

Kissinger Watch

issue #6 May 11, 2002

About This Issue

Dear readers,

Kissinger's visit to London has spawned a wealth of articles some of which we presented in our last issue. The stream of articles did not seem to slow in the weeks after this phenomenal event. In this issue you find the continuation of that coverage triggered by the visit but this issue is not confined to the events in London. We have also included links to French and Spanish language articles for our multi-lingual readers as well as a link to the 30-page transcript of a remarkable Harper's debate which took place last year (see page 4).

CNN International interviewed the British human rights campaigner Peter Tatchell who tried to obtain an arrest warrant for Kissinger for his war crimes committed during the Indochina wars (see KW #5). Ruth Wedgewood, an international lawyer with the Council on Foreign relations did not even attempt to counter Tatchell's argument that Kissinger should be prosecuted for the "killing, injuring and displacement" of millions of Vietnamese, Laotians and Cambodians during the Vietnam war (article 1). Additionally, you will find Christopher Hitchens' most recent Kissinger article (article 2) an Associated Press report on Vietnam's reaction to Tachell's arrest attempt (article 3), Saul Landau's "Kissinger and his human rights crimes" (article 4) as well as the Daily Telegraph's interview with Kissinger (article 5).

In the light of the complete withdrawal of the USA

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1. New Doubts About U.N. International Court / Aired April 30, 2002 - 15:30:00 ET

Q&A WITH JIM CLANCY

For a direct link, visit:

<http://www.cnn.com/TRANSCRIPTS/0204/30/qa.01.html>

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(BEGIN VIDEO CLIP)

KOFI ANNAN, U.N. SECT. GEN.: Those who commit war crimes, genocide, or other crimes against humanity, will no longer be beyond the reach of justice.

JIM CLANCY, CNN ANCHOR (voice-over): The world's first permanent international court, designed to bring to justice those the international community considers criminal.

But after signing the treaty, the United States had second thoughts.

UNIDENTIFIED MALE: We believe that it is flawed, and that there are insufficient safeguards in place to prevent a political prosecution rather than a prosecution based on law.

CLANCY: Could it be that possible targets of the court would hit a little too close to home?

HENRY KISSINGER, FMR. U.S. SECT. OF STATE: It is impossible for the participants of that period to recall every cable that occurred.

CLANCY: On this edition of Q&A, the international court – seeking justice for all.

(END VIDEO CLIP)

(on camera): Hello and welcome once again to Q&A. I'm Jim Clancy.

Tonight, we're going to examine the future of the International Criminal Court, an institution that many hope will serve as a deterrent to war crimes and hold leaders accountable for their actions. Some warn that while the court could uphold the highest standards of human conscience, it is also vulnerable to abuse. We're going to hear from many sides on the issue, beginning with Sergey Karev. He's the deputy permanent representative of the Russian mission to the United Nations.

Mr. Karev, thank you so much for being with us.

Let me begin by asking you, many people have noted, they have said that Russia is reluctant, is concerned, about endorsement of the International Criminal Court. What is

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from the International Criminal Court, ICAI has decided to canvass for likeminded initiatives in these difficult times for the fight against impunity.

We wish to draw your attention to:

Pinochet Watch: www.tni.org/pinochet

Piensa Chile: www.piensachile.com

Indict Sharon Campaign: www.indictsharon.net

Indict Saddam Hussein: www.hrw.org/editorials/2002/iraq_032202.htm

Bring Hissène Habré to justice: www.hrw.org/editorials/2002/justicetochad.htm

Genocide Documentation Center of Cambodia: <http://welcome.to/dccam>

Call for an international tribunal for East Timor: : www.etan.org/action/issues/h-rights.htm

Coalition for the ICC: www.igc.org/icc/

Finally, at www.icaonline.org/46139.Index.html (Oil Companies Sued) you will find a new article on a criminal complaint lodged end of April against TotalFinaElf by Myanmar refugees.

ICAI would be happy to spread the word about further likeminded initiatives.

Thank you very much for your readership.

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Kissinger Watch

www.icaonline.org/kissingerwatch
a joint project of:

East-Timor Action Network
(www.etan.org)

International Campaign against Impunity
(www.icaonline.org)

Instituto Cono Sur
(<http://groups.yahoo.com/group/politicaconosur/>)

Doubts—continued from page 1

Moscow's view of this court?

SERGEY KAREV, RUSSIAN DEP. REP. TO U.N.: I think that is not correct, that we are reluctant about International Criminal Court.

We were among those who were very active in working on the statues of the International Criminal Court. We were among those who were initiating the bringing of the crime of aggression to the statue of the court.

We signed the court, the statute of the court, and during quite recent ceremony, about entering the force of this statue, our minister of foreign affairs released a statement in which we welcome the force of their status.

CLANCY: When will it be submitted for approval, for endorsement, by the Duma (ph)?

KAREV: Well, that's a good question. Quite frankly, I don't know when it will be done, because in my view, for the time being, what is done in Moscow is the process of consideration of this statute. It's a very complicated legal instrument, and if you ratify it, you have to do a lot of homework, I would say, in changing your legislation.

So now it's inter-ministerial work which is going on in Moscow. But I hope that the answer will be given, maybe, before the end of this year.

CLANCY: There are many people, some of them are in Russia, who feel that this court could be used or misused for political purposes. Among the topics that have come up have been the Russian activities, the Russian military offensive at times in Chechnya. People saying excesses there. Russian military men should be brought before the court, unless Russia agrees to do so itself.

Is that a building concern?

KAREV: I would say that it's not a very big concern, because first of all, after the entering into force of this statue, the court can consider only the cases which will be after the statute, of course, not before. That's one element.

The second element is that each state may make a reservation for seven years for war crimes, not to be considered by the court. So as I know, one country has already done it. So it's another reservation, another possibility for those who are concerned. But I don't think that it's a very big concern for our state.

