
Kissinger Watch (www.icaonline.org/kissingerwatch) - a joint project of

**East-Timor Action Network
International Campaign against Impunity
Instituto Cono Sur**

Dear readers,

In the past few years, the international movement against the impunity of public officials has gained unprecedented momentum; activists worldwide have made significant efforts to assure that these high-ranking politicians and soldiers will be held accountable for their acts, which include crimes against humanity, war crimes, torture, and genocide.

General Pinochet was detained in London for more than 500 days and escaped extradition to Spain only after a dubious medical assessment found him unfit to stand trial. Slobodan Milosevic was extradited last June to the Hague Tribunal (ICTY) on charges of war crimes, genocide and crimes against humanity. A second international ad hoc tribunal (ICTR) has been established for Rwanda and tries suspected perpetrators of the genocide. Support for the establishment of similar tribunals for Sierra Leone, Cambodia, and East Timor is strong. In the last week of February 2002, Portugal and Ecuador joined the International Criminal Court (ICC). Only eight ratifications remain before the ICC treaty enters into force.

Impunity, however, is not limited to those countries that are placed under the label of the "second" or "third world." The West must also confront its criminals; it cannot remain blind to the crimes of its officials. For this reason and with this issue, we launch KissingerWatch.

To many, Henry Kissinger epitomizes the failure of the Western world to pay serious attention to the grave crimes committed by its leadership. In response, KissingerWatch is designed to examine this specific case of impunity, to provide information about Kissinger's alleged role in the violation of human rights worldwide, to kindle debate, and to facilitate the exchange of opinions among experts and activists.

Inspired by the success of the Pinochet Watch bulletin (<http://www.tni.org/pinochet/>), KissingerWatch will be published as an email bulletin that will be distributed several times per annum.

The first issue aims at providing a comprehensive - but far from complete - overview of Kissinger's past and present activities. It also serves to introduce other initiatives that raise awareness on Kissinger's alleged involvement in crimes against humanity, war crimes, and genocide. Future issues will be more concise and hence more easily digestible.

To subscribe to KissingerWatch (free of charge), send an email to: subscribe-kw@icaonline.org

We also welcome your active participation in this project. We encourage all readers to share the results of their research with us. (kissingerwatch@icaonline.org)

Thank you, and we appreciate your readership.

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1. Summary of "Holding Individual Leaders Responsible for Violations of Customary International Law: The U.S. Bombardment of Cambodia and Laos" by Nicole Barrett, J.D., Columbia Law, 2001., prepared by Katharine Larsen, larsenke@law.georgetown.edu, Georgetown University Law Center, J.D. class of 2003.

(Nicole Barrett's article is available under www.icaonline.org/kissingerwatch/barrett.pdf)

At no time has the question of accountability for political decision-making been as controversial as it is today. The roller coaster trajectory of the past few years alone has included the prosecutions of Pinochet, Habre, and Milosevic; it has also included a recent ICJ decision that

undermines the exercise of universal jurisdiction in Belgium, the silencing of opponents to U.S. governmental policy in the wake of the unforgettable events September 11, and the continuing presumption of political immunity for foreign policy practices.

In this context, Nicole Barrett's note, "Holding Individual Leaders Responsible for Violations of Customary International Law: The U.S. Bombardment of Cambodia and Laos," analyzes the legal consequence of filing suit against Henry Kissinger, the U.S. National Security Advisor from 1969-1973, for violations of customary international law (CIL). Here, Barrett tackles two questions: Did the U.S. bombings of Laos and Cambodia violate CIL, and, if so, can Kissinger be held accountable under theories of command responsibility? Both these questions are answered in the affirmative. First, Barrett asserts that carpet-bombing represents a per se violation of CIL and that the bombings in this case specifically flouted the laws of war at the time. Second, she determines that Kissinger knew about the bombings and not only did not take measures to prevent them but actively sought to maintain them despite the deaths of almost one million citizens of Laos and Cambodia.

In analyzing whether the bombings constituted a violation of CIL, Barrett makes her point in four parts. She first describes the chronology and character of the attacks on Laos and Cambodia individually. She then discusses the origins of the legal rules that apply to these events. Third, she asserts that these rules are binding today and were equally binding at the time of the bombings. Last, she applies these standards to the facts of each attack. Because she determines that CIL, as it stood in 1969, had established a clearly discernable and legally binding principle that civilian lives must be spared in times of war and that the bombings in question indiscriminately took the lives of hundreds of thousands of non-combatants, Barrett concludes that these acts constituted a clear violation of CIL that could not be justified by "military necessity."

The bombing of Laos resulted in the murder of over one-tenth the country's population. As Barrett points out, the United States dropped more bombs there than it did worldwide during World War II. Hospitals, religious institutions, and villages were wiped out; Agent Orange was spread across 4.5 million acres of fertile lands; almost a million citizens were forced from their homes in what Ted Kennedy (D-Mass.) called "a mindless use of power."

The devastation in Cambodia was equally heinous. Six hundred thousand non-combatants were murdered, and over two million were forced to flee as the United States used carpet-bombing techniques to destroy densely populated towns, fertile fields, and jungle areas. The absolute ruin led Cambodian citizens directly into the hands of the dictatorial Khmer Rouge regime. Although a domestic tribunal has been proposed in order to hold perpetrators accountable for the human rights abuses committed in Cambodia, its mandate will likely be limited to the period after 1975, protecting the United States from culpability.

