


American justice episode guide

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Independent, reliable guide to online education for more than 22 years! Copyright ©2020 GetEducated.com; Approved by colleges, LLC's All Rights Reserved Tonight episode Of The Big Bang Theory came out on a rather strange and uncomfortable start: Howard went for a vasectomy, Sheldon inadvertently referred to the desire to touch as many children as possible as host of the children's science show, and Amy was shot down (Sheldon, ugh) for suggesting a new search for Professor Proton to be a female candidate. Yes, it wasn't until the biggest starts in Proton Regeneration. But, as in most classic episodes of The Big Bang Theory, the best moments happen when the characters face real challenges that challenge the very essence of who they are. These are not always the most emotional or terrestrial scenes, but the most truthful. In tonight's episode, Howard spent much of his recovery from surgery. Meanwhile, Bernadette - who said she was pushing herself too much on her 16-week check-up - has been put on bed rest. Ever since Bernadette's first pregnancy was announced, I've been showing hope for the Sheldon/Gully nanny scene, but the show actually gave us one better: Penny as the caretaker. This new development happened by accident: Penny stops by the Wolowitz family to check on Bernadette and Howard, thinking Raj is already there to take care of baby Halley. But he had to go to work, so Bernadette and Howard were left doing what they could, which isn't much. When Halley starts crying, Penny offers to go and check on her, but in that perhaps the biggest insult is because, well, Sheldon's comments minutes earlier, Bernadette and Howard suggest Stewart might be a better option than Penny. Now, I get that it's a comedy, but the fact that this show still plays a dumb blonde stereotype with Penny 10 seasons too late. As we saw last week, if she can handle and manipulate Sheldon, she's probably the wisest of the whole group. She's also not the character we first met in 2007. She is a successful pharmaceutical representative, happily married, and an amazing friend to everyone else in her time of need. When Penny questions why Bernadette and Howard don't trust her, they hem and haw up Bernadette says: It's not that we don't trust you... You just don't have much of a child person. Bernadette wasn't a child either until she had one of them. Of course, Penny can joke that she gave Gully some of her bourbon or that she would light some incense if Halley poops, but with the whole gang sending Amy over to check on penny care skills it was completely redundant. (I admit, however, that the scene was pretty funny, as were any time the ladies were together.)

Sonia Flemming/CBS This why what happened at the end of the episode was pure gold: Bernadette and Howard ring the bell to call Penny, and she punishes them for sending a spy (Amy) check on her. They don't do a very good job of convincing Penny they they Means it's negative, so when Penny leaves the room to check on Halley's crying, Bernadette feels bad for the way she treated her friend. Seconds later, Bernadette and Howard feel even more guilty when they eavesdrop on Penny on the monitor, telling Halley that she will never let anything happen to her because she loves her so much. With that, Holly pronounces her first word, and it's aimed at Penny: Mom. Do you hear the suckers? She called me Mom! Penny gloats. While this may not undo years of outdated stereotypes and assumptions thrown at Penny, this was definitely the beginning. Justice for Penny! Keep going. Related stories: The story behind this shocking pregnancy reveal on The Big Bang Theory Meelis Rauch on the heartache of miscarriage We are going to talk about this Big Bang Theory scene for a long time The International Criminal Tribunal for the Former Yugoslavia is the first military tribunal in the world of crimes since Nuremberg. The major Powers agreed with the tribunal's jurisdiction and under its leadership, which is much broader than most people realize. While even idealists would not have predicted this a decade ago, something like this tribunal could soon become a permanent feature in the world of Charles Trueheart April 2000 Issue tam is a living monument to one possible fate for international justice in the world of sovereignty. This is the Palace of Peace, the home of the International Court of Justice. The court sits in The Hague, a charming Dutch city, in soaring chambers in an eclectic brick palace from 1913 on the campus of fountains and neat gardens. Most often called the World Court, it weighs claims between states and issues opinions on the right and wrong side immediately after the First World War. It is a relic of Wilson's idealism, a surge of conscience and good intentions that opened the brackets of the twentieth century, just as another explosion closed them. The World Court considers civil disputes between states - quarrels over borders, or the right to fishing, or the meaning of treaties, or the right to consider another country the aggressor. It does not have the authority to enforce or face a real threat of punishment for non-compliance. His only lever is moral gravitas. The court weighs in, and allows the opprobrium or excuse to fall where it can. Many states ignore it when they want. The United States has severely limited its conditions for the court's jurisdiction after the Reagan-era decisions against it in a dispute with Nicaragua. Powerlessness is insidious, as the history of the United Nations reminds us. And impotence is a constant threat to another, completely separate and much younger world court: the International Criminal Tribunal, which is responsible for prosecuting and assessing war crimes committed in both the former Yugoslav Republic and Rwanda. It is also in The Hague, down the wooded from the Peace Palace, in a heavily guarded V-shaped office building that once housed a large insurance company. The house of the tribunal is a functional, secretive place staffed not only by judges but also by hundreds of prosecutors and investigators and translators, clerical officers and security guards. In the autumn of 1996, three and a half years after the establishment of the tribunal, a new Chief Prosecutor arrived. She was Louise Arbour, a Canadian law professor and lawyer, and she knew little about the substance of her vast dossier, or uncharted international law she would seek to identify and then enforce. But