CLANCY: Sergey, I think that the real question that someone would have to ask is, do you think that — has your government given any orders, made any chances, warning, perhaps, military officers in the field, that now the court is in session, a court is in existence, that could deal with these kinds of things — change your behavior, watch what you do?

KAREV: I would say that this kind of warning has been already said several times before to our military people in Chechnya. And you know that the behavior of our military forces has changed in Chechnya has changed dramatically in the last years.

So I don't think that the entering into force of the court will change a lot at this time.

CLANCY: Mr. Karev, when we look at the overall power of this court, what do you think it is? Do you think it will make world leaders sit up and take notice, take caution for their actions? Will it be a deterrent?

KAREV: Well, I think that, of course, world leaders will be more cautious after the entering into force of the statute and the beginning of the work of the court.

But on the other hand, I don't think that it will change so much dramatically the existing situation, no.

CLANCY: What will be the advantage for countries like Russia or the United States, major European powers?

KAREV: It's rule of law, which will be more enforced internationally, so for us it is quite important.

CLANCY: All right. There we have Sergey Karev, the deputy permanent representative of the Russian mission to the United Nations.

Our thanks to you, sir, for being with us.

KAREV: Thank you.

CLANCY: All right, now someone who has been promoting the court, really pushing for it, is Richard Dicker. He's director of the International Justice Program at Human Rights Watch.

He's joining us now from New York.

Thanks so much for being with us.

When we saw this court come into existence, some people hailed it, saying that this was a new day, a new day for mankind. Was that an overestimation, really of what's happening?

RICHARD DICKER, HUMAN RIGHTS WATCH: I don't think so, Jim.

I think this court, which will be the first permanent institution that can try individuals accused of war crimes, crimes against humanity and genocide, this court has the potential to be the most important human rights institution created in 50 years.

We'll have to see how it works out, but the potential is enormous.

CLANCY: What happens? We already see a United States administration that signed it — the Clinton administration, too timid to put it to the Congress, fearing it would be turned back. The Bush administration now saying that it has problems with it, may not sign it. Perhaps...

DICKER: Jim, I'm losing the audio on and off. I will respond to what I thought you said.

President Clinton did sign the treaty, and that was an important step.

The Bush administration has expressed hostility towards this treaty. We hope that the Bush administration will not do anything so shortsighted as to withdraw United States signature from this treaty, exactly for the reasons that the Russian deputy permanent representative just said.

This court will strengthen the rule of law worldwide, strengthen human rights, and I think be consistent with even United States foreign policy objectives.

CLANCY: Are you concerned, as some are in the United States, that perhaps soldiers sent on missions, Kissinger Watch.....

peacekeeping missions abroad, trying to do the right thing, make a mistake and wind up before the court?

DICKER: I'm not worried about that, Jim. I was there every day of the negotiations of this treaty in Rome, and I can tell you as a matter of fact, this court will not be looking at the acts of low-level individual soldiers who make mistakes.

This court will only be looking at the likes of the Augusto Penuche's (ph), the Foday Sankoh's of Sierra Leone, the Saddam Hussein's of Iraq, the Guatemalan generals who've slaughtered hundreds and thousands of native Guatemalan people in the 70's and 80's.

That's who this court will focus on. Not peacekeeping troops in the field, even if they do make mistakes.

CLANCY: Let's make very clear here, they can prosecute crimes against humanity, they can prosecute genocide and war crimes. There is also a mechanism that means that if you've signed it, you are automatically subject to this.

But very importantly, only if a citizen of a country in question refuses to bring them to justice or is unable to bring them to justice.

Does this mean this court will become...

DICKER: Jim, excuse me again. I've lost the audio.

But I think the important point here is that this will be a court of last resort. That means the ICC will only play a role when the national authorities are trying to cover-up and shield individuals from criminal responsibility.

This is a court whose whole focus is to encourage national authorities to do their job. It's only in the cases of the Guatemala's, the Iraq's, the Sierra Leone's, when this court will have a role to play.

I don't think those states that try to uphold the rule of law have anything to fear from this new institution.

CLANCY: What do you think will be the measure of the court's success?

DICKER: I think there will be several things.

I think this court will encourage and embolden and pressure national courts to do the job they should be doing. So to see more vigorous prosecutions of war crimes and crimes against humanity on the national level will be one indication of success.

CLANCY: All right. Richard Dicker, our thanks to you for being with us. Richard Dicker, of course, with Human Rights Watch.

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We're going to take a short break. When we come back, a question that troubles some: could the leaders of the major powers, in one way or another, find themselves in that court?

(COMMERCIAL BREAK)

CLANCY: Welcome back to Q&A.

The United States has been dragging its feet in joining the International Court. One reason, it says, is that it might bring politically motivated anti-American cases before it.

Henry Kissinger, the former United States secretary of state was sought by a Spanish judge to answer questions about what he knew about crimes committed during military dictatorships in several South American countries in the 1970's.

Others are seeking to prosecute him for United States military action in Vietnam, Cambodia and Laos. Should politicians of major world powers be held liable for what happened during their administrations?

To discuss that, from Washington, Ruth Wedgewood, Yale Law School professor and a member of the Council on Foreign Relations.

And also from London, human rights activist Peter Tatchell. He applied for an arrest warrant against Henry Kissinger and tried to perform two citizen's arrests on Zimbabwian President Robert Mugabe.

Ruth Wedgewood, let me begin with you and just ask you the bottom line question. Everybody is saying no, a leader couldn't end up in court. But really, could they?

RUTH WEDGEWOOD, YALE LAW SCHOOL: Well, one of the concerns about the ICC is that they don't just cover massacres, this new independent court, but also could potentially cover some rather tricky questions of good-faith military doctrine. If you can bomb a dual-use electrical grid in taking out anti-aircraft. If you can be forward leaning when you're expecting to be shot at.

And I think the concern is that though people may think of it only in moral terms, there are a lot of controversies on how you fight a way. Second point is that what

counts as aggression? The court is going to try to assert authority over aggression, come seven years from now, and one persons humanitarian intervention, one persons preemptive strike against weapons of mass destruction, may be the court's aggression.

