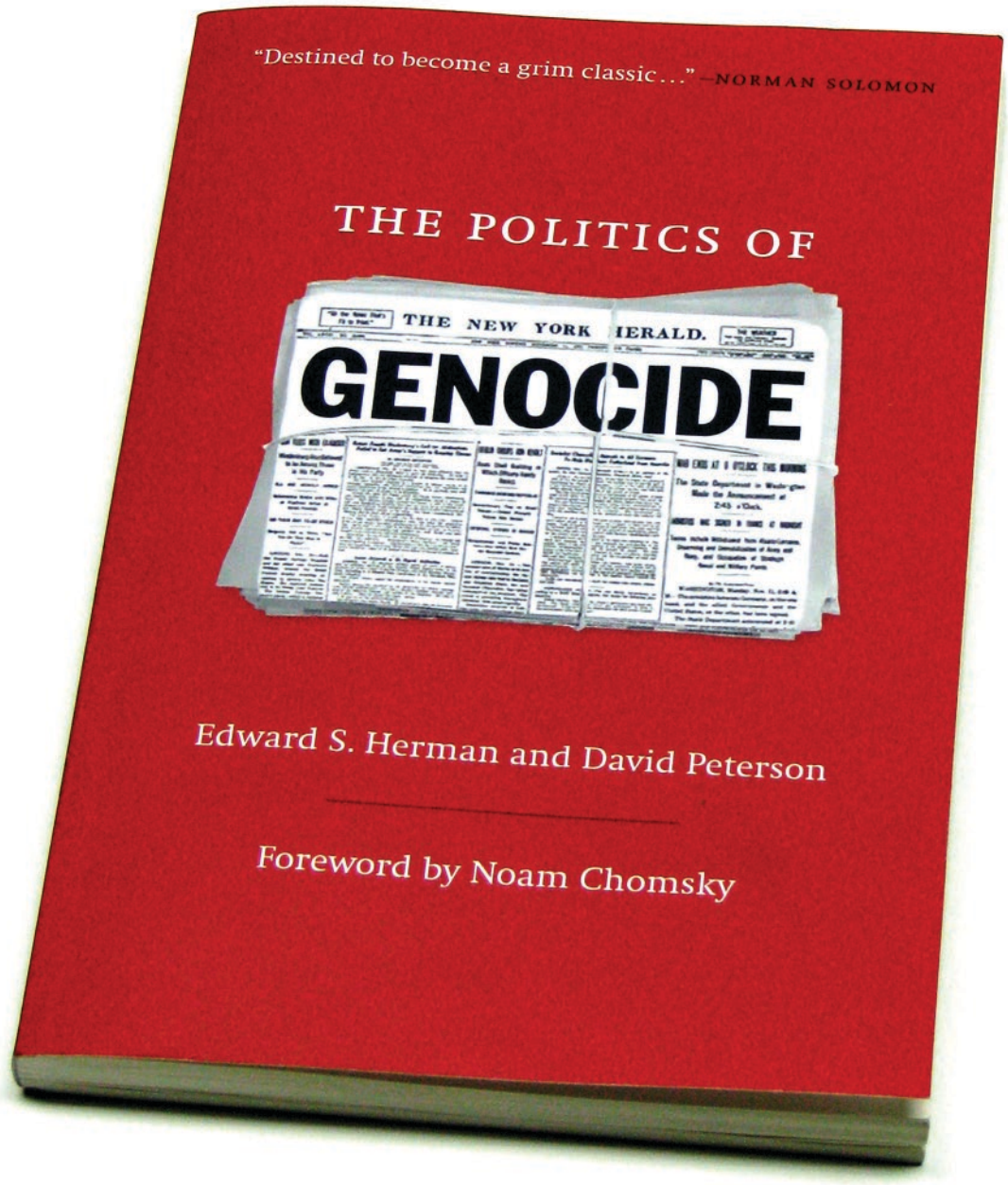
AN EXCERPT FROM THE BOOK

THE POLITICS OF GENOCIDE

EDWARD S. HERMAN & DAVID PETERSON



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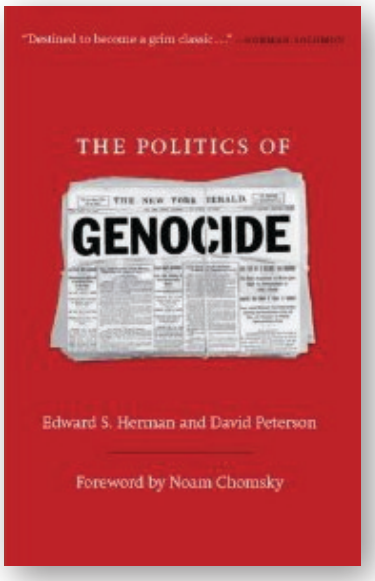