Given these events, Barrett canvasses the applicable legal standards that existed in 1969 in order to lay out the rules governing acts of war. These standards include the following rules: parties to war must distinguish between military and civilian targets; they must not direct attacks at civilians; and they must limit each attack to the advancement of legitimate military objectives, meaning that an attack must be necessary as well as proportional. In asserting that these principles were binding upon the United States at the time, Barrett asserts that, in accordance with international law rules, these rules were derived from consistent state practice that was followed out of a sense of *opinio juris*, i.e. general legal obligation. Here, Barrett describes and documents the evolution of the laws of war from the writings of Grotius, the Lieber Code, and the early Hague Conventions to the principles enforced in the Nuremberg trials, the codes advanced by the International Committee of the Red Cross, and the Additional Protocol I to the Geneva Conventions. From these documents, she identifies a "clearly established customary international law rule that civilians must be distinguished from military targets and spared." After applying these rules to the facts described above, Barrett conclusively states that the bombings were in complete violation of the standards of CIL and that carpet-bombing as such represents a full affront to these standards.

In the second part of her note, where Barrett assesses Kissinger's culpability, Barrett walks through command responsibility's two prongs, as outlined by the Yamashita principle and the 1956 U.S. Army Law of Land Warfare. She finds that Kissinger satisfies both. First, as a political

leader with direct control over the military, Kissinger fulfilled the requirement that he "knew or should have known" that military forces were committing crimes. Kissinger himself proudly states in his autobiography that he, "[i]n an awesome setting ... worked out the guidelines for the bombings of [Cambodia, developing] both a military and a diplomatic schedule." Further, military officials noted that he read raw intelligence in order to orchestrate his plans. Second, Kissinger did nothing to take "necessary and reasonable measures to prevent illegal acts"; in fact, as the architect of the bombings, he systematically planned their implementation, and he complemented the Seventh Air Force on its use of the most advanced photography, radar, sensors, and intelligence to carry out his plans. Accordingly, Kissinger was fully aware of the results of the bombings - the human massacres and physical devastation - and he did everything in his power to assure that the U.S. forces reached these goals. As such, Barrett asserts that Kissinger is culpable for these events under the theory of command responsibility.

In her conclusion, Barrett confronts the obstacles of the statute of limitations, legislative jurisdiction, and non-justiciability (e.g. political question doctrines). She finds that none of these is an insurmountable obstacle, although a successful trial would require careful forum selection in order to identify a jurisdiction that waives the statute of limitations for war crimes, that allows prosecutions on the basis of universal jurisdiction, and that has the political will to carry such a controversial case forward. Because the further dismantlement of the presumption of non-accountability for governmental officials will significantly strengthen the human rights movement, Barrett challenges the international community to "have the courage to hold political leaders accountable for their criminal policies" and to begin with the indictment of Henry Kissinger.

2. Ford and Kissinger Gave Green Light to Indonesia's Invasion of East Timor, 1975: New Documents Detail Conversations with Suharto. (Document available at www.icaonline.org/kissingerwatch/invasion_of_east_timor.pdf)

6 December 2001

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WASHINGTON, D.C. - The National Security Archive at George Washington University today published on the World Wide Web previously secret archival documents confirming for the first time that the Indonesian government launched its bloody invasion of Portuguese East Timor in December 1975 with the concurrence of President Gerald Ford and Secretary of State Henry Kissinger. Since then, the Suharto regime that sponsored the invasion has disintegrated, and East Timor has achieved independence, but as many as 200,000 Timorese died during the twenty-five year occupation.

Twenty-six years ago today, President Gerald Ford and Secretary of State Henry Kissinger met with Indonesian President Suharto during a brief stopover in Jakarta while they were flying back from Beijing. Aware that Suharto had plans to invade East Timor, and that the invasion was legally problematic-in part because of Indonesia's use of U.S. military equipment that Congress had approved only for self-defense-Ford and Kissinger wanted to ensure that Suharto acted only after they had returned to U.S. territory. The invasion took place on December 7, 1975, the day after their departure, resulting in the quarter-century long violent and bloody Indonesian occupation of East Timor. Henry Kissinger has consistently denied that any substantive discussion of East Timor took place during the meeting with Suharto, but a newly declassified State Department telegram from December 1975 confirms that such a discussion took place and that Ford and Kissinger advised Suharto that "it is important that whatever you do succeeds quickly." Two key documents released today were declassified by the Gerald R. Ford Library at the request of the National Security Archive; Archive staffers located other documents at the National Archives. Today's revelations include:

When Suharto told Ford and Kissinger that he was about to order an invasion, the response was only to caution that "it would be better if it were done after we returned" (the invasion began the next day).

Kissinger told Suharto that the use of U.S.-supplied arms in the invasion-equipment that under U.S. law could not be used for offensive military operations-"could create problems," but indicated that they might be able to "construe" the invasion as self-defense.

On 12 August 1975, a few days after a coup attempt in East Timor, Kissinger observed that an Indonesian takeover would take place "sooner or later".

Six months into the occupation of East Timor, Kissinger acknowledged to senior State Department officials that U.S. military aid had been used "illegally" and hinted at his own doubts about the invasion: Washington had "not very willingly" resumed normal relations with Jakarta.

"This important set of documents reveals the overriding importance that the Ford administration attached to maintaining friendly relations with Indonesia in the immediate aftermath of the U.S. defeat in Vietnam. Ford and Kissinger plainly viewed the maintenance of warm ties with the Suharto regime as a foreign policy priority that far outweighed any secondary concerns about the possible Indonesian use of force in East Timor--even though the use of such force would ... constitute a clear violation of American laws. The callous disregard for the human rights and political aspirations of the East Timorese are rather breathtakingly exposed in these newly released documents." --- Robert J. McMahon, Professor of History, University of Florida, and author of *The Limits of Empire: The United States and Southeast Asia Since 1945* (1999)

3. The murder of General Rene Schneider / Lawsuit against Kissinger in the US by ICAI

Last September, the family of Chile's former Army Commander-in-Chief Rene Schneider filed suit against Henry Kissinger, Richard Helms et al. in the U.S. District Court for the District of Columbia, accusing them of plotting the general's 1970 kidnap and assassination. The night before the lawsuit was filed, CBS broadcasted a special "60 minutes" programme, including interviews with former U.S. Ambassador to Chile Edward Korry and Chile expert Peter Kornbluh from the National Security Archives, both confirming Kissinger's responsibility. The defendants filed a motion to dismiss the suit on various grounds, including absolute immunity and the political question doctrine. The lawyers of the Schneider family filed an opposition to the defendants' motion to dismiss last December, and the defendants filed a reply to that opposition at the end of January 2002.