So there is some concern that there's really no easy boundary that — it's circumscribed around the court's jurisdiction.

CLANCY: Peter Tatchell, even with the arrival of the International Criminal Court, cases like the one that you've been pressing against Henry Kissinger wouldn't be heard, because they're simply not going to tackle anything in the past. They're dealing with the present forward.

Still, you are determined that some wrongs have never been brought to justice.

PETER TACHELL, HUMAN RIGHTS ACTIVIST:

Well, the fact is that not only Britain, but many other countries, including the United States, have ratified the Geneva conventions, which make the indiscriminant bombing of area where there are civilian populations, killing or endangering those civilians, a war crime. And I simply sought to have the law enforced equally, fairly and without favor.

If I go out from these studios and kill someone on the street, the force of law will come down on me like a ton of bricks.

When Henry Kissinger oversaw United States policy in Indochina, his policies of indiscriminant bombing resulted in 3 million Cambodians, Laotians and Vietnamese being either killed, injured or made homeless. And under the Geneva conventions, which is enshrined into British law, that is a war crime, and therefore I believe he should stand trial.

CLANCY: Ruth Wedgewood, that is an interpretation, and many countries have signed the Geneva conventions, and we've heard from the ICRC in Geneva that many countries simply don't stand up for those conventions that they signed.

WEDGEWOOD: Well, many countries observe the conventions through the very important measure of training, and indoctrination of their troops, prevention rather than retribution after the fact.

Technically, Geneva doesn't apply in fact to bombing. It deals with protective classes of civilians in occupied territories and prisoners of war — it's the so-called Hague law that applies there.

But I think the conundrum you see is that if the permanent court, the new Rome statue, had proposed to go backwards in time, 35 years, 40 years, no country would have signed it or ratified it. So this notion that we're all going to be good to the Nth degree by everybody's lives in the future, I think, is belied by the reluctance that most country's have to go back in the past.

CLANCY: Peter Tatchell, you've been described as something of an extremist in seeking out people like Robert Mugabe. You wanted to arrest him twice. And at one point

Links to

a) Henry Kissinger réclamé par la justice internationale / La Liberation (France):

http://www.icaonline.org/xp_resources/kissingerwatch/la_liberation.pdf

b) Kissinger: Escondido tras las faldas del Departamento de Estado / El Periodista (Chile):

http://www.icaonline.org/xp_resources/kissingerwatch/spanish_pascale_bonnefoy.pdf

c) Regarding Henry Kissinger debate / Harpers Magazine:

http://www.icaonline.org/xp_resources/kissingerwatch/harpers_debate.pdf

last year in Brussels, I believe it was, you actually tried to make a citizen's arrest and you were turned back.

What happened? And what do you think it did? Did it change anything, to take that action?

TATCHELL: Well, I wasn't just turned back. I was knocked unconscious by his thugs and minders, in full view of TV cameras. And that I think very dramatically highlighted the brutality of his regime, which of course, was my intention.

He went to Brussels with the aim of concluding an aid and trade agreement. It was all about making money. And my actions made sure that human rights, in particular his abuse of human rights, became the dominant issue.

So although I didn't succeed, I reinforced to him, and I hope to other human rights abusers, that they are being watched and pursued, and that these international human rights conventions, many of which date back to the 1940's and 50's, they're not just simply pretty pieces of paper. They're meant to be enforced. Countries have pledged to uphold them. They have ratified them. The sad fact is that no countries are enforcing them, and I simply want to create a momentum

that these laws should apply, they should be enforced, and that nobody, no matter how high a state official, nobody is above the law.

CLANCY: Ruth Wedgewood, if the major powers don't come out and support this criminal court, will it be left to individuals, like Peter, to get involved, to raise the controversial issues?

WEDGEWOOD: Well, I think the controversial issues, or rather the observance of the norms of war, is something that's in everybody's mind when they fight a war.

In our intra-alliance politics, with the British, the Germans, the French, for example, we have constant discussions on what's the responsible way to conduct an air war. So this is not norms that aren't thought about or actualized.

I think the concern is that the ideas of criminal negligence that go under the heading of command responsibility have no easy boundary, and I think there is always a temptation to dramatize and try to criminalize things that may be good-faith differences of view.

Now, Mugabe is a terrible guy. I quite agree. And one can have what view one likes of the Vietnam War. But I do think it's a mistake to suppose that in taking responsible action against major offenders that you can do so outside of a very real world of politics that both estimates the necessity of democratic transitions and amnesties and the felt necessities of certain kinds of conflicts.

CLANCY: Peter, what's changing? Now, you were active in the anti-Vietnam War protests. But what's changing, perhaps, today, about holding individuals accountable? And it seems that there is a shift in how people view military actions taken by the major power versus small guerrilla groups.

TATCHELL: I think there is a growing recognition that if Western countries seek to uphold the principles of

democracy and human rights, then if they go to war, they have to abide by those principles in the conduct of that war. You can't tear up human rights in the name of defending human rights.

And I think that more and more people, right across the world, but particularly in many Western countries, who look back with some regret and remorse at the way in which the big Western powers have traditionally conducted their affairs they do realize that a new era, a new way of behaving, has to come about.

We cannot trample of democracy and human rights in the name of defending them. And that is why I think although what happened in Vietnam was a long time ago, we can't just simply say it was in the past.

We are still pursuing old Nazis who persecuted and tormented Jewish and gay people all those years ago. We're not saying in their case this happened a long time ago, therefore it's excusable. We're saying that the Nuremberg principles, which are that high state officials can be accountable for crimes against humanity and war crimes, that that should apply equally today.

CLANCY: Is this going to get into, Ruth, into domestic politics? It is no secret that many Arab states have not signed on to the International Criminal Court. Today, I think it was Amnesty

International or Human Rights Watch, that was lambasting the Saudi judicial system for secret courts and death penalties in bizarre cases. Is this going to get into that?