she understood the real agenda: to establish a war crimes tribunal as an institution of truth and consequences. The truth was far from discernible, given the immensity of the crimes that Arbour prosecuted - a quarter of a million people were killed in the three- or five- or seven-headed ethnic conflict in the Balkans, which lasted for most of the 1990s (and did not end); more than half a million people were killed in 1994 within weeks in Rwanda. Ensuring an effective and credible tribunal means not only establishing historical data and determining where justice is. It meant delivery. This means testing in the real world whether acts of genocide, crimes against humanity and violations of the code of war will have real consequences for the perpetrators. Unlike the World Court, which judges States, the International Criminal Tribunal judges individuals. Persons acting on behalf of States commit war crimes. Persons acting on behalf of States decide whether or not to cooperate with the war crimes tribunal. Getting states to cooperate with the tribunal has become a challenge for Louise Arbour. The unfolding horrors in Kosovo have led to the beginning of events. On Friday, 15 January 1999, in the Kosovo village of Racak, forty-five ethnic Albanian men, women and children were driven from their homes, driven into nearby forests and executed at close range by Serbian security forces in hoods. Some of them were maimed; one was beheaded. News of the Racak massacre reached Arbour in The Hague on Saturday morning when she returned home from grocery stores to find a message asking to call William Walker, head of the International Unarmed Monitoring Force, under the auspices of the Organization for Security and Cooperation in Europe, known as the Kosovo Verification Mission. Turn on the TV, Walker said, as she reached it. It's even worse than what you're going to see. On Monday morning, Arbour flew to Macedonia, next door to Kosovo. There she and Walker's deputy, Gabriel Keller, boarded a bright orange armoured vehicle and headed for the border to signal Arbor's determination to investigate the worst atrocities in nearly a year of Serbian repression. Arbour doesn't think it's likely she can cross the border, but the Massacre in Racak, in her opinion, forced her to demand access to the Yugoslav denying her investigators for months. Launched into these efforts, she wondered if the world was behind her, and she had good reason to wonder. Arbour was disappointed for most of 1998, as the Serb-led government of what remained of the Yugoslav Republic persistently banished and killed ethnic Albanians in Kosovo. These were war crimes and the International Criminal Tribunal declared its jurisdiction over Kosovo at an early stage. Western governments had hoped that the threat of a judicial investigation might lead to Slobodan Milosevic, the President of the Yugoslav Republic, abstaining. The United Nations Security Council, the sole institutional chief of the tribunal, upheld the tribunal's authority in three resolutions, which were supported by harsh statements by Western leaders. The tribunal's obvious agenda was to bring war crimes charges against Milosevic. Arbur's slow, methodical compilation of the case against the Yugoslav president and her stated desire to meet the toughest standards of evidence have sometimes been met with contempt by impatient humanitarian organizations and Western governments. She heard them say that she was too cautious on the Kosovo dossier, that she should go to Kosovo. She ridiculed the suggestion that she had fallen on top of her to take soil samples and testimonies. But in her two-and-a-half years at the tribunal, Arbour found the extent to which international decisions were influenced by the media. She also learned, after what many observers saw as a clumsy start, the use of the media. Racak was the provocation she needed. After Rachaka, Arbour asked NATO's high command, the so-called mining force known to insiders as dentists, to take it across the border to Racak under his protection, without visas or border formalities. As she put it later, dry: We wanted the introduction of the prosecutor by force of extraction. Under diplomatic norms, the request was outrageous; Arbor was denied. So she went alone. Arbour and her team handed over their official United Nations permits to the border guard who took them in for inspection. She later saw Serbian state television footage of a security guard holding her passport open to show that she did not have a visa. The team, of course, was denied entry, despite Arbor's aggressive confrontation with the commander. Arbour was five feet tall, and she left her bulletproof vests behind in the car. Do you know who I am? She asked the sergeant. He said he knew. Arbour later told me, I asked if he had instructions from Belgrade to refuse me, and he said no. She and her party turned back. A week after Racak had the lowest point of Arbour - the bottom of the pit, as she put it in one of the that we had last year, while the events in the Balkans and The Hague unfolded. I covered the International Criminal Tribunal for the Washington Post, and and Arbour socially several times during her previous appointment, in Canada, where she was a judge of the Ontario Court of Appeal. I didn't go along on a trip to Racak, so pointless it seemed to my editors and me, as a few days later seemed Arbour, too. I felt very abandoned, she recalls. I felt very alone. The photos told the story: I physically went as far as I could, and I had to turn back. But when Arbour returned to The Hague, she was surprised to learn that the incident had crystallized the work the tribunal had been doing for six years. He articulated the questions bluntly: evidence of crimes, international condemnation, the refusal of a sovereign body to allow an investigation that its membership in the UN required. Disrupted efforts to enter Kosovo in January brought the tribunal from the roadside to the center of the action and to the first indictment against the sitting head of state, Slobodan Milosevic. It was the agenda of the International Criminal Tribunal that, in the broadest sense, provoked and then justified the first full-scale military operation in Europe in half a century and the first operation to eliminate the humanitarian catastrophe in half a century, the killing of thousands of Kosovo Albanians and the deportation of nearly a million people. NATO and allied powers may have had other reasons for launching the