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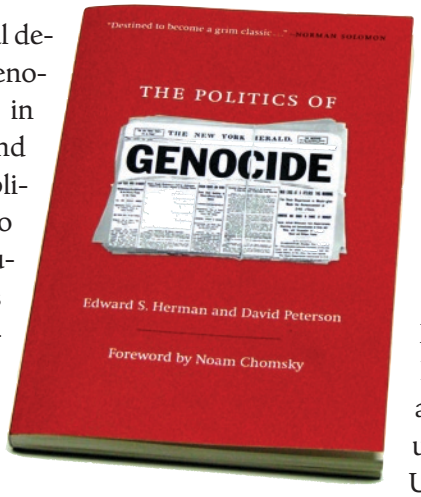

This excerpt is the **Concluding Note** (Pages 103-112) of **The Politics of Genocide**

During the past several decades, the word "genocide" has increased in frequency of use and recklessness of application, so much so that the crime of the twentieth century for which the word originally was coined often appears debased. Unchanged, however, is the huge political bias in its usage, and it remains as true today as it was in 1973 or 1988 that "We can even read who are the U.S. friends and enemies from the media's use of the word."

When we ourselves commit mass-atrocity crimes, the atrocities are *Constructive,* our victims are *unworthy* of our attention and indignation, and never suffer "genocide" at our hands – like the Iraqi *untermenschen* who have died in such grotesque numbers over the past two decades. But when the perpetrator of mass-atrocity crimes is our enemy or a state targeted by us for destabilization and attack, the converse is true. Then the atrocities are *Nefarious* and their victims *worthy* of our focus, sympathy, public displays of solidarity, and calls for inquiry and punishment. Nefarious atrocities even have their own proper names reserved for them, typically associated with the places where the events occur. We can all rattle-off the most notorious: Cambodia (but only under the Khmer Rouge, not in the prior years of mass killing by the United States and its allies), Iraq (but only when attributable to Saddam Hussein, not the United States), and so on – Halabja, Bosnia, Srebrenica, Rwanda, Kosovo, Račak, Darfur. Indeed, receiving such a baptism is perhaps the hallmark of the Nefarious bloodbath.

Both the media and "genocide"-oriented intellectuals, and even leading NGOs, follow the official line on bloodbaths and genocide; and given the global power of the United States, so do EU and UN officials. The media and intellectuals "follow the flag," and the politics of genocide and massacre require the inflation of Nefarious bloodbaths, while ignoring or underplaying those that are Constructive or Benign. As we have shown, they will

all, including the NGOs as well as UN officials, feature the Nefarious case of Darfur and earlier Bosnia, Rwanda, and Kosovo, but not the Constructive and Benign bloodbaths in Central America, Iraq, the Democratic Republic of Congo, Afghanistan, and Palestine.

When the International Criminal Court's chief prosecutor Luis Moreno-Ocampo petitioned the Court in July 2008 to issue an arrest warrant for President Omar Hassan Ahmad al-Bashir of Sudan "in relation to 10 counts of genocide, crimes against humanity and war crimes" in the Darfur states of the western Sudan since 2003, this was the first case in which a head of state had received such honors from the ICC. (Just as Slobodan Milosevic in 1999 had become the first head of state ever to be indicted by an international tribunal while in office.) Moreno- Ocampo summed-up the reason for this action, saying "[al- Bashir's] motives were largely political. His alibi was 'counterinsurgency'. His intent was genocide."

And when in March 2009, the ICC eventually issued a warrant for the arrest of al-Bashir – to the resounding applause of the Western establishment – on counts of crimes against humanity and war crimes (with genocide having been dropped, though Moreno-Ocampo later pettioned the Court to reconsider this count as well), foremost among the Court's reasons for affirming its jurisdiction "in the territory of a State not a party to the [Rome] Statute" was one that it described in frankly political terms: "one of the core goals of the Statute," the Court emphasized, "is to put an end to impunity for the perpetrators of the most serious crimes of concern to the international community as a whole, which 'must not go unpunished'." Whatever the case's merits, issuing an arrest warrant for the President of Sudan contributes to a higher good – or so the Court maintains – in that it advances a long-term goal of international justice: That the law not only applies to *all persons equally,* but can be *seen* to apply to all persons equally or "without any distinction based on official capacity." Such was the ICC's explicit reasoning. The indictments against al-Bashir prove to the world that *no man is above the law*.

