



Lawyers must speak up or civilisation is lost

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THE TRIAL OF HENRY KISSINGER

Christopher Hitchens
Verso, £15

QUITE the most interesting feature of this book is the reviews it has attracted. Christopher Hitchens is a well known left-wing writer – his reviewers (not surprisingly) are right-wing – and the two sides have clashed bitterly. All over Henry, who seems to have remained silent, or perhaps is planning his defamation action over certain quotations from the book.

Ex-ambassador Raymond Seitz, in the *Sunday Telegraph*, wrote of Hitchens: “He is in fact a one-man lynch mob. Kissinger, he tells us, is a vicious, blood-thirsty, egomaniacal profiteering fiend, a kind of black-coated Bela Lugosi of statecraft who, in the course of eight demonic years as National Security Advisor and then Secretary of State (1969-1977) was personally responsible for numerous instances of mass murder and assorted other war crimes in corners of the globe as varied as East Timor, Bangladesh, Cyprus and Chile”. Mr Seitz goes on to demolish the book’s arguments, while admitting that Kissinger “made a lot of mistakes and no one would ever accuse him of moral preoccupations. He managed to outrage both the left and the right of the American political spectrum. But to accuse him of criminality is an altogether different order of business”.

George Jonas in *The Daily Telegraph* writes that “the book is a mess of half-truths and fantasy”. Conrad Black in *The Spectator* says of the book: “It is so contemptible that it almost makes a case for judicial book-burning; almost, but not quite. It should be preserved as evidence of the final bankruptcy, both evil and banal, of the old left”.

So why bother to read the book? Why review it further?

The Trial of Henry Kissinger is an example of a modern tendency in international affairs to reach out and indict certain individuals whose conduct is alleged to have constituted crimes against humanity and genocide. The protection that they might

once have had, as heads of state or holders of high office, under the rubric of diplomatic immunity, may be stripped from them and they can face trial before a newly established International Criminal Court (ICC), once 60 States have ratified the Treaty. (The USA holds out against it, for fear that its troops on overseas assignments might be arrested.) Britain for example, has already introduced an “International Criminal Court Bill” which has passed the House of Lords, following our ratification of the Treaty on 30 November 1998, as we “wished to be among the Court’s founding members”. There are already, of course, ad hoc tribunals at work in The Hague, trying Serbian war criminals.

Many would applaud this development in international justice, so that rulers and high-ranking soldiers and police officers everywhere might fear the consequences if they abuse human rights. But it is a very one-sided approach: according to Hitchens, and others like him, the only people worth indicting are right wing. Nowhere do you find any mention of atrocities committed by Russians during the communist era; or of the nameless Chinese officials torturing and killing Tibetans. George Jonas said in his review: “Although the idea of any country trying to prosecute a former US secretary of state on the basis of assertions such as Mr Hitchens’ still seems only the erotic dream of neutered liberals and ex-flower children who have long fantasised about setting up a Holy Inquisition of the left, the FBI has seen fit to issue quiet warnings to former American officials about travelling in some European countries. The danger that international systems of justice may be hijacked for political ends is quite real”.

That is the first point. The second is simply this: Henry Kissinger can’t have been quite as bad as he is portrayed in the book. There is no good in batting recriminations from left to right across the political divide.

What, at the end of the day, has Kissinger done which has been of value to humanity or, at least, that part of it which lives in the United States?

He is generally credited with being chief architect of detente with the Soviet Union; American disengagement in Vietnam – that weary, unwinnable war from which the USA was glad to escape; rapprochement with China.

These are considerable achievements in anyone’s book. And he gained a Nobel Peace Prize. Furthermore, he made strenuous efforts to resolve the Middle East dilemma. Just extracting these plus points makes a nonsense of the irredeemable villainy with which Kissinger is portrayed in the volume under review.

To take just one example of the methods the author goes to in blackening Kissinger’s name: he is accused of planning the attempted murder of the President of Cyprus, Archbishop Makarios. Hitchens claims that Kissinger wrote in his book, *Years of Renewal*, that Makarios was “the proximate cause of most of Cyprus’s tensions” and that this indicated he felt the removal of Makarios from the scene was “self evidently” the cure for those tensions. Actually, what Kissinger wrote was: “... Makarios, the proximate cause of most of Cyprus’s tensions, was also the best hope for a long-term peaceful solution”. In Hollywood, the critic George Jonas notes wryly, “this is where the lawyer puts down his notes and says, ‘the defence rests’”.

This dreadful volume does, however, have some merit. It reminds us what justice and law are all about. Kissinger, like his employer, Richard Nixon, was prone to think he was above the law. In the “White House Tapes” of the Nixon years, Kissinger is heard telling the President “It’s impermissible to touch the President. That cannot be permitted, at whatever price ...” This was just before the time when the Supreme Court ordered the surrender by the President of tapes implicating Nixon in the Watergate affair.

Hitchens records a declassified tape of a conversation in December 1975 between Kissinger and officials of his Department. In it, Kissinger berates his staff for sending a cable, without his permission, suspending American arms supplies to Indonesia. A week or so beforehand, Kissinger and President Ford had stopped over in Jakarta for discussions with President Suharto. Shortly after they left, the Indonesians invaded East Timor and, using American military supplies, brutally destroyed any opposition. Kissinger was not pleased that supplies had been stopped, despite the treaty assurances that such supplies would only be used for Indonesian self-defence:

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Henry Kissinger

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CISCO [Under Secretary]: We were told that you had decided we had to stop.

KISSINGER: Just a minute, just a minute. You all know my view on this. You must have an FSO [Foreign Service Officer] who knows it well. It will have a devastating impact on Indonesia. There's this masochism in the extreme here. No one has complained that it was aggression.

LEIGH [Legal Advisor]: The Indonesians were violating an agreement with us.

KISSINGER: The Israelis when they go into Lebanon – when was the last time we protested that?

LEIGH: That's a different situation.

MAW [Under Secretary]: It is self-defence.

KISSINGER: And we can't construe a Communist government in the middle of Indonesia as self-defence?

LEIGH: Well ...

KISSINGER: Then you're saying that arms can't be used for defence?

HABIB [Assistant Secretary]: No, they can be used for the defence of Indonesia.

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No one in the room seems to have had the courage to say, "Mr Secretary, the plain fact of the matter is that what the Indonesians are doing is illegal. You may not condone illegality". If someone – particularly the Legal Advisor – had said something like this, firmly and forthrightly, he would probably have been sacked, but his conscience would have been clear. A little later in the same tape Kissinger is heard to say: "I know what the law is but how can it be in the US national interest for us to give up on Angola and kick the Indonesians in the teeth?"

The lesson that can be drawn from this book is that the Secretary of State is not above the law, which is a lesson the President himself had to learn. The sad thing is that the Legal Advisor did not speak up in support of the law. When lawyers and judges fail to uphold the law, then we are certainly on the precipitous path to losing our civilisation. It is noteworthy, for example, that the powerful bureaucrats of the European Union are not averse to side-stepping the laws they have set for themselves.

Kissinger was certainly no statesman, if one accepts Edmund Burke's definition: "A statesman, never losing sight of principles, is to be guided by circumstances". On the other hand, he does not deserve this vitriolic attack by Hitchens.