bombing of Milosevic, but the humanitarian argument was the one they made most aggressively. The argument they have made is an endorsement, not quite wit, of an idea: the humanitarian imperative can go beyond sovereignty. This confluence of justice and power policy has at times been turbulent, and remains deeply difficult. Despite this, an extraordinary amount of rhetoric has been deployed against Kosovo, as well as ammunition in the name of the human rights commandment, which is at the heart of the tribunal's philosophy: there can be no real peace without justice. The Tribunal is a clumsily growing institution with no clear judicial background. No one allows the Yugoslav Tribunal to forget that so far it has tried only a handful of war criminals at a mostly low level. How this institution will do its job will have a big impact on whether there will be a permanent International Criminal Court. One hundred and twenty countries voted in Rome in 1998 to establish such a court, the United States is not among them. In her first interview with The Washington Post since arriving in The Hague, Arbour mentioned what diplomats do. She said: They are trying to get others to act in their own interests. I can't imagine it being that hard. What she said about the role of diplomats could be said about what she had intended to do, but it was very difficult for her. Arbour, who has spent most of her career in law school classrooms and the judiciary, will soon be deeply immersed in criminal investigations, legal strategies and jurisprudence. It will also find itself daily, Christmas trees, lobbying governments or or States for money, for personnel, for secret information about its purposes, for resources for exhuming mass graves and, most importantly, for acts of courage and political will: arrest of accused war criminals. Law enforcement and fear are areas in which friendly States show their true colours. The court has no police authority, nor a high-tech Swat team responsible for kidnapping architects and mass murder agents. In fact, the Tribunal serves the pleasure of the major Powers, especially the United States. If I were in her shoes and I wanted the tribunal to work, I would have been forced to go along with the United States, notes M. Sheriff Bassiouni, a war crimes scholar who helped lay the groundwork for the tribunal in the work it did for the United Nations. How far the question each of us has to solve. The Tribunal may complain that it is not receiving sufficient assistance from its powerful friends, but Serbian leaders or any other that may come under the control of a permanent international court in the new century may ask themselves, reasonably enough, whether a court, which is essentially the essence of their enemies, can justly administer justice. The emergence of justice, like the reality of it, depends heavily on the tribunal. Every assertion of jurisdiction, every step towards prosecution, every procedural appeal, every sentence - all of this can be decided on its merits, but always with the burden of knowing that the tribunal is also, and always, setting a precedent. BEFORE the outbreak of hostilities in the disintegration of the Yugoslav Republic, no one, except scholars and a few idealistic or zealous public figures, thought much about the need for a war crimes tribunal. After World War II, the trials of Nazi and Japanese leaders set a precedent, but one hobbled by the nature of justice is done: however, rightly, the victors tried the vanquished. After the war, the United Nations sought to codify crimes against humanity, genocide, violations of the customs of war and the like. But during the cold war, the documents embodying these ideas, which formed the basis of the tribunals of the 1990s, existed in the realm of pure theory. The International Criminal Tribunal for the Former Yugoslav Republic was established in 1993, two years after the conflict in the Balkans began. Western countries have been baffled by this south-eastern European crisis and have been repeatedly accused of spinelessness and confusion as an increasing number of casualties, particularly civilian casualties, have been reported on global television. The cynical view that some diplomats continue to promote is that the tribunal was created to give the appearance of anything when economic sanctions, arms embargoes, armed intervention and negotiations were either ineffective or impossible. I heard it all, told me commenting on this view. But as a lawyer, I find it hard to believe that those who voted for the tribunal do not what they were running. At first glance, they run a fairly reliable and well-equipped institution, which is very difficult to remember. If it was a cynical act, oh my God, was it ever stupid. One evening, to describe what the tribunal meant, she touched the lapel of her jacket and said: When the criminal law puts on his Sunday suit. The first chief prosecutor, Richard Goldstone, has made an outstanding career as a judge in South Africa. He led an investigation, shortly before the collapse of a white minority government, into atrocities committed against black civilians by agents of the South African state. He had an accurate sense of relations with the media, a fine pedigree on worthy deeds and a determination to put the tribunal on the line. When the Security Council added war crimes in Rwanda to its brief report in 1994, Goldstone already enjoyed a good reputation for a white lawyer in black Africa. (The history of the International Criminal Tribunal for Rwanda, which Arbour also headed afterwards, is a separate, vexing case that will not be heard here.) After a slow start, Goldstone began issuing indictments, making prosecutorial decisions that would be crucial for the