General René Schneider, Commander-in-Chief of the Chilean Army, was killed in 1970 by Chilean military coup-plotters with the full support of Henry Kissinger and other high-level officials of the intelligence community.

The background was the 1970 presidential elections in Chile. The context was the Cold War. At the time, Henry Kissinger was President Nixon's National Security Advisor and Chairman of the National Security Council's 40 Committee in charge of Clandestine Operations.

Afraid of the consequences of a democratically elected Marxist in the region, the United States intelligence community, headed by Kissinger, organized covert operations to prevent the victory of Salvador Allende. The first "Track" of these covert operations became known as the political/constitutional solution. It consisted of continuing propaganda efforts that had been used in previous Chilean presidential and congressional elections. The U.S. thus infiltrated political parties and published newspaper and magazine articles, both in Chile and abroad, containing anti-communist and anti-Allende rhetoric. The U.S. also exerted political pressure against the Chilean Congress. According to the Chilean Constitution, if no presidential candidate wins a majority of the vote, the legislature must elect one of the two front runners. Since the Chilean elections were close, the U.S. wanted to make sure the Chilean legislature was influenced in the "right" direction.

Nevertheless, the political/constitutional solution did not work, and Allende was elected President. Despite strong propaganda efforts, the Chilean people and its legislature did not want to interfere with the democratic process. General Schneider, as Commander-in-Chief of the largest section of the Chilean military, publicly announced the Army's desire to abide by the Constitution and to recognize whomever the Chilean people and/or legislature elected democratically. Due to his enormous influence among the military, Gen. Schneider became the main impediment to a military solution for the Allende problem.

Frustrated by failure, Kissinger uttered a famous statement best characterized as an expression of his disregard and disdain of the Chilean democratic will: "I don't see why we need to stand by and watch a country go communist due to the irresponsibility of its own people." Faced with the collapse of the propaganda activities and the frustration of their plans to prevent an Allende victory, Kissinger and the heads of the U.S. intelligence community decide to implement "Track II", also known as Operation FUBELT. The purpose of Track II was to promote a coup in Chile. One of the methods used to promote this coup, besides threatening the military with ending U.S./Chile Military Assistance Programs, was to provide different groups of coup-plotters with weapons in order to remove Gen. Schneider. All of this, of course, had to be done in great secrecy in order to hide U.S. involvement, not only from Chileans and from other nations, but from the U.S. government as well. Thus, Kissinger authorized Track II without informing the relevant authorities in the Department of Defense and the State Department, including the Chilean Ambassador.

As a part of Track II, the U.S. supported, encouraged, and financed various coup efforts led by Chilean General Valenzuela and retired General Viaux. Both of these groups emphasized that a successful coup required removing Gen. Schneider. In order to do so, the coup plotters requested machine guns, gas grenades, radios, hand grenades, and ammunition. The U.S. consistently expressed its willingness to either provide for an air drop of the requested equipment, or to at least finance their purchase elsewhere. Despite certain logistical differences between the U.S. and the Valenzuela and Viaux groups, Kissinger reaffirmed his support for the coup efforts and reminded all the parties involved that "It is firm and continuing policy that Allende be overthrown by a coup." The U.S. thus sent sub machine guns, ammunition and gas grenades to the coup plotters in order to remove Schneider, whose firm pro-constitutional stance remained the biggest "stumbling block for a successful coup" against Allende.

According to declassified information, the plan was as follows: Gen. Schneider had been invited to an army party.

"When arriving at VIP house, Schneider will be abducted. Schneider will be taken to waiting airplane and flown to [blacked out]. Valenzuela will announce to assembled generals that Schneider had disappeared and that General Carlos Prats to succeed Schneider [...] Military will not admit involvement in Schneider's abduction which is to be blamed on leftists. Almost immediately, Carabineros [Chilean police] will institute search for Schneider in all of Chile, using this search as pretext to raid Communist-controlled poblaciones. Extreme leftist and rightist leadership will be picked up and dispatched across border. [...] If Schneider's abduction successful, [the coup-plotters are] to be paid \$50,000, price agreed upon between plotters and unidentified team of abductors."

The first two attempts to kidnap Gen. Schneider failed. After each attempt, the U.S. not only encouraged the coup-plotters to keep trying, but also provided more gas masks and gas grenades. On October 22, 1970, six hours after the U.S. had delivered sub machine guns to one of the groups, Gen. René Schneider was shot on his way to work. The bullets perforated his liver and he had to undergo open heart surgery. After three days of agonizing, he died on October 25, 1970. He and his wife had five young children.

In the aftermath of the assassination, U.S. Army Attaché Paul Wimert retrieved the guns with the serial numbers filed off (so they couldn't be traced), the ammunition, the tear gas, and the gas masks, and went to the port town of Valparaiso and dumped them all in the ocean.

The U.S. considered resuming military sales and Military Assistance Programs to the Chilean military, depending on the consequences of the attempt against Schneider. According to declassified documents, "It could be construed as bonus for job well done."