TATCHELL: Absolutely.

WEDGEWOOD: Well, I think one of the concerns about the court is how they would apply their doctrine to national court systems.

The statement in the court statute is that the ICC, this new court, will come into play only if national courts are unwilling or unable, genuinely, to address something themselves.

And that could mean anything. It could mean that a jurisdictional problem is seen as being unable, unwilling — good-faith differences of military doctrine, unable, unwilling.

The concern is, how do you carve out the scope of a massacre court without turning it into a political football for how you fight, say, the Kosovo War or the war in Afghanistan, or old right-left battles from the 50's, 60's and 70's.

I do think that one cautionary note was struck by the World Court, which heard a complaint recently by the Congo, complaining about a Belgian magistrate who tried to arrest their foreign minister. And the ICJ, the World Court, said that the sitting foreign ministers is important to the conduct of diplomacy and Judge Gionme (ph), the French president of the ICJ, also noted that there may well be some limits to the use of so-called universal jurisdiction by national courts.

And I do think that people have become over enthusiastic, extending the Penuche (ph) case imprudently, too fast, not noting that Penuche was based upon treaty law, and not noting the ambivalent reaction of Britain itself to

the Penuche matter.

CLANCY: There's a legal brief on what was going on with Penuche.

But perhaps, Peter, a larger question: is this court dealing with what people do — how about what they don't do? Don't come to the aid of Rwanda when genocide is being carried out?

TATCHELL: Well, the International Criminal Court statutes do not only cover acts of commission, but in certain, very limited circumstances, acts of omission.

In other words, if a high state official acquiesces in acts of genocide, torture, war crimes or crimes against humanity, they can be held liable.

Certainly in the case of the attempt by me to bring a legal prosecution against Robert Mugabe, it was not because he had personally authorized the torture of the two journalists in question. It was because he was complicit. He apparently knew that they were being tortured. He took no steps to stop their torture. And he seemed to retrospectively publicly endorse it.

Now, under the U.N. Torture convention, which of course predates the International Criminal Court by many years, those acts are crimes.

CLANCY: All right. Ruth Wedgewood, the final word. I've got about half a minute. What does this court mean for humanity?

WEDGEWOOD: Well, I think it will be important in thinking through, hopefully responsibly, the norms of how you fight a war and protect innocent populations.

My concern is that it doesn't have enough cognizance of the need for responsible military input. It doesn't have any military element in it. It should not do aggression. And frankly, it must not assert third-party jurisdiction over countries that have declined to ratify it. That would be very imprudent for the court as much as for the development of the law.

CLANCY: All right, Ruth Wedgewood and Peter Tatchell, our thanks to you and our guests, for being with us this day on Q&A.

Well, the International Criminal Court, only beginning to come into existence. Many of the points you heard here are precisely the measure by which the court is going to be judged a success or failure.

That's Q&A for this day. The news continues now on CNN.

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2. Why the law wants a word with Kissinger The Sydney Morning Herald 30/04/02

This story was found at: <http://www.smh.com.au/articles/2002/04/29/1019441343996.html>

He won the Nobel Peace Prize and his name was once a Kissinger Watch

byword for diplomacy. But Henry Kissinger may yet be called to account for the murder and mayhem the US orchestrated in the 1970s, writes Vanity Fair columnist Christopher Hitchens.

Here are some snapshots from the recent career of Henry Kissinger. In May last year, during a stay at the Ritz Hotel in Paris, he is visited by the criminal brigade of the French police, and served with a summons. This requests that he attend the Palais de Justice the following day to answer questions from Judge Roger Le Loire.

The judge is investigating the death and disappearance of five French citizens during the rule of General Pinochet in Chile. Kissinger declines the invitation and leaves Paris at once.

In the same week, Judge Rodolfo Corral of Argentina invites Kissinger's testimony in the matter of "Operation Condor" - codename for a state-run death squad, operated by the secret police of six countries - Argentina, Chile, Brazil, Uruguay, Paraguay and Ecuador - during the 1970s and '80s.

Its central co-ordination was run through a US base in Panama when Kissinger was the national security adviser and secretary of state (and chairman of the committee overseeing all US covert operations). Again, Kissinger declines to answer written requests for information.

Later in the year, Judge Guzman in Santiago, Chile, sends a written summons to the State Department requesting Kissinger's testimony about the death and disappearance of an American citizen, Charles Horman, in the early days of the Pinochet dictatorship. (The Horman story was dramatised by Constantine Costa-Gavras in the award-winning movie *Missing*.) Once again, no reply is received to this request for testimony.

On September 10, a major civil suit is filed in the Federal Court in Washington DC by the relatives and survivors of General Rene Schneider, the former head of the Chilean general staff, who was assassinated in 1970 because of his opposition to a military coup.

The lawsuit charges Kissinger with ordering and arranging Schneider's murder. The attorney for the plaintiffs, Professor Michael Tigar, announces that every document in the indictment comes from declassified government sources.

Recently, Judge Balthazar Garzon of Spain, supported by other judges in France, asks Interpol to detain Kissinger for questioning during his visit to London.

In Chile, the courts announce that if they continue to meet with no response to their requests for co-operation, they may seek Kissinger's extradition.

At the same time, the government of Brazil asks Kissinger to cancel a proposed visit to the city of Sao Paulo, saying that it cannot guarantee he will be immune from attempts to indict him.

Earlier this month, a petition for Kissinger's arrest is filed in the High Court in London, citing the destruction of civilian populations and the environment in Indochina during the years 1969-75. The High Court rules in such a manner as to leave room for a further application.

This is not a complete or exhaustive list of the difficulties now facing the United States' best-known former secretary of state. Recently, I was informed via the former Spanish ambassador to the US that Kissinger had approached the embassy asking whether he would be safe if he visited Spain. These days he does not travel without legal advice.