first years of the tribunal. By 1996, when he left, 76 people had been charged, most of them Bosnian Serbs, with crimes against Bosnian Muslims. In what some critics inside and outside the tribunal consider to be a misguided signal of moral equivalence, Goldstone also issued indictments against Croats (reasonably enough, given the evidence of their violence against Serbs and Muslims alike) and against Bosnian Muslims, who at the time were the most victims of the ethnic population in the Balkans. In 1994, the tribunal received its first prisoner when German police arrested Dusan Tadic, who lived in Munich. In 1995, the Tribunal indicted two Bosnian Serb leaders for organizing a campaign of ethnic cleansing and extermination of Croats and Muslims during the war, political leader Radovan Karadzic and his warlord Ratko Mladic. At the time of writing, Karadzic and Mladic are still at large and remain the most wanted men in the Balkans, symbols of the impunity that the tribunal is trying to strike out. In 1996, the Tribunal began the trial of Tadic, whose status as a petty fry and painfully difficult trial (appeals for his sentence stretched for that year) were the embodiment of the shortcomings of justice in The Hague. In April 1996, a large fish, the Bosnian Croat General Tihomir Blaski, surrendered to the tribunal less than voluntarily to receive accusations that he was responsible for the atrocities. By the time Goldstone left town, only one trial had been completed in September, and only Recognition. Of the seventy-six accused, only eight were in custody, and only one was Serb. Some of them relate to the hybrid form of law that the tribunal tribunal Its adversarial proceedings and proof rules are borrowed largely from British common law. But, as in the continental European tradition, defendants are not entitled to a jury, defendants can be questioned, and all cases are decided by a panel of three judges, with two votes for the judge. In The Hague, prosecutors can appeal the acquittals (and have done so). Rumors are permissible; as well as the diluted form of trial in absentia. This mishmash of legal traditions is made all the more troublesome by simultaneous, but not always perfect translation into three language courts - French, English and Serbian-Croatian. In the Goldstone era, only one courtroom was available; The judges heard two cases in turn, slowing down any trials that were conducted up to half the speed. (The tribunal currently has three courtrooms.) Goldstone, who knew Arbour through the legal scheme, invited her to dinner one day in late 1995, when he was visiting Ottawa. Arbour recalls that he asked her point blank: How would you like my job? Thought never crossed her mind. He urged her to consider the matter. In December, she received a call from Boutros Boutros-Ghali, then UN Secretary-General, asking if she would accept the appointment. Arboos shutdown had no experience in international law or as a prosecutor. She has taught criminal law and law because of her passion for civil rights and human rights, and recently chaired a commission of inquiry into conditions in Canadian women's prisons. She was a law school student in Montreal when Prime Minister Pierre Trudeau suspended civil liberties during the infamous crackdown on radical separatists. She worked as a judge of the Supreme Court of Canada, although at the time she spoke only a few words in English. (She's now free.) She says she was no more of a quebec nationalist than her peers, but she grew up and trained and thought about the law in a place that experienced a soft version of the ethnic passions that rage in the Balkans. In The Hague, Arbour focused on two broad areas: capitulation or arrest and the culling of indictments. It had untested tools that were extremely valuable and extremely disappointing: the NATO Stabilization Force (SFOR), the multinational peacekeeping force that succeeded in the Dayton Accords, the 1995 agreement that ended four years of hostility in Bosnia. His mandate to arrest war crimes suspects was the subject of some of the most difficult negotiations during three weeks of negotiations in Dayton, Ohio, brokered by U.S. diplomat Richard Holbrooke. There were several reasons for The West's concern about the arrests. First, U.S. and other NATO military leaders feared that the arrests would lead to violence against their own troops. Power was an obsession with the high command of the U.S. military after the debacle in Somalia. Secondly, they are concerned that, with a large number of Bosnian Serbs, it is still because of Karadzic's hench, peace, peace, and was in Bosnia to keep can be shaken apart by the arrests. Thirdly, leaders in the area were sensitive, notably Milosevic and Franjo Tudjman, then President of Croatia (he died in December). Whatever the accomplices of the horrors are the two men who have now signed the Dayton Accords and as such are the guarantors of the new order in the Balkans. Western warlords knew very well (and still know) when Karadzic and Mladic were. But they don't have to say so to their governments to meet them and then pick them up to be sent to The Hague. Arbour was impatient with atp nervousness, and became utterly skeptical and even contemptuous over time. But in some ways the impulse changed her way. In July 1997, when the SFOR was better entrenched, the peace was stronger and the power of the suspects dwindled, and the first arrest of the SFOR was made. Other arrests followed, one after another, by British, Dutch and American forces, and Three World Wars did not happen, as Arbur later put it. It was the first message that was delivered to the tribunal's indecisive military partners. The second message is that the threat of arrests, credible as a result of actual arrests, has persuaded the perpetrators to surrender in the hope of avoiding violent confrontation and possibly getting a better deal from prosecutors. Over the following year and a half, 46 per cent of those detained in The Hague surrendered. Arbour had an additional strategy that she believed was even more effective in facilitating arrests: she reported that there were suspects facing criminal charges whose identities were not disclosed. This policy of issuing sealed indictments has periodically become a cause for outrage among officials of target countries and Russia, and, oddly enough, among NATO commanders. All of them opposed secret indictments, as if the procedure somehow somehow meant the suspension of fair play. Arbour argued that she was simply using a strategy that any criminal prosecutor in North America uses regularly. The strategy of arbour with a sealed indictment had a utilitarian purpose: to betray fear to suspects who may well fear being charged, and to conclude that extradition would be preferable. His broader goal was to put the lead in an ATP pencil, as one of the Arbour prosecutor's office told me. A secret arrest warrant gave SFOR troops an advantage over purpose and a better chance of a bloodless arrest. And the secret warrant itself carried an implicit threat of exposure if military commanders and their political superiors did not arrive. Arbour, in fact, told the ATP: Arrest so-and-so, or I'll say publicly that you didn't do it when you could. An American