Despite Kissinger's desire for secrecy from the U.S. government, the operation leaked and a

Congressional investigation followed. In 1975 the Church Report (named after Congressman Frank Church) was published, but by its own admission, the Church report is incomplete and provides little detail of the Schneider assassination. On September 2000, twenty five years later and in the wake of the Pinochet detention in London, Congressman Maurice Hinchey published a second Congressional investigation concerning U.S. activities in Chile. The Hinchey Report, although shorter than the Church Report, contains more details about the Schneider assassination. Among the most striking details, the Report states that "in an effort to keep the prior contact secret, maintain the good will of the group, and for humanitarian reasons, \$35,000 was passed" to the kidnapers/assassins.

The Hinchey Report and the 1999 and 2000 declassification of thousands of documents that were previously unavailable finally provided the Schneider family with the documentation necessary to file a civil lawsuit against Henry Kissinger, Richard Helms (ex-CIA Director) and the U.S. Government. The suit is pending in the United States District Court for the District of Columbia. Chilean courts have already found that the death of General Schneider involved both the group led by General Viaux and the group led by General Valenzuela. General Viaux was convicted by a Chilean military court on charges of kidnapping and conspiring to cause a coup. General Valenzuela was convicted of conspiring to cause a coup. Henry Kissinger is still at large.

Sources:

- WWW.FOIA.STATE.GOV (Chile Collection)
- CHURCH CONGRESSIONAL REPORT (1975)
- HINCHEY CONGRESSIONAL REPORT (2000)

4. FRENCH AND CHILEAN JUDGES TRY TO INTERROGATE KISSINGER

source: Pinochet Watch 36

While visiting Paris last month, former US Secretary of State Henry Kissinger was called as a witness in a case involving the disappearance of French citizens in Chile and Argentina in the 1970s.

The Parisian police presented Kissinger with the summons at the Ritz Hotel on May 28. The summons was issued by French Judge Roger Le Loire at the request of William Bourdon, Secretary General of the International Federation for Human Rights (FIDH) and a lawyer for families of French victims of the Pinochet dictatorship.

Le Loire, who issued an international arrest warrant against Augusto Pinochet in 1998, is currently investigating the disappearance of five French citizens who were disappeared in Chile and Argentina. One of those was disappeared as part of Operation Condor, a coordinated campaign of terror that united the security forces of Chile, Brazil, Paraguay, Uruguay, Bolivia and Argentina to exchange intelligence and carry out joint operations against so-called leftist subversives. Condor was responsible for the exchange of prisoners, disappearances, and the assassination of opposition leaders, including the 1976 assassination of Orlando Letelier and Ronni Karpen Moffitt in Washington, D.C.

Kissinger was specifically asked to testify about Operation Condor. Recently declassified documents show that the US government was aware of and monitored the activities of Condor. According to William Bourdon, There are a number of factors that suggest that the US government was carefully monitoring what happened in Chile, especially the situation of foreigners who had disappeared...Kissinger is more than just a symbol, he is a witness who can contribute to uncovering the truth.

Kissinger made no public comments about the summons and did not appear at the court to testify. The US Embassy told Le Loire that Kissinger had other obligations that prevented him from appearing before the court. The Embassy also announced that the court should not have presented the request directly to Kissinger. A spokesperson explained, we understand that the

court is examining a period when Dr. Kissinger was an official of the US government. We therefore believe that the court should present its request through government channels to the Department of State.

In an interview with Mexican magazine Proceso, Bourdon pointed out that Le Loire had already sent a formal request for information to the US government two years ago asking to interview several US witnesses-he never received a reply. Bourdon went on to say that as long as Le Loire continues his investigation, Kissinger will be called to testify every time he visits Paris.

CHILEAN AND ARGENTINIAN JUDGES ALSO SEEKS TO INTERROGATE KISSINGER

Two weeks after Judge Le Loire called Kissinger to testify in France, Chilean Judge Juan Guzmán announced that he would seek to interrogate the former US official as part of his investigation into the 1973 murder of American journalist Charles Horman in Chile.

On June 4, Judge Guzmán declared that he would send a list of questions to Kissinger regarding the Horman case. That same day, however, the court denied a petition to interrogate Pinochet as part of the Horman investigation.

On August 9, the Argentinian Judge Rodolfo Canicoba requested the testimony of Kissinger regarding his investigations into Operation Condor.

For more information:

Bruce Broomhall, Criminal Justice on a Global Scale, The New York Times, June 13, 2001

Anne Marie Mergier, Kissinger, premio Nobel de la Paz, responsable de asesinatos, Proceso, June 12, 2001

La Tercera, Juez Guzmán envía exhorto a Henry Kissinger, June 5, 2001

CNN en Español.com, EE.UU. se opuso a que Kissinger preste declaración sobre Chile en Francia, May 30, 2001

Pierre-Antoine Souchard, Kissinger Summoned in Pinochet Case, AP, May 28, 2001

Eduardo Febbro, Un Juez Frances Quiere Que Atestigue el Ex-Secretario de Estado, Página 12, May 29, 2001

BBC, US Bars Kissinger in Pinochet Probe, May 29, 2001

5. Kissinger Had a Hand in 'Dirty War'

By Martin Edwin Andersen and John Dinges

source: Insight Magazine, The Washington Times 01/04/02

Newly released U.S. documents obtained by Insight show that in 1976 Secretary of State Henry Kissinger played a key role in assuring Argentina's military rulers that their antiterrorist campaign involving the disappearance, torture and assassination of at least 15,000 people -- many of whom were not combatants -- would not be criticized by the United States on human-rights grounds.

