" of mass torture and murder and disappearance in Argentina, really wanted to see prosecutions prevail. But then, in 1993, I was fortunate to be appointed because of my public work as a United States Attorney, as a Chief Federal Prosecutor in my relatively small district from a population perspective (about a million and a half people in Northern Iowa, half the state), and was in charge of federal law enforcement, frankly, in an area where we had very few federal investigative agencies. So it involved reaching out and finding evidence ourselves or working with local law enforcement authorities, particularly working with victims organizations. And it happened at a time when the level of violent crime across the country was much, frankly, higher than it's been recently, though it may be going up again, and really wanted to involve the office in every way I could, and in protecting communities from those that were predatory, whether those were gangs committing vicious and selfish acts for their own glory so to speak or riches, or whether it was even powerful corporations that were exploiting people and polluting the groundwater. So that was very much the cause. But, you know, saw the law as something that, sitting in the prosecutor seat, could be used not to sort of vindicate authority to show the government's all powerful and everyone has to bow down, but rather as a tool to, you know, even the odds in a way to, you know, represent those who were victimized and to use the law against those who were powerful economically or because of their willingness to turn to acts of vicious violence, and bring the law to bear in those situations. Then, in the mid 90s, I saw what was occurring internationally with the end of the Cold War, and with the horrible crimes in the former Yugoslavia and Rwanda, that the idea at Nuremberg was being resurrected through the UN Security Council and that justice was being sought on an international level on behalf of the victims of those horrendous crimes.

And of course, we've gone a long time after Nuremberg without any possibility of justice. And I was very excited about that, and frankly, sought out opportunities to go assist and indeed was even solicited by Washington to see if any of my assistants would like to go, for instance, to The Hague. And I found none who were but I said, "I am" and they said "No, you can't go you're the boss, you just stay in Cedar Rapids in Sioux City, Iowa, and tend to the store." But I continued to be actively interested in that. And so in '99, I began the process of actually pursuing the idea of moving to a tribunal when my term ended and looking to be an international prosecutor, not to be a boss, maybe not and certainly not initially, but to appear to be a team leader who would work on the ground with the victims and the survivors, develop the kind of evidence that I developed in cases in federal law enforcement that brought in insiders, still insistent that they be held accountable, but recognize their cooperation and the fact that they'd already engaged in rehabilitation through by protecting them and by perhaps providing even a concession and sentencing if we could get true information that could be corroborated and prosecute and bring to justice the people that were the most powerful, the true authors of these crimes out there. Sometimes children that are recruited to commit the crimes, but those who make them happen for their own selfish ends. So sought out that opportunity and went to Washington, visited in the office that I never imagined that I would someday lead, visited the Office of War Crimes Issues, met with one of the assistants Pierre Prosper who was then working for the first Ambassador-at-large in this area, David Scheffer, and Pierre, a California prosecutor, had gone to the Arusha Tribunal to prosecute the Rwanda genocide, was a Junior Assistant Trial Attorney, a P3, but because of the nature of Arusha, was called in to be part of the team and the first trial on the crime of genocide, and by the time that trial ended, all the people above him either been fired or left and he was actually the person that in court carried the day and obtained the first conviction in history of the world for the crime of genocide. It wasn't possible as an American even then to be promoted, so he went back to Washington and was working for David Scheffer, and would eventually be appointed Ambassador himself under President Bush. But his advice was: "Don't go to The Hague, go to Arusha. Go to the Rwanda tribunal." And I followed his advice and found a vacancy, a P5 Senior Trial Attorney position, asked for the help of the Office in making sure that I was considered, and was fortunate to be interviewed in January of 2001, and to get the offer in April, and as soon as I had it, I resigned as US Attorney, left the office on the 18th of May 2001. And within four days was in Arusha, Tanzania, and was immediately put in charge of the Media Trial, a trial it had begun seven months earlier, but in which the two leaders had either left, fired or been let go. And it needed a leader to steer the trial to success. And that became my intense immersion in international criminal law beginning in May of 2001.



