

February 15, 2005

“Prosecuting the Peace of the World: The Experiences of Thomas J. Dodd at the International Military Tribunal of Nuremberg, Germany, 1945-46”

Senator Christopher J. Dodd

Supreme Court Historical Society

http://dodd.senate.gov/press/Speeches/109_05/0215.htm

"[...] Over the last six decades, we have not witnessed the level of horrific destruction and carnage perpetrated by the Nazis. But we have seen, time and again, terrible crimes against humanity in places like Cambodia, Iraq, Bosnia, Rwanda, and today in the Darfur province of the Sudan.

Tragically, many of the individuals involved in these crimes - people like Joseph Stalin, Pol Pot, and Idi Amin - were never brought to justice. In some of these cases, the world did eventually create tribunals - but always, like Nuremberg, temporary, ad hoc courts that were established after the fact.

To truly be called effective, a court must not simply punish the guilty, then disband. It must serve as a permanent reminder to any potential criminals that they, too, will be held accountable. Such a court can not only punish crimes - it can deter them.

In my view, there is only one kind of institution that can ensure the kind of accountability that can prevent future war crimes - and that is a permanent court empowered to indict, prosecute, and judge international criminals.

After many, many years of effort, the International Criminal Court came into existence on July 1, 2002. Unfortunately, rather than lend its support to this effort, the United States has walked away from it.

I'm aware that there are complex issues that need to be resolved regarding our nation and the **International Criminal Court**. But I strongly believe that our nation's interests, and the world's interests, would be far better served if we worked to address those issues rather than abandoning the entire process.

What, after all, does it say about a nation that prides itself in upholding freedom, justice, and human rights when it simply disengages itself from an institution whose goal is to promote those values? And what does it say about an institution's power to bring criminals to justice when the most powerful nation in the world refuses to play a part?

The tragic events in Darfur today represent exactly the kind of situation in which people like my father and Robert Jackson envisioned international courts playing a prominent role. It is my hope that the current administration will see the Darfur genocide as an opportunity to participate in this institution in some way, rather than simply standing on the sidelines. Otherwise, the cry of "never again" will ring tragically hollow. [...]"

**The Hearst Corporation
The Times Union (Albany, New York)**

March 7, 2005

“Review Nuremberg Lessons,” by Helen Thomas

WASHINGTON - The International Criminal Court has been ratified by 100 nations, but the United States is conspicuously absent from the roster of supporters of the tribunal which was created to prosecute individuals who commit genocide or crimes of war.

The court, which came into existence in 2002, was created by a treaty negotiated by 120 nations at a conference sponsored by the United Nations in Rome in 1998. The tribunal would step in to prosecute alleged war crimes only if national courts were unwilling to prosecute.

President Bush has rejected U.S. participation, citing concerns that accepting jurisdiction by the International Criminal Court might subject American GIs to politically-inspired "international justice" for actions taken on orders of the commander-in-chief to protect U.S. national interests.

Sen. Christopher Dodd, D-Conn., told the U.S. Supreme Court Historical Society last month that the Bush administration's decision was a mistake and he pointed to the precedent of the post-World War II Nuremberg war crimes trials of Nazi leaders. "To truly be called effective, a court must not simply punish the guilty, then disband," said Dodd, whose father, the late Sen. Thomas Dodd, D-Conn., served as a prosecutor at Nuremberg in 1946. "It must serve as a permanent reminder to any potential criminals that they too will be held accountable."

Dodd devoted much of his address at the Supreme Court to the post-World War II-era, when U.S. Supreme Court Justice Robert H. Jackson temporarily left the high court to serve as chief U.S. prosecutor at the Nuremberg war crime trials.

Jackson, appointed to the post by President Harry Truman days before the allied victory in Europe in 1945, helped negotiate guidelines for the unprecedented proceedings that substituted lengthy public trials for the summary justice and executions of Nazi leaders favored by many leaders, including British Prime Minister Winston Churchill. Prosecutors from four nations indicted 21 Nazis in custody, convicted 18, executed 11 and sentenced seven to prison. Three were acquitted.

Jackson "insisted on the rule of law - rather than the rule of the mob," Dodd recalled. Jackson insisted that Nazi leaders face international justice.

"The wrongs which we seek to condemn and punish have been so calculated, so malignant and so devastating that civilization cannot tolerate their being ignored because it cannot survive their being repeated," said Jackson, an upstate New Yorker who served as attorney general, Supreme Court justice and Nuremberg prosecutor without ever graduating from college or law school.

Jackson was an advocate for human rights throughout his career on the U.S. Supreme Court. He dissented from the high court's ruling upholding the Roosevelt administration's decision to detain Japanese-Americans in internment camps during the war without charges or trial. Five months before Jackson died in 1954, he joined eight colleagues in the unanimous groundbreaking decision to end racial segregation across the land. "Having witnessed the horrors of Nazi Germany, (Jackson) had a deep and abiding belief that the law is humanity's strongest and noblest weapon against tyranny and oppression," Dodd recalled in his remarks.

It is important that the "lessons we learned six decades ago do not fade away into the mist of history," Dodd added. Nuremberg was "about much more than the defendants, the evidence and the sentences - It was about the opportunity, as he put it, 'to write a record that will make a new point in man's relation to man.' "

Dodd said the Bush administration has abandoned the lessons of Nuremberg by failing to support a permanent international court that "can not only punish crimes, it can deter them."

At Nuremberg, Dodd recalled, "we rejected the certainty of executions for the uncertainty of a trial."

But where are the statesmen like Jackson today?

It seems they don't make courageous, principled leaders like him any more. I'd say the only exceptions are the few federal judges and civil rights lawyers who are standing up to the Bush administration in support of due process for suspects of terrorism.