The documents, which cover events between June and October of that year -- the period of some of the most intense repression in Argentina -- show that the military regime was "convinced that there was no real

problem with the United States over the issue." The Argentine foreign minister, Adm. Cesar Guzzetti, drew that conclusion after meetings in October 1976 with Kissinger, Vice President Nelson Rockefeller and other top State Department officials, according to a U.S. Embassy cable.

The new documents provide a detailed look at the bitter dispute about U.S. support for a military dictatorship and include a rare example of an ambassador daring directly to oppose Kissinger,

one of the most powerful figures in postwar U.S. history.

U.S. Ambassador Robert Hill described Guzzetti as "euphoric" and "almost ecstatic" and "in a state of jubilation" after returning from Washington to report on the meetings to Argentine President Jorge R.

Videla. According to Hill, who since has died, "[Guzzetti] said the vice president urged him to advise President Videla to 'finish the terrorist problem quickly.' "

Hill, in contrast, showed barely concealed outrage that his superiors in Washington were undercutting his efforts to encourage human-rights improvements. His three-page cable, dated Oct. 19, 1976, had the effect of putting "bitter criticism" of Kissinger's handling of the meetings with Guzzetti on the record, according to a memo by another U.S. official who recommended an immediate response.

Hill quoted Guzzetti as saying Kissinger "had assured him that the United States 'wants to help Argentina.' " Kissinger told Guzzetti "that if the terrorist problem was over by December or January, he [the secretary] believed serious problems could be avoided in the United States," according to Hill's cable. A reply to Hill from Kissinger's chief Latin American officer claimed Guzzetti "heard only what he wanted to hear" and had arrived at his interpretation "perhaps [because of] his poor grasp of English."

Hill, in a carefully phrased "comment" ending the cable to Washington, veils his criticism of Kissinger by speaking only in terms of Guzzetti's impressions of the meetings. But, significantly, Hill seems to stress

that Guzzetti received the same message from a total of five top U.S. officials in four separate meetings, and Hill does not raise the possibility that Guzzetti misinterpreted what he heard in those meetings.

Guzzetti's meetings in Washington, coming just six months after the coup against the constitutional left-wing government of Isabel Peron, took place at a critical time in Argentina. Before Guzzetti traveled to the United States, Hill forcefully told him that the continuing atrocities could not be defended. In the view of the United States, Hill recalled in a subsequent cable to the State Department, dated Sept. 20, 1976, having told Guzzetti that "murdering priests and dumping 47 bodies in the street in one day could not be seen in context of defeating the terrorists quickly; on the contrary, such acts were probably counterproductive. What the USG [U.S. government] hoped was that the GOA [government of Argentina] could soon defeat terrorists, yes, but do so as nearly as possible within the law."

Guzzetti went to the United States "fully expecting to hear some strong, firm, direct warnings on his government's human-rights practices," Hill wrote after meeting with the Argentine leader upon the latter's return to Buenos Aires. "Rather than that, he has returned in a state of jubilation, convinced that there is no real problem with the United States over this issue. Based on what Guzzetti is doubtless reporting to the GOA, it must now believe that if it has any problems with the U.S. over human rights, they are confined to certain elements of Congress and what it regards as biased and/or uninformed minor segments of public opinion."

Hill ended the cable on a pessimistic note: "While this conviction exists, it will be unrealistic and ineffective for this Embassy to press representations to the GOA over human-rights violations."

The documents are part of thousands of pages of secret archives on U.S.-Argentine diplomacy that were declassified following a visit by then-secretary of state Madeleine Albright to Buenos Aires in 2000, during which she promised their release. The cables cited in this article were obtained by Insight in anticipation of their public release.

Just days after returning from his two-week stay in the United States, Foreign Minister Guzzetti told Hill that the clear impression he had received ó in contrast to what he was being told by the embassy ó was that the primary concern of the U.S. government was not human rights but, rather, that the Argentine regime get the terrorist problem solved quickly.

According to the documents, Assistant Secretary Harry Shlaudeman, a key Kissinger aide, said he agreed that more representations by Hill "would not be useful at this point."

The recently declassified documents provide for the first time a complete record of the apparent double message the Argentine military received >from U.S. policymakers. They also are the first contemporaneous confirmation of the exchange between Kissinger and Guzzetti, which in the past was the motive for dispute and denial by the former secretary and his associates. Furthermore, they shed light on the confidential actions of the conservative Hill, who the documents show tried unsuccessfully to halt the massacre, both by means of multiple private representations to the Argentine military and in a series of cables to Kissinger and his aides in Washington.

Ironically, left-wing Argentine journalists and historians have tried to paint Hill in a sinister light by attempting to compare what happened in Buenos Aires in 1976 with what is known to have happened three years earlier in neighboring Chile, where a CIA-backed coup overthrew the elected Marxist president Salvador Allende. However, to date there is no evidence whatsoever that the United States either directed or promoted the coup against Peron's government, generally considered on all sides to have been incompetent and corrupt.

Hill, a businessman-diplomat, had been appointed by President Richard Nixon as envoy to Buenos Aires in 1973. He had married into the politically conservative W.R. Grace family, which had extensive business interests in Latin America. He had served as ambassador in Costa Rica during the time of the 1954 CIA sponsored coup in Guatemala as well as in subsequent posts in Mexico, El Salvador and Spain.

"Hill's biography reads like a satirical left-wing caricature of a 'yanqui imperialist,' noted the muckracking newsletter Latin America. "He has long-standing connection with the United States security and intelligence establishment."