Jaclyn Streitfeld-Hall 08:47

Wow, that's really a relentless pursuit of being involved in international criminal justice. I'd always been curious about how you made that jump from being a prosecutor in Iowa to international justice, so that's fascinating. Since you've mentioned the Media Trial. I know a lot of historical firsts for international justice were achieved through both the ICTR and during your time on the Special Court for Sierra Leone. Were there any particular highlights that emerged from your experience prosecuting cases in those situations?

A

Ambassador Stephen Rapp 09:24

Well, there were a lot of highlights, there were also lots of challenges. Certainly the Media Trial and getting things organized and putting it together was, I think, the hardest and the most challenging job that I've ever had. You know, when I arrived, you know, I sort of thought maybe the case had been prepared and we were in the process of going through a script that was in pre-trial brief, and discovered that we hadn't done much to prove the elements in the case, the evidence was hardly in perfect shape. I mean, we had what we thought were about 300 hours of broadcasts of RTLM radio. We had the issues of Kangura, there were about 70 of them. And we had those in evidence, but very few of them had even been translated into either English or French, they were in the native language of Kinyarwanda of Rwanda. I think about 50 of the 300 have been translated into one of the two languages, maybe about a dozen of the broadcasts have been translated into both. So we really didn't know what our evidence said, and then the Kangura, indeed, I think five issues had been fully translated out of the 70. So we had that intense challenge. And of course, even if we proved that the broadcasts, for instance, had been inciting, which of course involved complex issues of interpretation of the language, and particularly the broadcast was quite often coded and related to Rwandan proverbs, and even things that had supposedly been said that were reported in the international media one could not find in the broadcast material that we had. And so, you know, proving that it was inciting language was also a challenge. And the experts that were going to help us on that had had a blow up with the Tribunal, and they refused to work with us. And then, we had the question of proving, particularly as to the radio, that the two men that we had on trial, Ferdinand Nahimana and Jean-Bosco Barayagwiza, were actually responsible for the station at the time when all these allegedly nasty broadcasts are made. They had certainly been involved in its formation a year earlier. But we weren't trying them for actually being on the broadcast, speaking, we were essentially saying that they were in control of the station, and proving that they were in control during the period of the genocide was also intensely challenging. It was a little less of a problem with a newspaper, but there the newspaper had not published during the genocide, and the crime that we were seeking to prosecute was direct and public incitement to genocide. So it was a, and we were limited to 1994 under the statute that limited us to crimes committed in '94. And some of the nastiest things in Kangura like the 10 Commandments

had been published, the "Bahutu", were published three years earlier. And even then, if something's broadcast or published a month or two before the crime, is that direct incitement to genocide? In America, people would say, "Well, no, that's not a direct causation to act, you can't say... that's protected." So you know, we had enormous challenges. And we barely scratched the surface in terms of proving any of that when I arrived. And, you know, you had the challenges of the UN running a court, UN can take, you know, a year and a half or two years to fill a vacancy. You know, we were in Arusha, where we did have generators to continue with our power when the public power went down, which was every day, but we, you know, didn't have enough paper for the copy machines or toner, and we were quite often rushing out to local shops and producing our document copies that we needed. So you know, it was one of those things where nothing would happen unless you made it happen. No paper would move from one office to another unless you personally carried the paper. So you had all of that, at the same time that you had the need to do something that had never been done in history before, which is to convict people involved in media with the crime of direct and public incitement to genocide.



Jaclyn Streitfeld-Hall 14:00

Given the challenges you've just highlighted, what were some of the highlights of the Tribunal, and how did you overcome these challenges?