No members of the Western political establishment seem to find the ICC's selectivity a problem. Nor do the "human rights" and "international justice" NGOs, which applaud every indictment the ICC issue

The ICC judges' arrest-warrant for the President of the Sudan maintains this line, apparently without embarrassment, in face of the fact that, through mid-2009, all fourteen of the ICC's indictees were black Africans, while effectively immunizing two other black African presidents (Uganda's Yoweri Museveni and Rwanda's Paul Kagame) who are major killers, but also happen to be major clients of the United States. No members of the Western political establishment seem to find the ICC's selectivity a problem. Nor do the "human rights" and "international justice" NGOs, which applaud every indictment the ICC issues.

Indeed, *ending impunity* and *bringing about accountability for the mass slaughter of civilians,* implicitly without any distinction relating to race and power, have been the promises of the ICC from its very inception. When the negotiations that led to the Rome Statute were completed in July 1998, then-Secretary-General Kofi Annan flew to the Eternal City to attend the Conference's closing ceremony. "Until now, when powerful men committed crimes against humanity, they knew that as long as they remained powerful, no earthly court could judge them," Annan said. But with the new ICC, all this will change. No longer will "[v]erdicts intended to uphold the rights of the weak

and helpless . . . be impugned as 'victor's justice,'" he said, "because others have proved more powerful, and so are able to sit in judgment over them." No longer will courts set-up on a *ad hoc* basis, "like the tribunals in The Hague and in Arusha, to deal with crimes committed in specific conflicts or by specific regimes" be similarly impugned, as if the "same crimes, committed by different people, or at different times and places, will go unpunished. Now at last . . . we shall have a permanent court to judge the most serious crimes of concern to the international community as a whole: genocide, crimes against humanity and war crimes."

But what Annan promised, the Rome Statute had already taken away. It is true that Article 5.1 lists the "crime of aggression" among the four "most serious crimes of concern to the international community as a whole" over which the ICC is to exercise jurisdiction (the other three being genocide, crimes against humanity, and war crimes). However, Article 5.2 adds that "The Court shall exercise jurisdiction over the crime of aggression [if and only if] a provision is adopted . . . defining the crime and setting out the conditions under which the Court shall exercise jurisdiction with respect to this crime." No definition has been forthcoming, despite the great and possibly increasing importance of the crime in question, and despite the existence of a Special Working Group at the ICC since 2002 with the task of amending the Rome Statute accordingly. Yet, even then, an amendment such as this "would have to be ratified by seven-eighths of the state parties to take effect," as York University's Michael Mandel points out, and "*it would only take effect against state parties who accepted it.* . . . In other words, no jurisdiction over the supreme crime until almost everybody agrees, and then an exemption for any signatory who wants it." Clearly, this is no way to end the culture of impunity. In fact, it is the negation of the ancient maxim that justice is blind.

We can only speculate what might come of comparable inquiries into the whole spectrum of U.S., NATO, and Israeli wars and occupations throughout the postwar era were these theaters of atrocity-crimes referred to independent investigations as aggressive as the ICC Prosecutor's inquiry into the Sudan …

And while the ICC ensures impunity for those states which have proven the most powerful, it also fulfills what Mandel calls the "American desire for a permanent *ad hoc* court" – a kind of permanent ICTY and ICTR to deal with specific conflicts and specific regimes, 'a standing tribunal . . . that [can] be activated immediately' by the Security Council on a case-by-case basis," exactly as the Council did in adopting Resolution 1593 in March 2005, when, arguing that the Darfur crisis inside the western Sudan "continues to constitute a threat to international peace and security," the Council referred the case to the Prosecutor at the ICC. Surely the al-Bashir case is a harbinger of how the Global South can expect both the ICC and R2P to be implemented going forward: A permanent *ad hoc* R2P to accompany the permanent *ad hoc* ICC.