In private Kissinger, too, lampooned portrayals of Hill as a human-rights campaigner. "The notion of Hill as a passionate human-rights advocate is news to all his former associates," Kissinger wrote in 1988 in a private letter obtained by Insight. Kissinger's rendition of Hill runs counter to the testimony of several U.S.

diplomats and law-enforcement personnel who served with him in Buenos Aires, and to that of Juan de Onis, the New York Times correspondent in Argentina in 1976, all of whom attest to the conservative envoy's rights

activism. And Hill's policy received strong support from U.S. Sen. Jesse Helms (R.-S.C.), another Kissinger foe who met with the ambassador and Videla in Buenos Aires in July 1976, Capitol Hill sources tell Insight.

An early version of the conversations in which Kissinger is shown to have given a green light to the repression in Argentina was published in October 1987 by The Nation, a magazine on the political left. The principal source for that article was a memorandum from Patricia Derian, then assistant secretary of state for human rights, in which a conversation she had in early 1977 with Hill was outlined. Derian's memorandum spoke of a first meeting between Kissinger and Guzzetti in June 1976 following the annual meeting of the Organization of American States in Santiago, Chile.

"The Argentines were very worried that Kissinger would lecture to them on human rights," according to the Derian memorandum. "Guzzetti and Kissinger had a very long breakfast, but the secretary did not raise the subject. Finally, Guzzetti did. Kissinger asked how long it would take

... to clean up the problem. Guzzetti replied that it would be done by the end of the year. Kissinger approved. In other words, Ambassador Hill explained, Kissinger gave the Argentines the green light.... Later ... the ambassador discussed the matter personally with Kissinger [who] ... confirmed the conversation."

In The Nation article Kissinger's spokeswoman denied Hill's claims. Deputy Assistant Secretary for Inter-American Affairs William D. Rogers, who attended the Santiago meeting with Kissinger and Guzzetti, said that he did "not specifically remember" a meeting with Guzzetti, but added that Kissinger would have told his Argentine peer that the military should carry out the fight against terrorism "without abandoning the rule of law."

Shlaudeman rebutted Hill's criticisms in a memorandum the Kissinger aide sent to the high-flying diplomat the day after receiving Hill's critical cable in October 1976. The views of Shlaudeman, who later served as U.S. envoy to Buenos Aires during the military governments of Roberto Viola and Leopoldo Galtieri, were expressed in an "action memorandum" titled "Ambassador Hill and Human Rights in Argentina." The exchange shows the intensity of the dispute between Hill and Kissinger.

"Bob Hill has registered for the record his concern for human rights in a bitter complaint about our purported failure to impress on Foreign Minister Guzzetti how seriously we view the rightist violence in Argentina," Shlaudeman wrote to Kissinger. "I propose to respond for the record."

The declassified documents suggest that Kissinger did not continue to respond personally to Hill. However, in a cable approved by Kissinger personally and dated Oct. 20, 1976, Shlaudeman claimed that Guzzetti may have misunderstood the message he had received because of his "poor grasp of English." Shlaudeman suggested that, "as in other circumstances you have undoubtedly encountered in your diplomatic career, Guzzetti heard only what he wanted to hear.... Guzzetti's interpretation is strictly his own."

Shlaudeman, referring to the luncheon he had with Guzzetti, wrote: "The 'consensus of the meeting' on our side was that Guzzetti's assurances that a tranquil and violence-free Argentina is coming soon must prove a reality if we are to avoid serious problems between us."

However, Shlaudeman did not offer a correction of Guzzetti's understanding of his meetings with Kissinger and Rockefeller, and he did not authorize Hill to rectify Guzzetti's interpretations of any of the meetings as a necessary element for pressuring the military. "With respect to your closing admonition about the futility of representations," he told Hill, "we doubt that the GOA has all that many illusions. Ö In the circumstances, I agree that the Argentines will have to make their own decisions and that further exhortations or generalized lectures from us would not be useful at this point."

Just as Hill feared, the massive atrocities committed by the military regime continued far beyond the end of 1976 and, by the time Kissinger's policy finally was reversed, it was too late to stanch the bloodshed.

Martin Edwin Andersen is the author of Dossier Secreto: Argentina and the Myth of the Dirty "War" and a forthcoming book, written in Spanish, on the history of the Argentine police (1880-1999). He also is the author of the article mentioned above in The Nation. John Dinges, a professor of journalism at Columbia University in New York City, is the author of Assassination on Embassy Row on the Letelier case, and the forthcoming The Condor Years.

6. Resolution of the Genevan Parliament By Antonio Hodggers, Member of the Genevan Parliament

Following the arrest of Pinochet in London in 1998, the Genevan Parliament unanimously adopted a resolution (a non-legally binding but declaratory parliamentary act) demanding the extradition of the ex-dictator in the light of this judgement. This action was principally a symbolic one, supporting the developments in the fight against the impunity of dictators. A few months later, the 'Procureur de Genève' demanded that Pinochet be extradited to Switzerland, in relation to an open procedure from 1977 which led to the disappearance of a Swiss citizen at the hands of the Chilean junta during 'Operation Condor'.

Believing it necessary to try not only dictators themselves but also those who aided them in their rise to power and perpetration of criminal acts, a group of Members of Parliament submitted a resolution calling on the Swiss judicial authorities to consider the possible penal liability of Henry Kissinger in relation to this disappearance. The resolution was sent to the Human Rights Committee for further consideration.

While right-wing parliamentarians (in the majority) had few qualms about sentencing a fallen ex-dictator, criticising one of the most prestigious diplomatic representatives of the world's biggest power was a completely different matter. The preliminary debate was ideological: the right considered our resolution to be a pretext for a "rearguard anti-American struggle". Nevertheless, the committee's work resulted in a deeper understanding of the issue and, thanks to extracts from various documents published by the National Security Archive, revealed the important role US secret services had played in Pinochet's coup d'état.