Ambassador Stephen Rapp 14:09

Well, there were highlights and there were great things and it was the certainly my experience in the two international courts in which I worked were the most frankly significant things of my life. And it involved eventually being able to put on the evidence and eventually being able to incorporate everybody in the team into part of that effort in getting at least enough of the broadcast translated, getting the sort of local experts to testify about, you know, the Proverbs, and the meaning of those particular expressions, of being able finally to present in court the audio of the absolutely crazy talk in the background in Kinyarwanda at the same time that we showed the translation in English and in French, and then to have testimony as well where people were on the receiving end of those broadcasts were happening and then they were immediately attacked by the Interahamwe in these places where 1000s were hacked to death and where, you know, a few survivors died, you know, under piles of corpses of members of their own family. And we were able to put the case together and indeed, with some assistance of international experts like Alison Des Forges, show that, you know, that the defendants continued to have significant control over the station over the radio during the course of these messages and obtain the first convictions in history in December 2003 for direct and

public incitement. I remember well that day in December of '03 when the judges read out their decision led by the South African Navi Pillay, who was President of the Tribunal and later an ICC Judge, and found these men responsible for genocide and crimes against humanity, and effectively sentenced them to life sentences at the trial level. And I remember talking to survivors afterwards, you know, of course, I was apologetic in the sense that we weren't able to do everything that we had hoped to do or obtain convictions on every part of our case. And frankly, they were overjoyed. I remember one saying, you know, when he was in Rwanda, the men that we were trying were too high up ever, he could never be in the same room with them, they were they were so powerful and above and all-controlling of that society. And yet they unleashed these messages that had caused the death of his entire family, and saying to me that day, you know, this was the greatest moment in his life, to see them being stood before the whole world and convicted of responsibility for incitement that caused the death of his family and hundreds of thousands of other innocent victims. In Sierra Leone, which is a different kind of court, which I was pointed to as Chief Prosecutor in January, or took the position up, in January of 2007. We had a different kind of court in the sense that it wasn't a UN-created court with all international staff, it was about 60% national staff and involved appointments of both national and international people to offices like mine, I was the international prosecutor appointed by the UN Secretary General Kofi Annan, my deputy was appointed by the president of the country. And I thought because of that, because we were doing our work, not 500 miles away, which was the situation in Arusha, Tanzania, where the Rwanda tribunal was headquartered 100 miles east of Kigali, Rwanda, the center of the crimes, we were doing the work in Freetown in Sierra Leone, the very city that had been attacked in which thousands of people have been killed and raped and children had been abducted when that city was taken by the brutal rebels of the RUF in January of '99. We could look out the window and see houses still destroyed from those crimes and meet with the survivors in the street and in our outreach program when we traveled the country to describe the work of the court. But it was, you know, extremely gratifying as well to finally obtain convictions for crimes that people thought would never have, and against individuals that they thought were absolutely beyond the capacity of their system of justice could ever reach. The most exciting, of course, was the fact that we were able to try the president of the country next door who was alleged and re-alleged and we eventually proved was responsible through his support of the RUF, so that he could gain control of the diamonds in Sierra Leone, responsible for their campaign of amputations and rape and murder that victimized hundreds of thousands. We had to try that case in The Hague, because the local leaders and the leaders in the countries in the region thought that trial in Freetown where we had tried the other three big trials of the leaders of each of the groups that have been involved in the mass killing, in the mass atrocities, we need to try that one in The Hague. We did everything that we could to get back the message and to make sure that the people of Sierra Leone knew what was