We can only speculate what might come of comparable inquiries into the whole spectrum of U.S., NATO, and Israeli wars and occupations throughout the postwar era were these theaters of atrocity-crimes referred to independent investigations as aggressive as the ICC Prosecutor's inquiry into the Sudan or those of the forensic teams that exhume and identify the remains of the dead from Bosnia and Herzegovina's civil wars and Saddam Hussein's rule in Iraq – or that of the International Military Tribunal for Germany at Nuremberg.

Yet, in dramatic contrast to these inquiries, the same Prosecutor at the ICC in February 2006 declined to initiate so much as an investigation into crimes

committed in Iraq during the U.S. war and occupation, despite having received "over 240 communications" asking him to do so, including requests from Amnesty International and Human Rights Watch.

In the letter explaining his decision, Moreno-Ocampo gave multiple reasons why his office would not proceed with an investigation. Neither Iraq nor the United States have acceded to the ICC's jurisdiction, he argued, correctly; the ICC remains as yet incapable of deciding "whether the *decision t*o engage in armed conflict was legal" (for reasons discussed above, the crime of aggression does not yet fall under the ICC's jurisdiction); his office was "provided no reasonable indicia that [U.S.] forces had 'intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such', as required in the definition of genocide;" and similar legal evasions.

But most remarkable of all, under crimes of war, the "targeting of civilians," "excessive attacks," "willful killings," and "inhuman treatment of civilians," the only category for which Moreno-Ocampo was willing to entertain the evidence shared with his office by the more than 240 interested parties, he still discovered a reason not to proceed: The Iraqi theater of atrocities, it appears, fails to meet the ICC's general "threshold of gravity" requirement.

In Moreno-Ocampo's exact words, the killing and destruction in Iraq are:

> of a different order than the number of victims found in other situations under investigation or analysis by the Office. It is worth bearing in mind that the [Office of the Prosecutor] is currently investigating three situations involving long-running conflicts in Northern Uganda, the Democratic Republic of Congo and Darfur. Each of the three situations under investigation involves thousands of wilful killings as well as intentional and large-scale sexual violence and abductions. Collectively, they have resulted in the displacement of more than 5 million people. Other situations under analysis also feature hundreds or thousands of such crimes. Taking into account all the considerations, the situation did not appear to meet the required threshold of the Statute.

"The hundreds-of-thousands of Iraqi victims of the long-running "sanctions of mass destruction" era were "willfully" killed by a policy whose consequences were both understood and desired by the U.S. and British states enforcing it and even publicly claimed to be "worth it" by their perpetrators

As we have shown, the hundreds-of-thousands of Iraqi victims of the long-running "sanctions of mass destruction" era were "willfully" killed by a policy whose consequences were both understood and desired by the U.S. and British states enforcing it and even publicly claimed to be "worth it" by their perpetrators.

The one million (or more) "excess" Iraqi deaths from 2003 through 2009 have flowed directly from the "supreme international crime" committed by Iraq's U.S. and British invaders, as did the displacement of the Iraqi population on a scale comparable to the five million cited by Moreno-Ocampo as the "collective" number in three different theaters in Africa and far greater than the numbers displaced in Darfur alone.

It is also striking that the Office of the Prosecutor at the ICTY invoked a similar threshold-of-gravity objection, after it had been pressed to examine the US-led NATO-bloc's 1999 bombing war against Serbia. In this case, Carla Del Ponte refused to open a formal investigation of possible NATO crimes, on the grounds that the total of 495 Serbs documented by her office to have been killed by NATO

comprised an insufficiently large number – "there is simply no evidence of the *necessary crime base* for charges of genocide or crimes against humanity." Yet one year earlier, her predecessor, Louise Arbour, had decided that 344 dead Kosovo Albanians crossed the threshold of gravity and comprised a sufficient crime-base to request the indictment of Yugoslav President Slobodan Milosevic for various crimes, which the ICTY promptly granted, even though only forty-five of these deaths were reported to have occurred prior to the start of NATO's war. NATO's PR spokesman Jamie Shea explained the basis of the ICTY's choices in implementing its statute: "[W]ithout NATO countries there would be no International Court of Justice, nor would there be any International Criminal Tribunal for the former Yugoslavia because NATO countries are in the forefront of those who have established these two tribunals, who fund these tribunals and who support on a daily basis their activities. We are the upholders, not the violators, of international law."