The final parliamentary debate took place in October 2001. The right-wing majority, unsurprisingly, rejected the resolution. However, a certain level of recognition led to more moderate reasons being expressed for this rejection: "We share the concern for justice, but we can't agree on the means..." The quality of the debate was also remarked upon by the local press.

Even if the resolution had only symbolic value, the work carried out by the Human Rights Committee at least brought about a measure of understanding among the Genevan political community of the role of Kissinger in the southern Latin American arena.

PROPOSAL FOR A RESOLUTION (412) calling on the judicial authorities to consider the liability of Mr Henry Kissinger, among others, for the crimes committed by the regime of Mr Augusto Pinochet.

(the entire resolution - in French - available under: www.icaonline.org/kissingerwatch/resolutiongeneve.pdf)

The GREAT COUNCIL (Parliament) of the Republic and canton of Geneva, considering:

- resolution 386 of the 23rd October 1998 calling for the extradition of Mr A. Pinochet in light of his trial in Spain, adopted unanimously by our Parliament;
- the documents published by the National Security Archive which clearly demonstrate the involvement of the US government, and in particular Mr H. Kissinger in his position as National Security Adviser and Secretary of State, in the collapse of Mr Salvador Allende's democratically elected Chilean government in 1973 and the military coup d'état of Mr A. Pinochet;
- the support of Mr H. Kissinger, among others, for the military regime and for the person of Mr A. Pinochet even though the crimes of the latter were internationally known;
- the existence, beyond doubt, of further series of documents, which still remain secret, in particular those relative to Operation Condor and the role of the US authorities in this, with whose help the Chilean authorities were able to get rid of Swiss national Mr Alexei Jaccard;
- the necessity of bringing to trial not only dictators but also those who aided their rise to power and perpetration of criminal acts, and the necessity of a legislative mechanism which works to

this effect;

Decides to:

- communicate to the "Procurors" of the Republic and the Confederation, with reference to the steps introduced regarding Mr A. Pinochet and in the light of new documents published by the United States, our wish for it to be established to what extent the action of the latter, particularly those of Mr Kissinger, can be legally identified as complicity to the various acts of which Mr A. Pinochet has been condemned;

And calls on the federal authorities:

- to introduce as quickly as possible into our federal legislation the principle of "crime against humanity" and that of "complicity to crime against humanity";
- to put pressure on the United States government to publish all the documents relating to the facts surrounding A. Pinochet's coup d'etat and Operation Condor, in order to give our judiciary access to these documents.

7. NPR Radio interview: "I am not a criminal"

<http://www.npr.org/programs/atc/features/2001/aug/kissinger/010808.kissinger.html#timelime>

click on "Listen to Michele Kelemen's report for All Things Considered"

In a recent NPR interview, Kissinger lambasts the idea of universal jurisdiction and says legal principles should not be used as weapons to settle old political scores.

"I think when every national judge can assume jurisdiction... the legal system will be a way of conducting political battles the various contestants will pursue each other in courts around the world," he said.

This is a very personal issue for Kissinger and a touchy matter for the United States. Three countries -- Chile, Argentina, and France -- want him to testify about disappearances and killings in Chile, when the Nixon administration was supporting the Pinochet government.

Some critics, like author Christopher Hitchens, also argue that the former secretary of state has a lot to answer for regarding the U.S. bombings of Laos and Cambodia during the Vietnam War.

8. The Pitfalls of Universal Jurisdiction / Extracts, entire article available under www.icai-online.org/kissingerwatch/the_pitfalls_of_uj.pdf

by Henry Kissinger
Foreign Affairs, July / August 2001

RISKING JUDICIAL TYRANNY

In less than a decade, an unprecedented movement has emerged to submit international politics to judicial procedures. It has spread with extraordinary speed and has not been subjected to systematic debate, partly because of the intimidating passion of its advocates. To be sure, human rights violations, war crimes, genocide, and torture have so disgraced the modern age and in such a variety of places that the effort to interpose legal norms to prevent or punish such outrages does credit to its advocates. The danger lies in pushing the effort to extremes that risk substituting the tyranny of judges for that of governments; historically, the dictatorship of the virtuous has often led to inquisitions and even witch-hunts.

[...]

A DANGEROUS PRECEDENT

It is decidedly unfashionable to express any degree of skepticism about the way the Pinochet case was handled. For almost all the parties of the European left, Augusto Pinochet is the incarnation of a right-wing assault on democracy because he led a coup d'etat against an elected leader. At the time, others, including the leaders of Chile's democratic parties, viewed Salvador Allende as a radical Marxist ideologue bent on imposing a Castro-style dictatorship with the aid of Cuban-trained militias and Cuban weapons. This was why the leaders of Chile's democratic parties publicly welcomed-yes, welcomed-Allende's overthrow. (They changed their attitude only after the junta brutally maintained its autocratic rule far longer than was warranted by the invocation of an emergency.)

Disapproval of the Allende regime does not exonerate those who perpetrated systematic human rights abuses after it was overthrown. But neither should the applicability of universal jurisdiction as a policy be determined by one's view of the political history of Chile.

[...]

AN INDISCRIMINATE COURT

The ideological supporters of universal jurisdiction also provide much of the intellectual compass for the emerging International Criminal Court. Their goal is to criminalize certain types of military and political actions and thereby bring about a more humane conduct of international relations.

[...]

The advocates of universal jurisdiction argue that the state is the basic cause of war and cannot be trusted to deliver justice. If law replaced politics, peace and justice would prevail. But even a cursory examination of history shows that there is no evidence to support such a theory. The role of the statesman is to choose the best option when seeking to advance peace and justice, realizing that there is frequently a tension between the two and that any reconciliation is likely to be partial. The choice, however, is not simply between universal and national jurisdictions.