In the new legal context created by the arrest of General Pinochet and the trial of Slobodan Milosevic, the principle of "universal jurisdiction" applies, and states that crimes against humanity are indictable and punishable everywhere in the world.

It should be noted, though, that with the exception of the lawsuit in the Federal Court in Washington, Kissinger is not being sought as a defendant. He is being summonsed or subpoenaed only as a witness. His refusal to co-operate therefore licenses the suspicion that he has something very unpleasant to hide.

Parallel disclosures only help to materialise this same suspicion. The State Department recently declassified the verbatim conversation between Kissinger and General Soeharto on the day of the invasion of East Timor in 1975. The record shows Kissinger giving warm approval to the proposed annexation, and also promising to keep a flow of weapons coming to Indonesia.

This flagrant agreement to break both international law and the law of the US (which supplied weapons on the specific condition that they be used only in self-defence) contradicts every statement so far made by Kissinger on the subject.

Only a few weeks ago, documents released by the State Department also proved beyond doubt that Kissinger had urged the apartheid regime in South Africa to intervene in Angola before any Cuban soldier had landed in that disputed colony. Again, the disclosure represented a complete negation of everything ever said or written by Kissinger.

Without exaggeration, it can be said that these legal and investigative initiatives represent the highest point ever attained by the long campaign to enforce international law on human rights. Never before has so senior a figure in a government victorious in war been asked to answer questions about what he did, what he ordered, and what he covered up.

If the drive to put Kissinger in the witness box, let alone the dock, should succeed, then it would rebut the taunt about "victor's justice" in war crimes trials. It would demonstrate that no person, and no society or state, is above the law. Conversely, if the initiative should fail, then it would seem to be true that we have woven a net for the catching of small fish only.

Much hinges on this distinction. The International Criminal Court has won more than the 60-nation vote which was required for its establishment. Almost all Western and democratic nations, with the exception of the US, have "signed on".

Once again, it has to be inferred that there are matters, past and present, which American administrations would Kissinger Watch.....

prefer not to submit to impartial judgement. Certainly, Kissinger himself has been prominent in the campaign against Congressional ratification of the treaty (which was signed by Bill Clinton as president but which still awaits confirmation).

Quite rightly, the new court will not be allowed to revisit atrocities which took place before it was set up. Unlike the exceptional case of Nuremberg, the accusation of retroactive justice cannot be hurled around.

However, this may not be as obvious in application as at first appears. There are many thousands, if not hundreds of thousands, of Latin Americans, Greek Cypriots, Bangladeshis and Timorese, Cambodians and Vietnamese, who seek to know what happened to their "missing" family members.

In the absence of a proof of death, these cases might be adjudicated as "live" and therefore as contemporary and relevant. If so, Kissinger would be the most embarrassed man on the planet. He sat in the secret meetings during which the coups in Cyprus and Chile, the slaughter by the Pakistani army in Bangladesh, the carpet-bombing of Cambodia and the invasion of East Timor were discussed and (without the knowledge or consent of the US Congress) were approved.

Of the original group that formed the core of the Nixon regime and that took part in the many violations of the US constitution, by means of illegal bugging and illegal covert action, Richard Nixon had to accept a pardon in order to avoid prosecution, his vice-president, Spiro Agnew, had to resign in a flurry of indictments and his attorney-general, John Mitchell, became the first holder of that position to go to jail. Only Kissinger has so far avoided a full investigation of his abuses of power.

Of the despots on the international scene with whom he enthusiastically co-operated, Brigadier Ioannidis of Greece is in prison, as is General Videla of Argentina. Pinochet of Chile and Soeharto of Indonesia have avoided trial and condemnation by claiming that they are too sick to face prosecution (and more humane successor governments have spared them the kind of treatment they would have meted out to their own foes).

Only the senior partner in all this has evaded any inconvenience. Until now. We are once again forced to ask ourselves if we speak the truth when we say that no man is above the law.

Christopher Hitchens's book, *The Trial of Henry Kissinger*, is published in Australia by Text.

3. Vietnam says Kissinger should bear responsibility for Vietnam War

http://story.news.yahoo.com/news?tmpl=story&u=/ap/20020426/ap_wo_en_ge/vietnam_kissinger_1 Fri Apr 26,10:05 AM ET - Associated Press

HANOI, Vietnam - Former U.S. Secretary of State Henry Kissinger should "bear responsibility" for the human suffering caused by the Vietnam War, Vietnam's govern- page 7

ment said Friday. During a speech by Kissinger in London on Wednesday, dozens of protesters outside the meeting hall accused him of war crimes for his role in U.S. actions in Vietnam, Laos and Cambodia during the war. Kissinger ignored the protesters, but acknowledged in his speech that mistakes had “quite possibly” been made by administrations in which he served. Asked to comment on the accusations, Vietnamese Foreign Ministry spokeswoman Phan Thuy Thanh noted that Kissinger had served as U.S. President Richard Nixon’s national security adviser and secretary of state

during the war. “We hold that as a key official with an important role in the U.S. administration during the time the United States waged a war of aggression against Vietnam, Mr. Kissinger should bear responsibility for the losses and suffering caused by the war to the Vietnamese people,” she said in a brief statement. She did not elaborate. The war, which spilled over into neighboring Cambodia and Laos, ended with a communist victory in 1975 over the U.S.-backed government of South Vietnam. An estimated 3 million Vietnamese and more than 58,000 Americans perished in the conflict. Thousands of other Vietnamese continue to be affected by poisonous defoliants used by U.S. forces during the war, and by accidental explosions of buried bombs and shells left over from the fighting.

4.KISSINGER AND HIS HUMAN RIGHTS CRIMES

By Saul Landau – progreso weekly
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Human rights laws are great, a friend told me, but they seem to apply only to losers. The post World War II trials in Germany and Japan, the genocide trials of Rwandan officials and that of former Yugoslav President Slobodan Milosevic all deal with the defeated. The winners who drop atomic or fire bombs on civilians slip easily through the crack of justice.