The ICTY indicted Milosevic for the killing of 344 Kosovo Albanians during a period of active warfare, and Serb killings at Srebrenica and Račak released enormous passions in the West, as well as serial indictments and prosecutions of key Serb figures. Yet, a September 1994 memorandum to the U.S. Secretary of State that Paul Kagame's RPF was killing "10,000 or more Hutu civilians *per month*" in Rwanda was suppressed by the Clinton administration, the UN, and the media, and Kagame was transformed into Africa's "Abraham Lincoln" (Philip Gourevitch). Indeed, Kagame and his RPF were quietly supported by the Free World as they greatly extended their conquest of territory and massacres into the

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Democratic Republic of Congo. As we have pointed out, Kagame was trained at Fort Leavenworth and enjoyed continuous U.S. support while he planned and executed the violent regime-change in Rwanda. Kagame outshines Idi Amin as a killer, but his impunity follows in the wake of this pattern of service and support.

In this and many other ways the global culture of impunity shows itself, as the United States and its allies get free-passes on their "supreme international crimes," as well as any and all of the "accumulated evil" that issues from them. Likewise, when the Federal Republic of Yugoslavia asked the International Court of Justice to issue an injunction against ten member-states of the NATO-bloc then bombing it in the spring of 1999, the United States responded in Court that it had "not consented to the Court's jurisdiction in this case, and absent such consent, the Court has no jurisdiction to proceed." As early as June 2, 1999, with *Yugoslavia still under attack* by NATO, the ICJ ruled that it "manifestly lacks jurisdiction" to entertain Yugoslavia's complaint naming the United States, and lacked the right to enjoin the aggressors from continuing with their attack. The ICJ "cannot decide a dispute between States without the consent of those States to its jurisdiction," twelve of fifteen judges agreed. Since the "United States observes that it 'has not consented to jurisdiction . . . and will not do so,'" the ICJ was left with no alternative: "in the absence of consent by the United States, . . . the Court cannot exercise jurisdiction. . . . "

Flatly contradicting the rhetoric used by the ICC against the President of the Sudan, this much-heralded advance in universal jurisdiction, the first warrant of arrest ever issued for a sitting Head of

State by the ICC, the ICC struck at yet another black African whose killings ran afoul of the Great White-Northern Powers, but it stopped dead-in-its-tracks at the borders of NATO and its allies. Not only do their UN Charter-violating acts of aggression and mass-atrocity crimes go unpunished, but their notable persons, acting in their official capacities, remain as much beyond the reach of international law as ever. In this first decade of the twenty-first century, the United States, its allies, and its clients – but not its enemies in Sub-Saharan Africa and elsewhere – continue to benefit from the same global culture of impunity which the Great Unequals have always enjoyed, an impunity that is rooted neither in their goodness nor their justice but in their vastly superior economic and political power and nothing more.

The inability of any sector of the U.S. establishment to recognize fully that the human and material destruction in South East Asia and the Middle East are the consequence, not of accident, much less error, but of deliberate policies that produced this result, ranks among the greatest intellectual and moral failures in U.S. history. If the phrase *genocide denial* has any validity, we find it here, in the standard practice of the richest and most well-educated classes in the world.

Thus, the human capacity to ignore or to decry mass atrocities, depending on whether we commit them or our enemies commit them, is as observable today as at any other time. In 2003, a Pulitzer Prize in the nonfiction category was awarded to a tract whose author has honed the drawing of this distinction to a very high art; and, throughout this decade, "humanitarian" war intellectuals have shifted quietly from the cause of the Bosniaks, Tutsi, and Kosovars to the cause of the Darfurians – or that of the Lebanese, the Tibetans, the Burmese, Iranian women and students (and the like). It is notorious how little attention is paid by the New Humanitarians to why those peoples were suddenly elevated to worthy-victim status, both before and after their usefulness on the geopolitical stage has come and gone.

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Just as the guardians of "international justice" have yet to find a single crime committed by a Great White-Northern Power against people of color that crosses their *threshold of gravity,* so too all of the fine talk about the "responsibility to protect" and the "end of impunity" has never once been extended to the victims of these same powers, no matter how egregious the crimes. The Western establishment rushed to proclaim "genocide" in Bosnia-Herzegovina, Rwanda, Kosovo, and Darfur, and also agitated for tribunals to hold the alleged perpetrators accountable. In contrast, its silence over the crimes committed by its own regimes against the peoples of Southeast Asia, Central America, the Middle East, and Sub-Saharan Africa is deafening. *This* is the "politics of genocide."

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