MODEST PROPOSALS

The precedent set by international tribunals established to deal with situations where the enormity of the crime is evident and the local judicial system is clearly incapable of administering justice, as in the former Yugoslavia and Rwanda, have shown that it is possible to punish without removing from the process all political judgment and experience. In time, it may be possible to renegotiate the ICC statute to avoid its shortcomings and dangers. Until then, the United States should go no further toward a more formal system than one containing the following three provisions. First, the U.N. Security Council would create a Human Rights Commission or a special subcommittee to report whenever systematic human rights violations seem to warrant judicial action. Second, when the government under which the alleged crime occurred is not authentically representative, or where the domestic judicial system is incapable of sitting in judgment on the crime, the Security Council would set up an ad hoc international tribunal on the model of those of the former Yugoslavia or Rwanda. And third, the procedures for these international tribunals as well as the scope of the prosecution should be precisely defined by the Security Council, and the accused should be entitled to the due process safeguards accorded in common jurisdictions.

In this manner, internationally agreed procedures to deal with war crimes, genocide, or other crimes against humanity could become institutionalized. Furthermore, the one-sidedness of the current pursuit of universal jurisdiction would be avoided. This pursuit could threaten the very purpose for which the concept has been developed. In the end, an excessive reliance on universal jurisdiction may undermine the political will to sustain the humane norms of international behavior so necessary to temper the violent times in which we live.

9. The case for Universal Jurisdiction / Extracts, entire article available under www.icaonline.org/kissingerwatch/the_case_for_uj.pdf)

**By Kenneth Roth, Executive Director of Human Rights Watch
Foreign Affairs, July / August 2001**

Behind much of the savagery of modern history lies impunity. Tyrants commit atrocities, including genocide, when they calculate they can get away with them. Too often, dictators use violence and intimidation to shut down any prospect of domestic prosecution. Over the past decade, however, a slowly emerging system of international justice has begun to break this pattern of impunity in national courts.

[...]

In "The Pitfalls of Universal Jurisdiction" (July/August 2001), former Secretary of State Henry Kissinger catalogues a list of grievances against the juridical concept that people who commit the most severe human rights crimes can be tried wherever they are found. But his objections are misplaced, and the alternative he proposes is little better than a return to impunity.

[...]

ORDER AND THE COURT

Kissinger's critique of universal jurisdiction has two principal targets: the soon-to-be-formed International Criminal Court and the exercise of universal jurisdiction by national courts. (Strictly speaking, the ICC will use not universal jurisdiction but, rather, a delegation of states' traditional power to try crimes committed on their own territory.) Kissinger claims that the crimes detailed in the ICC treaty are "vague and highly susceptible to politicized application." But the treaty's definition of war crimes closely resembles that found in the Pentagon's own military manuals and is derived from the widely ratified Geneva Conventions and their Additional Protocols adopted in 1977. Similarly, the ICC treaty's definition of genocide is borrowed directly from the Genocide Convention of 1948, which the United States and 131 other governments have ratified and pledged to uphold, including by prosecuting offenders. The definition of crimes against humanity is derived from the Nuremberg Charter, which, as Kissinger acknowledges, proscribes conduct that is "self-evident[ly]" wrong.

[...]

NO PLACE TO HIDE

National courts come under Kissinger's fire for selectively applying universal jurisdiction. He characterizes the extradition request by a Spanish judge seeking to try former Chilean President Augusto Pinochet for crimes against Spanish citizens on Chilean soil as

singling out a "fashionably reviled man of the right." But Pinochet was sought not, as Kissinger writes, "because he led a coup d'etat against an elected leader" who was a favorite of the left. Rather, Pinochet was targeted because security forces under his command murdered and forcibly "disappeared" some 3,000 people and tortured thousands more.

[...]

Until the ICC treaty is renegotiated to avoid what Kissinger sees as its "shortcomings and dangers," he recommends that the U.N. Security Council determine which cases warrant an international tribunal. That option was rejected during the Rome negotiations on the ICC because it would allow the council's five permanent members, including Russia and China as well as the United States, to exempt their nationals and those of their allies by exercising their vetoes.

As a nation committed to human rights and the rule of law, the United States should be embracing an international system of justice, even if it means that Americans, like everyone else, might sometimes be scrutinized.

10. Websites relating to Henry Kissinger

Needless to say that we are not responsible for the content of listed websites:

College of William and Mary. Henry Kissinger is not our Chancellor!

- <http://www.kissinger.20m.com./index.html>,

East Timor Action Network

- <http://www.etan.org/news/kissinger/>

National Security Archive

<http://www.gwu.edu/~nsarchiv/>

The Rogues' Gallery of the Global Policy Forum

- <http://www.globalpolicy.org/intljustice/wanted/wntdindx.htm>

Third World Traveller

- <http://www.thirdworldtraveler.com/Kissinger/HKissinger.html>

Henry Kissinger: War Criminal or Old-Fashioned Murderer?

- <http://www.eclipse.net/~tgardnet/kiss/kisskill.html>

Wanted War Crimes: Henry Kissinger

- <http://www.zpub.com/un/wanted-hkiss.html>

Appeal to revoke the 1973 Nobel Prize for Peace assigned to H. Kissinger

- <http://www.peacelink.it/tematiche/latina/nobel/index.php3>

Website about Christopher Hitchens's bestseller "The Trial of Henry Kissinger"

- <http://www.trialofhenrykissinger.org/>

Hitchens, book reviews etc.

- <http://www.enteract.com/~peterk/henry.html>

Hitchens' correspondence with Kissinger's attorneys, including introductory note, comments, and primary sources

- <http://www.enteract.com/~peterk/corrintro.html>

Bilderberg Commission

- <http://www.bilderberg.org/kissing.htm>

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