diplomat told me, It gave them a reason or to take away their excuse. At the same time she carefully the viability of existing indictments, and in May 1998 it announced, announced, charges were dropped against fourteen people. The move was read out while abandoning Goldstone's policy of indictments, and as a symptom of disorder. But this mainly marked a change in the tribunal's priorities. From now on, the prosecutor intended to focus her resources on fewer and more important suspects. We had to regain control of the agenda and limit our impact, she told me, so we could decide who to try and in what order. Withdrawal love ARBOUR was to learn that an independent prosecutor can not afford to be a passive prosecutor. The work required charm and bravado and endurance, as well as wise use of spare resources, untested influences, as well as the power of public statements and private warnings. The influence went both ways. All those involved in the relations between The Hague and Washington insist that the prosecutor or her senior staff were not subjected to any indecent political pressure. But U.S. officials had ways of managing investigations by simply turning on or off the taps of information and cooperation the tribunal sought. In the exchange of information and prosecutors' workshops, the United States has made sure that they always know what is happening in The Hague and that their preferences are known. When Washington was dissatisfied with her, Arbour received what she calls the removal of love - a gentle reminder that she can be part of her inner circle, but only if she behaves. One of her aides described the dynamic between prosecutors in The Hague and bureaucrats in Washington: It's better to have a dance partner than not at all, even if it's stepping on your feet. Yes, they haven't cooperated, but they can do more to help us than anyone else. Arbour was an ally, at least initially, of the new U.S. Secretary of State Madeleine Albright, who celebrated Arbour's appointment at the United Nations and came to the State Department with war crimes that were at the center of her agenda. Albright created the department's first War Crimes Office. It was led by the ambassador, whom Albright trusted, David Scheffer, who would be the point man of the Clinton administration in the tribunal. The tribunal had a supporter in Kofi Annan, who was also the new Secretary-General of the United Nations, whose reputation was tarnished by his inaction as head of the UN peacekeeping mission during the Rwandan genocide in 1994. The court also actively supported Tony Blair's new British government. After Dayton, the former war zone in Bosnia was divided into three geographical peacekeeping sectors, which overlapped political entities established under the agreements. One sector is commanded by American, French and British officers, under their command are troops of other countries. In 1997 and 1998, it began to enforce arrest tribunal warrants. The English were far ahead. Dutch, German and American troops picked up several suspects. Suspects. The French had no accounts and they had Karadzic and Mladic, among other priority suspects living in their zone. The French were something of a special occasion here, as they often seemed elsewhere. They suffered far more casualties in the Balkans than any other non-Balkan nation, with 75 soldiers killed. They were stung by denunciations of kisylla likemen not only in the Balkans but also in the spring of 1994 in Rwanda. French officials have reason to worry about the new casualties, as well as the political consequences in France and perhaps the prospect of French military officers being called to justice in The Hague. For a fuller discussion of France and the former Yugoslav Republic, see France's attitude to the tribunal during this period, indelibly framed by one comment by French Defence Minister Alain Richard in an interview with Le Monde in December 1997. Richard said the tribunal's suggestion that the French military give evidence in The Hague about events on the ground during the war was that French officers would never go to The Hague to participate in any fairness show. Words are often translated as show trial, but Richard's meaning is probably closer to the media circus. Either way, the remark knocked the house on Richard and the government of Prime Minister Lionel Jospin. French newspapers of all stripes denounced his attitude, wondering if France still officially believes in international justice. Arbour couldn't resist, also in Le Monde, claiming: There are a lot of war criminals in the French sector, and they feel absolutely safe there. Relations between France and the Tribunal have improved. French officers were allowed to testify, and Arbour eventually declared France fully complying with the tribunal's needs. Arbour says he regrets the incident. He singled out the French as rogues who were not accurate. There were others that fit the bill. This issue was never really France-it was the commitment of any major country to the tribunal and its cause (or so it insisted). However, one of the American officials can not resist, pointing out that Arbour's remark about the French zone remains accurate. The French, however, were on the blessed side, and the United States was on the other side, from the perspective of international communities on human rights and justice, in July 1998, when 160 countries and roaming armies of well-informed, well-funded representatives of humanitarian agencies began work in Rome on a treaty establishing a permanent International Criminal Court. Books about compromises made in Rome will be written. Suffice it to say that in the last days of the conference, the future International Criminal Court nearly died because of the power of an independent prosecutor to bring legal action against suspected war criminals. Will the transfer to the Security Council or the veto required Can the prosecutor choose anything to investigate, even without the transfer of the state? The final text gave the prosecutor such powers, as a last resort. The treaty also insisted that the International Criminal Court could overturn the primacy of national courts if they were deemed not to meet their obligations to administer justice fairly or properly. In the face of these two provisions, and regardless of its own judgment, the Clinton administration has been forced to repeat the reservations of Republican critics on Capitol Hill. Jesse Helms and others have vowed that any treaty allowing