Even when we get close to bringing the bad guys to court as in the case of former Chilean dictator Augusto Pinochet in 2000, politicians intervene to help these criminals en jefe elude the bar of justice. Now emerges the case of the mother of modern war criminals, former Secretary of State (1973-77) and National Security Adviser (1969-73) Henry Kissinger (under Presidents Nixon and Ford), whose mass murderous activities stretch from the secret bombing of Cambodia 1970, his role in extending the Vietnam War, 1969-74, and in this same era to his giving the green light for Indonesians to commit slaughter in East Timor. In addition, he apparently authorized and supported the dirty wars of South America in the early and mid 1970s.

I conceded that my skeptical friend had a cogent point about criminals who win getting away with their foul deeds. If we can’t bring the geriatric Pinochets and Kissingers to trial for their crimes, since US opposition to the International Criminal Court means that such an entity Kissinger Watch

will have less than full power, we might at least seek ways to make their retirement years as anxiety-ridden as possible. In other words, we look for a small measure of justice.

Such an instance occurred between late 1998 and March 2000 when British authorities humiliated Pinochet, one of the kings of the world, by acceding to a Spanish judges detention order and arresting him, forcing him to undergo 15 months of home incarceration. But in 1996, when Spanish lawyer Joan Garces first brought the case in Spain, charging Pinochet with torture, genocide and terrorism, sophisticated jurists laughed. Pinochet laughed.

When he triumphantly returned to Chile in March 2000, thanks to the sneaky cabal pulled off by Chilean, British and Spanish political bosses, Pinochet found himself further disquieted when a Chilean judge, emboldened by the British process, charged him with numerous crimes. He and his lawyers have resorted to faking senility and physical infirmity as excuses to avoid trial and he no longer laughs.

Now, Kissinger also faces discomfort because judges seek him for questioning and because writers like Christopher Hitchens (*The Trial of Henry Kissinger*, 2001) have publicized his felonious activities. In mid April, after discovering that Kissinger had planned an April 24 visit to London, Spanish Judge Balthazar Garzon and French Magistrate Sophie-Helene Chateau both requested permission from British authorities to question the former US official related to ongoing trials in Spain and France regarding his knowledge of Operation Condor, the cabal established between intelligence agencies of South American dictatorships from the mid 1970s through the 1980s.

After British authorities assured him that he would not be arrested, Kissinger flew to London to give the keynote speech to a business convention. Kissinger gave an interview to the right wing *Daily Telegraph* in which he called Garzon’s procedures a “new vogue” of employing human rights legislation to settle Cold War debts.

“What they are attempting to do is to use universal human rights to settle scores from 30 years ago,” he said as protesters outside London’s Royal Albert Hall held signs calling Kissinger a “serial killer.” Others demanded that Britain indict Kissinger for his war-crimes in Southeast Asia.

Kissinger accused his legal pursuers of “getting into specific issues of the management of American foreign policy with respect to one very geographically confined situation.” In his speech to business leaders, Kissinger admitted that as Secretary of State under Nixon and Ford “quite possibly” mistakes had been made. “No one can say that he served in an administration that did not make mistakes,” Kissinger confessed. But, he continued, “The issue is whether 30 years after the event courts are the appropriate means by which determination is made.

Kissinger blamed the US government for his refusal to answer questions about his behavior. My position is that if the U.S. government thinks it is appropriate for me to

answer the questions of foreign judges about the conduct of American policy, I will cooperate to the fullest extent.” But Kissinger clarified his own position by telling the *Daily Telegraph* that: “People should ask whether it is actually feasible to conduct international policy if high officials, 30 years after the event, are hounded on tactical matters. The pursuit of high officials of foreign governments — especially friendly governments — should be reserved for truly major human rights violations,” he said.

Kissinger obviously did not think that major human rights violations occurred when he gave bright green lights in the mid 1970s to several South American military governments to a cabal of secret police and intelligence agencies. The dead in Argentina’s Dirty War, Chile’s massive repression and the combined operations in Uruguay, Paraguay and at times Bolivia and Brazil totaled more than 40,000.

Indeed, the United States actively helped the Condor operatives to spy on and assassinate political dissidents including former Chilean Ambassador Orlando Letelier in Washington DC in 1976. In Chile, Pinochet’s goons tortured or assassinated more than eighty Spanish and five French citizens as well.

Although Britain rejected Garzon’s request, other European judges continue to insist that Kissinger answer questions. In addition, Kissinger has a pending demand from Chilean Judge Juan Guzman who has threatened to try to start extradition proceedings if he refuses to answer questions related to on-going criminal cases in Chile. Guzman sent Kissinger a list of questions last year, but has received no answers.

What a way to treat an old man who was gloating happily in his fortune! Is this fair to hassle an aging celebrity whose occasional speeches yield him \$50K and up, to pester a man who collects millions in fees for arranging high level visits by businessmen to China, to distract a man basking, nay smirking, in his partly self created international reputation?

Why should a Nobel Peace Prize winner answer questions about his link to terrorist crimes orchestrated by tin horn Latin dictators in the 1970s? (One wit remarked after Kissinger received the Peace Prize that he should have gotten it for Physics. “What does he know about physics?” asked a stooge. “Uh huh”, responded the wit.) Kissinger wanted to deliver a prestigious keynote address to some rich business leaders and enjoy a London vacation and now this intrusive Garzon threatened him!

How ironic! Terrorism has become Bush’s and war criminal Ariel Sharon’s word and now, as part of the very fight against terrorism Judge Garzon wanted “to ask Dr. Kissinger about his knowledge of the Condor plan,” because, said Joan Garces, “he was among the immediate circle of those military rulers, including General Pinochet, who carried out tortures and illegal executions for which they were never punished.” For those who dismiss the possibility that the court could question the great and powerful, Garces reminds us that in March 2000 the British Kissinger Watch.....

government freed General Pinochet on administrative grounds, “not judicial, so the case remains open.”