happening and that screenings of the videos was held all over the country, using generators and broadcast in community halls and in schools and in open spaces during the evenings when you could do a projector and show what was happening in the Court. But, you know, I'm reminded of what people describe to me as the arrival of Charles Taylor at the Court in March of 2006, which is, frankly, before my arrival, and the day when it was possible to bring him from arrest in Nigeria, something the Court had been pushing for, through Liberia and to bring him to the Court in March of 2006, when thousands of people stood on their on their rooftops as the helicopter settled into the Court grounds and its detention center. And people always told me that was the day that they never thought they would they would see. And indeed in the end, with the evidence that we were able to put together on the trial in The Hague, we were able to convict Taylor and send him to prison for 50 years, as we were able to convict each of the individuals that we charged. It was, you know, the kind of thing that one can only dream up in terms of the result of the justice process. I've been back to Sierra Leone several times since, there last just as Ebola was beginning to take hold in the country, and, thankfully, that has passed. But I remember people telling me that whatever the problems of the country, they had gone through several elections, and there been no lethal violence when the power had changed, basically, because the lesson had been taught that if you commit these crimes to gain power, you know, you're going to face justice. And so I think we did in effect, in an imperfect process that prosecuted only a handful of individuals in the country that still remains challenged in many ways, show that justice could protect people, by going after the crimes in the past, could protect people in the future, be part of R2P, part of sort of a Pillar III sub one, you know, which is the use of of justice in a very tough way. Sometimes, in that case possible, I guess sort of Pillar II in cooperation with the country and regional authorities. In other situations, like a former Yugoslavia, you know, really something that was imposed by the UN. But you can in that, through those kinds of methods, protect people. And that's, you know, how I've been spending my time since leading both courts, trying to achieve some measure of the same kind of accountability for past and ongoing violations in the hope that that will deter violations in the future.



Jaclyn Streitfeld-Hall 23:33

It's really incredible to hear how these trials really impact the populations who were affected by the crimes, even, you know, when the outcome is years after the crimes were perpetrated. Your work has significantly strengthened the perception that criminal justice plays a key role in the prevention of mass atrocities. And as you mentioned, it's important to Pillar I of R2P. Based on your experience, how have criminal justice mechanisms functioned as a deterrent to perpetrators of mass atrocities?

A

Ambassador Stephen Rapp 24:08

Well, it's a question of risk and reward, you know, understand that no one quite knows what works in criminal justice and people can debate the concept of deterrence. You know, I certainly see it at the national level if you begin to prosecute certain companies for doing, for polluting, other companies will stop doing it. And you can take action about certain kinds of crime, you know, healthcare fraud, other things that involve people that are making calculations that risks and if there's some risk of punishment, of prosecution, that will have an effect. You know, in the case of street crime or other kinds of offenses, it may be a little less clear and one needs a strategic approach that deals with different aspects of it. But you know, my own view of international crimes, of mass atrocities, is that these are very much crimes that are planned and prepared, and the killers are trained and supplied and deployed by leaders who were using the commission of crimes against the innocent as part of their strategy for maintaining or gaining power and the wealth and authority that goes with it. And you can see that, in many of these situations where the authors of these crimes are not sociopaths - they're very calculated, perhaps narcissistic, but people who calculate advantages, and sometimes these things work, sometimes committing atrocities invites you into a peace process, and then you get power sharing, and you finally get all power, and you continue these crimes. And unless we send a clear message that there are going to be consequences, that there are not going to be benefits to commission atrocities, we'll get more of them. The challenges that we have now is where we do have these historic examples where it was eventually possible to achieve justice, most recently, with the finalization of the Mladic case, though he was on the run for 16 years before he was brought to trial and it's been 10 years now through that whole process of preparation, trial and appeal where that case has been concluded, you know, 26 years after the crimes. But that certainly sends a very, very powerful message. And that's an important one. And it's not just the message to the former Yugoslavia, but in other places, say Syria: the leader thinks himself protected by the Russians, they vetoed the referral of that case to the ICC, vetoed almost everything else that's come up in the Security Council that would put any measure of accountability on Syria. And then, of course, he's not part, Assad's not part of international courts such as the ICC. And so in a situation like that, how do you achieve justice, and frankly, as a result of the perception that he can get away with it, you know, we see crimes that were committed in the past, even crimes that were, I should say, acts that were prohibited in the past, like the use of poison gas, or, you know, the prohibition on attacks on hospitals or medical personnel, or, you know, prohibitions on forcible disappearance, those norms have largely been well established: the hospitals - for 150 years, poison gas - almost from the end of the World War One, you know, the forcible disappearances - really from the end of the dirty war in Latin America, we haven't seen a lot of those crimes. And here, they're all being committed in Syria in a massive way because of the perception that you can get away with it. So that's the difficulty we have in so many of these situations. Myanmar, in which