even the remote possibility that some future Lieutenant William Cully or Robert S. McNamara will be tried in a foreign court will be dead upon arrival. The Clinton administration decided not to deliver the body. She continued to work with other signatories to find ways to fix the treaty from the U.S. point of view without changing it, a task that only a diplomat could have foreseen. As even the most strong proponents of the treaty understand, the International Criminal Court without the United States will have neither authority nor authority. Since Rome, Arbour has repeatedly pointed out that the treaty creates an institution largely weaker than the existing UN tribunal. When the front parties to the 1993 International Criminal Tribunal's charter appointed a tribunal for the former Yugoslav Republic, they thought of a clear and general rubric covering the conflicts of the time: Croatia and Bosnia. Some of the substitutes now say that even then they understood that Kosovo, a 600-year-old cauldron of Serbian-Albanian enmity and the place where Milosevic initiated his campaign of ethnic domination, could be included in the rubric. Louise Arbour and Gabriel Kirk McDonald, a federal judge from Texas who presided over the tribunal's trial, read out a founding charter meaning every part of the former Yugoslav republic. In early 1998, as reports of Serbian police brutality against Kosovo Albanian civilians began to leak into the news, Western officials increasingly threatened the Milosevic Government with an investigation of the tribunal and possibly war crimes trials. Western Governments understand that Milosevic's own forces are beginning to do exactly what his Bosnian Serb proxies did in the early 1990s. But now there was a tribunal and running, and directly charged with investigating such crimes, without any statute of limitations. Arbour and her staff have begun to examine possible indictments. It was obvious to everyone that we had a team approach that was much simpler, she told me, compared to Bosnia and Croatia, where the proxies responsible for the atrocities were isolated from the ultimate source of power in another country. According to Graham Bluit, Australia's deputy prosecutor, who arrived in The Hague before Everyone knew that Milosevic had over the Bosnian Serbs, but his de jure power was very difficult to establish. If we were going to blame Milosevic, Kosovo would be a direct way, because he had a clear de jure power there. To establish the chain of command, Arbour needed help. Just as the tribunal does not have its own police unit (although some in the tribunal believe it should), it also does not have its own intelligence service. To find out who is giving orders to whom since atrocities and ethnic cleansing spread to Kosovo in 1998, Arbur needed information that only modern espionage could provide: agents on the ground, eavesdropping, drones in the sky, photographing the movement of vehicles and assassination sites, high-tech telephone intercepts of command and control conversations. The United States, which has the largest arsenal of intelligence technologies, seems to have much to offer tribunal investigators. Getting their hands on this material will come to the obsession of Arbour and her staff as the Kosovo investigation draws closer to the indictment stage. The Chief Prosecutor has always had access to so-called lead information from the United States and other countries, information that the tribunal can use to develop evidence on which indictments can be filed. However, the sources of this information are too sensitive to be used as evidence in open court, so it cannot be used for a conviction. These restrictions reflect not only a clash of interests, but also professional divergence. The intelligence community is used to thinking that the value of intelligence lies in the finished product. For them, Arbour says, the analysis, the conclusions they draw from the information are important. For the prosecutor, this is proof of information, otherwise the defense may say it is unverified. Arbour was still looking for intelligence and made no secret of his determination to blame Milosevic when the NATO bombing campaign began. Western governments, most unequivocally British, have given powerful approval to the war crimes process. Robin Cook, the British Foreign Secretary, set out a legal test clearly for Milosevic and his associates on 29 March 1999: Anyone who carries out atrocities against civilians, anyone who gives orders to them to comply with it, or is complicit in these orders, and those who fail to prevent such orders or prevent these orders being carried out are responsible for the indictment. Cook has also made public a list of likely suspects, with Milosevic at the top. Around the same time, Arbour announced the existence of an eighteen-month sealed indictment against one of Milosevic's most infamous disciples, Rznatovich, usually known by his nom de Guerre, Arcan. Arkan was responsible for the notorious paramilitaries that committed atrocities against Muslims in Bosnia; his thugs are now known to be doing the same in Kosovo. After receiving the news, the news, appeared on ABC's Good Morning America, protesting his innocence and repeatedly calling Arbour a bitch. (Arkan was killed on January 15 last year in Belgrade.) The following week, Arbour began touring Western capitals to push governments to provide more evidence that would help her build her indictments, always reminding them that the arrest of Karadzic and Mladic in Bosnia would send a powerful signal to Milosevic and his allies that they themselves could not escape justice. The British, whose special forces were already assisting on the ground, were the most generous in what they bestowed. In May last year, when the bombing campaign finally began to take its toll, there was suddenly talk of a peace agreement with Milosevic in the air. Arbour feared that the tribunal could be sold, possibly with the protection of Milosevic and the Serbian leadership. It would have been better to remove this option from the table she had decided before the negotiations got serious. Holbrook and others were pleased that the court had issued indictments against Karadzic and Mladic as a reason for excluding them from the Dayton Conference. Arbour believed that Milosevic's indictment could be just as useful, and his absence could prove dangerous for the tribunal itself. Many, if not all, of U.S. officials seemed to agree. An American diplomat involved