In France, William Bourdon, who represents French victims of Pinochet, told the British daily *The Independent* that France had also requested Interpol to detain Kissinger for questioning. Bourdon petitioned Judge Sophie-Helene Chateau to ask “authorities in Britain for Kissinger to answer questions about the Condor plan, and about Europeans who disappeared immediately after Pinochet’s coup in Chile.”

Bourdon referred to recently declassified CIA documents and testimony from witnesses questioned by a French judge [that] lead us to suspect that Dr Kissinger was closely informed about the Condor plan and about French and Spanish nationals who disappeared after the 1973 coup. He is a witness. He has to contribute to the truth. He has nothing to fear. He will not be indicted.”

Why not, I asked myself. Why should he escape indictment? Will the US government bomb a government that indicts him? Bourdon claimed that Kissinger as Secretary of State informed the US Embassy in Paris that he intended to make that city Condor’s European headquarters.

In addition to his European tormenters, the family of General Rene Schneider has brought a suit against Kissinger in Washington DC. They claim he played a role in the October 1970 assassination of Schneider who commanded the Chilean armed forces during the period between Salvador Allende’s September election and his November inauguration. According to the suit, Kissinger, under President Nixon’s general orders, had apparently authorized the CIA to pay a gang of fascist thugs to hit Schneider as a way to stop Allende’s inauguration.

As if this wasn’t enough, poor old Henry also faces a suit from Joyce Horman for his role in the murder of her husband, Charles Horman, during the 1973 Pinochet-led coup. The case was dramatized in the film “Missing,” with Jack Lemmon and Sissy Spacek. CIA and State Department documents make it clear that Kissinger knew about the Horman case and either let the Chilean military kill him or, at best, covered up the details of his murder.

The US government’s cooperation with Kissingers refusal to talk to answer Garzon’s questions about Operation Condor in general, also means that Kissinger stays mum on what he knew about the assassination of Orlando Letelier in Washington, DC. This brings the murder trail back home. The Department of Justice has yet to indict Pinochet for Letelier’s murder even though FBI Agents claim that they have more than enough evidence to bring the old tyrant trial. Kissinger’s links to this and other Condor cases relies on more than speculation or deduction.

In 1992 Martin Almada, a Paraguayan lawyer, discovered some Condor records in a small Paraguayan town. In some of these documents, Kissinger appears as a link to the dirty war in Argentina (upwards of thirty thousand died in that one) as well as to the brutal repression in Chile. Who else, I ask myself, would have had that Germanic impulse to clean out leftist opposition by coordinating intelligence

services in the Southern Cone? Who always preferred military to civil governments, because they obeyed and carried out commands quickly instead of debating like democratic governments?

With Condor military governments monitored or assassinated “dangerous” left wing dissidents, no matter in what country they resided, no matter their nationality. Murder them in their country of exile, like former Chilean Chief of Staff General Carlos Prats, exiled in Argentina in 1974, or contract with foreign fascist assassins to whack them abroad, as in the 1975 assassination attempt against Bernardo Leighton in Rome they seriously wounded him and his wife. On September 21, 1976, Chilean secret agents car bombed former Chilean Ambassador Letelier in Washington DC.

Letelier worked with me at the time at the Institute for Policy Studies, along with Ronni Moffitt, who also suffered fatal injuries from the bomb. I first heard of Condor from an FBI agent investigating the case.

Special Agent Robert Scherrer, stationed in Buenos Aires at the time of the assassination, sent a cable to FBI headquarters a week after the Letelier-Moffitt murders suggesting that Condor might be involved. In later conversations that John Dinges and I held with Scherrer as we researched for our book, *Assassination on Embassy Row* (Pantheon, 1980), the Special Agent of the FBI told us that a pro Nazi Argentine officer had told him about this nefarious conspiracy and that he had then reported it as a likely MO for the Letelier murder.

Dinges and I believed Scherrer, whose information to us on the Letelier case proved remarkably accurate. But, as declassified documents now show, Scherrer misled us about his own knowledge and involvement. He had even cooperated with a May 1975 Condor operation that resulted in a Chilean leftist named Fuentes being arrested in Paraguay and then being delivered to the Chilean secret police. Fuentes, like 1200 other Chileans, disappeared.

The State Department under Kissinger promised Chile that it would ask the FBI to follow up on names of people that Fuentes had in his address book. Kissinger, the declassified cables make clear, also knew that the United States had helped Condor with its communications by making space and technology available at a US military base in Panama. Previously, the CIA had helped Condor set up a computer that linked the intelligence agencies.

No wonder Kissinger has failed to respond to Judge Guzman’s questions and ignored the queries of French judge Roger Le Loire about his knowledge related to Condor’s operations against French citizens. Now, Garzon, the world’s toughest anti-terrorist judge (he has taken on the Basque bombers, Pinochet and Al Qaeda members) pursues the 78-year old Kissinger. What will his next move be?

It’s a fantasy to imagine Kissinger in court facing war crimes charges! I recall Kissinger saying that “power is the ultimate aphrodisiac.” I never understood whether he meant that he used power to attract women or just thought about his own power to stimulate himself. In any case, I Kissinger Watch

wonder if all these legal actions have tickled Henry’s prostate. It might be as close as we get to a measure of justice in our time. But, then again, who expected Pinochet to be under arrest for fifteen months? Stay tuned and find out if Henry will have his day in court.