the ICC has a small part to play, it found, because of forced deportation into a State Party, Bangladesh. But a lot of the other situations in the world are beyond the reach of the ICC or of the UN because of non-membership or because of the protection of the veto-wielding members of the Security Council. So there we have to find other ways to achieve accountability. And a key part of that is, in my view, developing the evidence in a highly professional way, and then working to find a way to bring that evidence to bear where you do have an opportunity to go into court. And most prominently in the case of Syria that's been in third countries, particularly countries that have welcomed a great many refugees, where they really have an interest in justice and can use the concept of universal justice and their nexus to witnesses and often to the presence of a perpetrator for national in their midst to achieve justice in national courts. Of course that's limited, there are only a certain number of cases that are going to be made that way and they may not be the highest number of actors. But that's often the name of the game right now, not that there are other avenues for relief. Obviously, Myanmar, we have the case abroad in the International Court of Justice by a good friend of mine, then Minister of Justice Ba Tambadou, who was a Junior Trial Attorney when I was in Arusha, a very talented one who rose after I was there to a prominent position in the Tribunal and then went home after his dictator, the dictator of his country for 22 years, was overthrown. He was invited back by the President to become Minister of Justice. But then when the horrible clearance operations happened in Myanmar - not the horrendous crimes for a long period of time, but the operations in which the Tatmadaw, the military, you know, committed mass killings and burnings and rapes and drove 800,000 Rohingya men, women and children over the border into Bangladesh in August and September 2017 - he took up a role within the Islamic countries, of which the Gambia is one of the smallest but certainly a member, to become the sort of Chair of their working group on this subject in the Islamic conference, and then eventually to arrange for his own country, The Gambia, to take Myanmar to the International Court of Justice on the Genocide Convention. And to get the support of the Islamic countries, many of them don't agree about anything else, Iran and Saudi Arabia at the same place to support you know, hiring the firm and building the evidence and using what had been obtained in UN inquiries and by civil society, to build this case and take it to The Hague, not for criminal liability, responsibility, but for the state responsibility. And we remember what happened in December of 2019, the government led by Aung San Suu Kyi actually came to defend their military, and the International Court of Justice the following month, by a unanimous vote, you know, found that there was jurisdiction even though The Gambia was a long ways away from Myanmar, because this is an obligation on all the world under the Genocide Convention and other countries from distant faraway places can bring a state to the ICJ, and they found, at least preliminarily, there was jurisdiction, and that there was cause to issue provisional measures requiring action by the government to prevent genocide, certainly, or the reoccurrence of genocide. Of course we've since had the overthrow of the government,

and the military who'd gotten away with crimes in the past committed even worse ones now. But that case continues. So I mean, these are examples of you know, where it's possible to use evidence and obtain some level of accountability, though not yet sufficient accountability to change the conduct, but certainly message to other countries who don't want to, and other leaders, who don't want to be similarly international pariahs through their action. I would note that goes beyond judicial means to things like Global Magnitsky sanctions, the ability of states or groups of states to put into effect sanctions against human rights, abusers, and violators, and then potentially even prosecute those that continue to aid those individuals. And so, even though that's not perfect and doesn't include all states with those sanctions, they can be very, very powerful tools. All of these things however require the development of strong evidence and just because one has, somebody has a horrible reputation, or is blamed by popular media for certain crimes, that's not enough. And so most of my work these days involves those efforts to strengthen documentation within the UN. But I should note that whatever the UN is doing, it may not be able to go into these conflict zones because of security reasons, or because of a resistance of the government who may be implicated in the crimes. And it requires to work with civil society, building the evidence according to a high standard, and the UN then playing a role through these new mechanisms and embedding that evidence and corroborating it and building files. And so this is all part of that process of achieving accountability in places where we don't have the options that we had in the former Yugoslavia or Rwanda or Sierra Leone.