in the Kosovo negotiations during this period told me, It would be unfair not to charge this guy. That would look ridiculous. In the second week of May, Arbour and its staff began negotiations with the U.S. and British military authorities to grant the tribunal's investigators access to Kosovo immediately after the cessation of the bombing and the withdrawal of the Yugoslav military from the province. She didn't want to be sneaking in, she told me. I want to be on their shoulders when they roll in Kosovo. Again, relying on the vested interests of her partners, she told them: The Serbs will say that all the damage and killings were done by NATO airstrikes. If they do it, you need me there to prove otherwise. On the night of Saturday, 22 May, Arbour and her staff in The Hague asked the Judge of the International Criminal Tribunal, David Anthony Hunt, to sign indictments and arrest warrants for five persons: Slobodan Milosevic, President of the Yugoslav Republic; Milan Milutinovic, President of Serbia; Nikola Sainovitch, Deputy Prime Minister of the Yugoslav Republic; Colonel-General Dragoljub Oydaniyk, military commander of the Kosovo forces of Serbia; and Vlaiko Stoilkovic, Serbia's interior minister and head of her police force. Early the following week, the tribunal began to tell Washington and other capitals that an indictment sealed until Thursday at Arbur's request had been handed down. It was a notification, not a request for approval. The most obvious concern in Washington is that the indictment may corify Milosevic and his refusal to come to an agreement in extremely delicate negotiations Finnish and Russian envoys, or may refresh their fear of consequences. Some in the White House and State Department were puzzled that the indictment was so radical. According to one diplomat, accusing senior leadership positions in the Yugoslav and Serbian republics of this, the prosecutor deprives the negotiators of important interlocutors or likely successors if Milosevic is forced into office. There was talk of trying to persuade Arbour to keep the indictment under seal until the cessation of hostilities. Arbour says she didn't hear anything about it at the time. But she received information that Madeleine Albright had tried to contact her hours before the indictment was announced. Arbour sent a word back that she should think long and hard before making that phone call. He never came. We were in a mild phase of lifting love, she recalls, until the press said bravo. Then it was normal to love me. Arbour could only admit that the indictment had placed Milosevic and those who had dealt with him in a much more embarrassing position. The evidence on which this indictment was confirmed, she said on the day she announced her lawsuit, raises serious questions about the suitability of the defendants to be guarantors of any deal, let alone a peace agreement. The indictment did not make them less appropriate; the indictment simply exposed their unsuitability. The war crimes indictment, which analysts and diplomats now agree with, has increased pressure on Milosevic to capitulate to a third-party withdrawal agreement. They believe that Milosevic knows that he cannot hide from the indictment, that his country is his prison, and that his situation in the country is extremely vulnerable. Some diplomats believe that one day he will indeed be on trial if he does not set his life free. Arbour's promise, in the indictment, to prosecute Milosevic through seizures of assets in offshore banks was intended not only to increase his isolation, but also to remind all objects of his corrupt generosity over the years that they too were involved in this network. What flabbergasted Arbour, and still incense her staff, was the Clinton administration's public attempt to imply that the U.S. government at the very last moment delivered the intelligence that made the indictment possible. Everyone in the office threw up, said the prosecutor, who was working on the case. The United States has given the tribunal very little that has not been publicly accessible. When a U.S. diplomat asked Arbour if the indictment included corroborating material that the judge had seen but which remained under seal, any of the last-minute information provided by the United States, she replied no. Tribunal sources confirmed that he it was too late, it was not necessary, and it consisted mainly of a collection of videos of Milosevic's public speeches. When trials take place and the evidence comes out, the story will know who it is that gave it to us, says Arbour. I think some people will be put in disgrace for taking credit. The bombing of the Yugoslav Republic ended on 10 June 1999. And the tribunal's investigators did go to Kosovo with NATO armed contingents. The tribunal's work now has an international priority and media coverage, as was not the case in Croatia and Bosnia. The U.S. government has paid up to \$5 million each for the heads of Milosevic and his associates. Moreover, the tribunal had an unprecedentedly complete and fresh trove of evidence of war crimes: photographs, marching orders, soil samples, blood samples, gunpowder samples, eyewitness testimony and all sorts of intelligence supplied by Western governments, humanitarian groups, journalists. Prosecutors had to sort out the focus on Racak and six other villages that submitted the existing indictment with his main charges. They have focused on leadership structures in order to strengthen their case of chain of command and especially heinous acts of murder, torture, rape and other acts of cruelty. The perpetrators of the crimes that may have been the focus of attention in the early years of the Tribunal are now under the jurisdiction of local courts, which have yet to be established. Arbour's successor, Swiss Attorney General Carla del Ponte, followed suit, saying the Kosovo investigation would focus on the five accused leaders. Louise Arbour was appointed to the Supreme Court of Canada the day after the explosion stopped. By early September, she was in Ottawa, living in makeshift neighborhoods. We talked there for a couple of days, we talked about it in court. At one point, she mentioned her surprise that no one had paused to believe that the world had crossed the threshold in Kosovo or was prepared to admit it. In fact, she herself stopped to consider it, although her comments were not widely quoted. Her observation was broad and tart, in a speech in The Hague on 13 May, seven weeks after the NATO bombings: On 24 March 1999, nineteen European and North American countries said what some of them were reluctant to say. They have voluntarily succumbed to the jurisdiction of an existing international tribunal whose mandate extends to the theatre of their elected military operations, whose coverage is independent of nationality, whose investigations are at the discretion of the prosecutor and which has the upper hand over national courts. Arbour told me when we spoke in Ottawa that she would bring up this issue of jurisdiction in private meetings during the bombing campaign, just like a friendly reminder, and draw blank glances, or confused frowns, as if they didn't understand what I meant. For diplomats, this surrender of sovereignty was not or too preposterous or threatening to scrutinize. When Jamie Shea, NATO spokesman in Brussels, was asked during the air war, he said, the tribunal certainly had jurisdiction over all, but no one believed that NATO would deal with war crimes. Graham Blewitt, at the tribunal, told me that the whole case was taken seriously in the house. After the attacks, the high-level bombing campaign caused us a real problem. If they don't see what the targeting was, it might come down to some kind of negligence. We believe that this target has been subjected to a rigorous internal legal process to ensure that they are appropriate military targets. But we have encouraged them to make statements that they will themselves be prosecuted against anyone suspected of war crimes, reminding them that the tribunal's jurisdiction is initiated only when the State judicial system has failed. They refused to make such a statement. It seemed that the idea that the tribunal could investigate what it had chosen might be worthy of. After the accidental explosion of a Yugoslav railway car, followed by the accidental bombing of a Yugoslav television station, and then the accidental bombing of the Chinese Embassy in Belgrade, the tribunal, according to Arbour, had no choice but to open an internal review of potential war crimes by NATO countries. Investigators prepared a report on their findings and handed it over to Del Ponte in December. The very fact that such an investigation is ongoing has already provoked the tribunal's enemies on Capitol Hill. It is impossible to be a cynic to expect that no NATO leader will be charged with carrying out the Kosovo operation. But one should not naively believe that, whether we like it or not, the major powers are now accountable to justice more than they are. I wasn't appointed to make politicians' lives miserable or happy, Arbour said in Ottawa. I was paid to make sure no one escapes control. It hardly makes sense to follow NATO leaders for war crimes. The main issue is that the countries of the world, including the United States, are already living within the international criminal justice system that they themselves have created. Their words just didn't catch up with their deeds. On July 24 last year, six weeks after the explosion ended, Arbour left one of her last notes before the tribunal, doing the same in a different way. It has launched an investigation into the murder of fourteen Serbs near Liplyan, Kosovo, which the evidence indicates was an act perpetrated by Kosovo Albanians conducting their own ethnic cleansing. The Tribunal has jurisdiction over all serious violations of international humanitarian law committed in the territory of the former Yugoslav Republic, including Kosovo, since 1991, the prosecutor said through his spokesman, Paul Rislley. This jurisdiction includes crimes committed before and after the official end of NATO bombing 20 1999. Just another UN program? At a meeting with his staff one day in October 1998, when Bosnia and prosecutions are protracted and the pressure on the investigation of war crimes in Kosovo is increasing, Arbour found in the hall a certain lack of determination. Everyone seemed tired, even broken, the disappointment of the tribunal. Perhaps, feeling the reflection of his own frustration, Arbour exploded on his employees: What's in you? When I came here, everyone was dripping with mud, had just returned from Sarajevo, begging to be sent back.... Why don't you knock on my door? Do we want to be just another UN program? The court will not exist officially until sixty states ratify the treaty (so far seven have). However, after Kosovo, there was a political movement to establish more special international criminal tribunals - for East Timor, for Cambodia, for Iraq, for Chechnya. Whether a war crimes court can work will depend on whether powerful States are willing to commit to an ideal that carries risks and requires humility. We create democracies, laws and creeds because we believe in something that goes beyond the national interest. The difference between Kosovo and other wars of the last half-century is that the West has acted in the name of rights and standards that are not ethnic or national, but merely human. And, as Arbour points out, the West acted knowing full well that an independent prosecutor is also looking at NATO. Kosovo has revealed two, perhaps three things. First, atrocities and ethnic cleansing were being carried out, which were now a common justification for military intervention, which sometimes made State sovereignty irrelevant. Secondly, accusations of war crimes have been proven to be powerful weapons, although they are necessarily unmanageable. Thirdly, international criminal justice may have become an integral part of what the civilized world believes and does. Louise Arbour was essentially an assessment of how the tribunal's place in the world had changed: When I arrived in The Hague, all the comments - praise, suspicion, all of this - came from a circle of humanitarian organizations, from Human Rights Watch and others. They were our friends. When I left The Hague, all the assessments and assessments came from politicians, the military, national security thinkers. I'm not saying they've always been our friends, but the tribunal has been in a new circle. The role of the tribunal in the last war of the century represents a remarkable passage for the countries involved. I was tempted to believe Arbour when she said at a press briefing in Sarajevo last July: We have moved international criminal justice to the point of return. We have made this process completely irreversible. Knowing her, and knowing the chances, I realized that it would be bold. Dare.

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