5. Matthew d’Ancona’s Interview with Henry Kissinger / Daily Telegraph - 28Apr02

<http://www.portal.telegraph.co.uk/news/main.jhtml?xml=/news/2002/04/28/nkiss28.xml&sSheet=/news/2002/04/28/ixhome.html>

HENRY KISSINGER’S visit to London last week was overshadowed by the campaign of European judges to settle 30-year-old scores. In his only interview of the trip, he tells Matthew d’Ancona why he is undeterred. ‘If you’re here to see Kissinger, you are scum,’ chants the mob outside the Royal Albert Hall. Well, I guess that’s me, then. On the road, dozens of demonstrators are blocking the traffic in a sit-down protest. Their comrades brandish placards with slogans such as “Henry: Portrait of a Serial Killer”, which seem to hold the good doctor responsible for just about every misfortune to befall humanity since the Flood. Inside the hall, 2,800 businessmen are awaiting Henry Kissinger’s speech to the Institute of Directors’ annual convention. But first I am whisked off to meet him in a tiny, brightly-lit changing room which is being used as an improvised audience chamber for the morning. As I enter, Lord Young of Graffham, Margaret Thatcher’s Trade and Industry Secretary, is leaving. Deep in the bowels of the Albert Hall, the baying crowd can no longer be heard. But Dr Kissinger’s numerous Special Branch officers are taking no chances: officially, I am told, he is not here yet. In fact, he is most definitely here. Reclining on a sofa, immaculate in dark suit and maroon polka dot tie, the former American Secretary of State takes the melee around him in his stride, issuing instructions to his

entourage in the unmistakable, slow baritone. His visit has been overshadowed by requests from French and Spanish judicial investigators to question him in connection with “Operation Condor”, an alleged campaign of terror in Latin America during the 1970s when he was in office. Has it spoiled his trip to Britain to be hounded in this way? “Look,” he says, examining the back of his hand, “this is, as it happens, the first country I came to after I left Germany in 1938.

“It was only for a few weeks, but, nevertheless, it was my first experience of freedom. It’s a country in which I served in the 84th infantry division in 1944. It is a country with which I have a long association and I have many friends here.”

True: but that hasn’t stopped Baltasar Garzon - the magistrate who attempted to extradite General Pinochet in 1998 - and others from trying to intercept the 78-year-old Dr Kissinger on his trip to London. The campaign, he says, is an abuse of the principles it claims to uphold: “What they are attempting to do is to use universal human rights

to settle scores from 30 years ago. They're not making any charges involving universal violations. They're getting into specific issues of the management of American foreign policy with respect to one very geographically confined situation."

He is annoyed by "major misrepresentation" in the press of the last attempt to apprehend him, in Paris last year. On that occasion, Judge Roger Le Loire issued a summons to Dr Kissinger to appear as a witness in the Pinochet case. The matter was handed over to the US Government and he did not, as was widely reported, "flee" the French capital: "I maintained my regular schedule and I left on the flight two days later exactly as planned." The real question is whether Dr Kissinger, chased around Europe by campaigning lawyers, expects ultimately to face cross-examination. "The issue last time was alleged complicity in the disappearance of a Frenchman in Argentina [Jean-Yves Claudet-Fernandez, a member of the Chilean Left, who disappeared in Buenos Aires in 1975].

"I'd never heard of the Frenchman - as you would expect. I'd never heard of the case. But my position is that if the US Government thinks it is appropriate for me to answer the questions of foreign judges about the conduct of American policy I will cooperate to the fullest extent." This seems an unlikely outcome, given that there is absolutely no respectable evidence of his own or the US Government's involvement in these cases. Even so he believes that the new vogue for pursuing unsettled scores from the Cold War using human rights legislation may be storing up serious trouble for the future.

"People should ask whether it is actually feasible to conduct international policy if high officials, 30 years after the event, are hounded on tactical matters, on individual matters about which common sense tells you they couldn't possibly have any knowledge. The pursuit of high officials of foreign governments - especially friendly governments - should be reserved for truly major human rights violations."

Nonetheless, it is clear that being hounded by continental lawyers has not diminished his sense of humour (later, he says the reason that he speaks so slowly is that he is translating himself into English). He chuckles when I quote a passage from his most recent book *Does America Need A Foreign Policy?* (2001) on future diplomacy in the Middle East in which he predicted that "the American contribution will depend on its ability to insist on a strategic and political concept for the enterprise".

He knows what I am going to ask: do President Bush and his recent envoy in the Middle East, Colin Powell,

have such a "concept"? The man whose shuttle diplomacy secured the Arab-Israeli ceasefire in 1973 smiles wryly, and chooses his words with care. "I do not think they have yet settled on what the precise concept is, but I hope they will before Colin Powell launches himself into the region again. On this particular trip, his mission was to calm the situation. And that he did." He admits that he was "concerned at the beginning" that America might be seen to be weakening its position on Palestinian terrorism, but applauds Powell for "eliminating the incipient fatalism" on both sides of the conflict. On the day we meet, the papers are full of stories about the Bethlehem siege and the aftermath of the Jenin confrontation, with calls for international diplomatic intervention becoming ever more clamorous. Dr Kissinger's warning is that the objectives of any subsequent interference must be utterly realistic: "When one enters a negotiation, one ought to be able to describe the outcome towards which one is aiming," he says.

"I believe that simple coexistence between the Israelis and Arabs would be a tremendous achievement. It should not simply be a ratification of the status quo. It should give the Palestinians satisfaction of some of their demands". But questions such as the fate of Palestinian refugees and the final borders of a Palestinian state must, he says, be deferred for now. As for Yasser Arafat, Dr Kissinger believes that only pressure from Arab states can dislodge him. "It's not possible for Israel to say who should be the Palestinian negotiator. We should say to the Arab states: given your interests, and given your constructive approach, you have to settle who should perform that role. And if you decide on Arafat, you have to take into account what will happen if he is untrustworthy."

Dr Kissinger is full of praise for the Prime Minister's conduct since September 11, although he says that if he lived in Britain he would probably vote Conservative. In answer to one of my questions, he admits that Tony Blair's evangelical foreign policy - which he calls "Gladstonian" - contrasts sharply with his own "Disraelian" preference for realpolitik and geopolitical realism. "I question the idea of universal crusades," he says, "because I think, looking at it as an American, they will eventually go beyond our capacity." Realistic to the last: unlike the mob outside, and, one suspects, the judges who think they can outfox this formidable survivor.