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Jaclyn Streitfeld-Hall 34:36

Thanks, we definitely are witnessing a moment in which there are a multitude of investigative mechanisms being developed for atrocity situations, whether it be the Commissions of Inquiry for countries like Syria, there is a Commission of Inquiry for Burundi, the Fact Finding Mission for Myanmar, a Fact Finding Mission for Venezuela, as well as these sort of new innovative mechanisms for preparing files for criminal prosecutions, including the IIM for Syria, the Investigative Mechanism for Myanmar. Given the success of the UN-mandated special tribunals, why do you think there's been this shift towards more investigative mechanisms over tribunals? And what do you think the value of those mechanisms is?

A

Ambassador Stephen Rapp 35:31

Well, let me just put it back on a personal level. I mean, I was under President Obama, and under Secretary Clinton and under Secretary Kerry, US Ambassador-at-large for six years in an office that we call War Crimes Issues, and then retitled halfway through the Office of Global Criminal Justice. And that office had been established, essentially, to work with

international tribunals, recognizing that just because they had a mandate didn't mean that they were going to get any evidence without state assistance. And they were sort of certainly weren't going to be able to get any arrests without state assistance in, one, developing the information about where the individual might be located, and then pressuring, sometimes reluctant states to assist in that process. But you know, where I probably went to The Hague during the course of my six year tenure, I probably went there 35 or 40 times, and I was busy traveling, traveled more than 1200 days during those six years, but increasingly went to Geneva as well, and to the Human Rights Council. And that was because the Security Council - which had established the ad hoc tribunals, and called into creation the Sierra Leone court and authorized the negotiation that led to its creation, and had referred Darfur and Libya to the ICC through the Security Council - the Security Council was blocked. And if you're going to get any kind of accountability, you had to go to, a multilateral accountability, you had to go to a body where there was no veto. And that was possible to do in Syria, and as you said, in other situations like Myanmar, Venezuela, now Belarus, you know, probably about a dozen of these places. And understand that was done under a human rights law mandate and not under a criminal law mandate, by a human rights body, I should say, that doesn't normally deal with criminal law mandates - so they would put criminal law-like language into the responsibilities of these Commissions. And so that became one way in which you could attain some kind of global accountability. Now, of course, the main thing that these Commissions produce are reports, which are limited to 23 pages under UN rules, so they can include very voluminous supplements and appendices, and they may get attention for a day or two after they're published. But they're not sufficient to get, you know, get criminal justice cases going, even though they do sometimes make determinations that the violations are crimes and quite often prepare lists of suspects, in a couple cases published in the reports, but usually delivered confidentially to the High Commissioner. So this is not ideal, but it's the way that it's been possible to obtain a more neutral process through a multilateral body to find the facts and develop evidence. But as I note, as I said earlier, it needs to also involve people working with these bodies to develop the evidence in the field because they hardly ever have access to the scene of the crime, that's usually denied by complicit governments. And so they need well-produced evidence, open-source material, but also witness statements. And as I've done in the course of chairing a group called CIJA, we've brought more than a million pages of documents out of Syria, security documents that were found, or frankly abandoned, in various security centers in towns that were lost at least at one time by the government. And that material that CIJA brought out - which is gone directly to cases like the prosecution in Germany and the indictments in France and elsewhere - has also been fully shared with this mechanism that was established on Syria, that takes the step, takes this up a step from Commissions that make reports to actually pulling together files and building dossiers essentially like an office of the prosecutor, but an office of the prosecutor without a specific court to go to.

And I think that's a good model, imperfect, I'd much prefer if we could just go ahead and make a tribunal. And there's some ideas for doing that. But they're complicated because they'd have to happen without the Security Council and often without the consent of the territorial state, so putting a tribunal together under those circumstances would be challenging. That may be the next thing that we look at, in which states pool their jurisdiction to try these cases, to the extent that they can get their hands on perpetrators. But that's the next step. But, you know, I noted that I came from Iowa, Iowa is famous for the Field of Dreams, you know, where the theme was, if you build it, they will come - and I'm a case builder, and if you build cases, you know, I think eventually justice comes. You present evidence that's so strong, so compelling, if you can find a jurisdictional avenue, you can get that evidence heard, and prosecutors and authorities are frankly thrilled to see it, because they get a lot of situations where they don't have such evidence. So it's an imperfect process, but it's the one that we have, and the one that we may be dealing with in the future. And so it won't be a world in which we can rely on the UN Security Council, and it won't be one or we can necessarily rely on on all states, we have to rely on those states that are committed - a coalition of committed - to achieve, to achieve justice, and that's certainly what I'll be spending the rest of my life working on, hoping to achieve through this process something like we achieved in Rwanda and Sierra Leone or the former Yugoslavia. And the process sending a message to the perpetrators of mass atrocities - genocide, war crimes, crimes against humanity - that if they do the crime, they will face consequences. And because of making that a credible message through justice, we can in fact, protect people from these atrocities.



Jaclyn Streitfeld-Hall 42:18

Given the challenges with the Security Council that you've mentioned, what can states are, you know, particularly this community of committed states, do to prioritize the pursuit of justice and accountability and make bringing an end to impunity less politically charged? Kind of, what is your dream for the future of international justice at this point?



Ambassador Stephen Rapp 42:42

Well, it really involves the development of an ecosystem. You're not going to be able to fix it in one particular place, but it involves states and their development agencies, but also states in the region, in terms of how they orient their priorities to making an environment where civil society organizations are encouraged, supported, protected, human rights defenders are protected and encouraged and supported, in developing evidence of these crimes in a proper way. And that requires states making an investment and not a on-again-off-again kind of kind of investment, but understanding that that's an ongoing need, no matter what, no matter where the cases may eventually go. And then it involves

states supporting multilateral mandates to the extent that they're possible in bodies like the Human Rights Council, and we see it even going beyond that where the African Commission for Human and People's Rights has just established a Commission of Inquiry for the crimes in Tigray in northern Ethiopia - we'll see if they get the resources that they need to do that. So it's not just that at the level of the UN. So, you know, states need to then support and make sure that they have the right expertise, the right investigators, to be able to do that job, and that the people that assist them and provide the evidence are protected and that the evidence is protected. And then as well, governments need to support efforts of national war crimes units through organizations like the Genocide Network, which pulls together all European countries and five countries outside the EU, including the US, in as observers in coordination of prosecution efforts, ideally, you know, having the benefit of mechanisms like the Syria one and the Myanmar one that have now been established, either by the Human Rights Council or the General Assembly. But whether we have those or not, it's going to be a matter of, you know, one, making sure that the evidence is gathered and that the witnesses and evidence is properly secured and protected, and then that avenues are opened for justice in terms of the statutory language and in terms of having the right kind of investigation and prosecution units. And then to the extent we can do that collectively between states who join investigative teams - like the one that worked on MH17 in Ukraine, the shoot down which involved five countries and a prosecution in the end in the Netherlands - those kinds of efforts need to be encouraged. So that's where I see the future going, as much as we'd like to return to where we were with resolutions that pass in the Security Council, as much as one might dream of a more universal ICC, I'm realistic enough to know that, given the nature of our world, that may not be within the cards, so we have to achieve the next best thing. And to be frank, with many actors moving in this area, and with the proper support, it can be greater in terms of its impact with a single international court with a limited ability to try with a handful of cases. So I'm not a pessimist in this. Am I an optimist? Yes, I guess, you know, show me a glass that's damp, and I'll tell you it's half full. But this glass is filling and it's filling from the ground up, in a way, with the civil society organizations keep to it, not a top down with the Security Council or great powers making it happen. But everyone has to, everyone who's committed to R2P and to concepts of atrocity prevention, protecting the weak from powerful, needs to contribute in whatever way they can.



Jaclyn Streitfeld-Hall 47:19

Thank you for joining us for this episode of Expert Voices on Atrocity Prevention. If you'd like more information about the Global Centre's work on R2P, mass atrocity prevention, or populations at risk of mass atrocities, visit our website at www.globalr2p.org and connect with us on Twitter and Facebook @GCR2P.

