

HENRY KING'S REMARKS ON THE SIGNIFICANCE OF THE ECCC

I served as an American prosecutor at the International Military Tribunal in Nuremberg after World War II. Today I teach at Case Western Reserve University School of Law at Cleveland, Ohio. I want to speak with you from a historical perspective about the significance of the Extraordinary Chambers in the Courts of Cambodia, or the ECCC.

The ECCC is the newest hybrid criminal tribunal under international law. The ECCC and its more established siblings – like the International Criminal Tribunals for Rwanda and the former Yugoslavia, among others – are the progeny of Nuremberg. In the aftermath of World War II, the Allies resisted clamors for the summary execution of high-ranking Nazis. Instead, German political, military, and economic leaders were afforded fair trials in the heart of the own nation, at Nuremberg, the city that lent its name to the infamous 1935 Nuremberg laws authorizing the persecution of Jews. But in Nuremberg in the late 1940s, guilty parties were held accountable and the details of their heinous crimes broadcast around the world. The international movement for human rights was born.

I am fortunate enough to have served as a prosecutor in those early days. I was twenty-six years of age and fresh out of law school when I arrived in Nuremberg in a blinding rainstorm in March of 1946. I prepared cases against several top Nazi leaders – even interviewing Albert Speer, the architect of the Third Reich – and committed myself

to what Supreme Court Justice and Nuremberg Prosecutor Robert Jackson called “one of the most significant tributes that Power has ever paid to Reason.”

Today, dedicated and gifted young men and women from across the globe, including Cambodia itself, are arriving in Phnom Penh to fight the struggle for accountability and against impunity. By bringing those responsible for the horrible crimes of the Khmer Rouge to justice through fair and open trials, the ECCC and its Cambodian and international jurists and advocates help prevent such events from occurring in the future.

Like the Nuremberg trials, the ECCC proceedings will shed light on the structure of the government of Democratic Kampuchea, the motives of its leaders, and the levers they used to perpetrate the mass-murders, torture, and other atrocities of the late 1970s. In a sense, the ECCC will provide a post-mortem analysis of a totalitarian state. It will offer lessons, not only to Cambodians but to all people, about the circumstances that lead to such crimes. It will show us where and how the chain of events leading to mass murder can be broken.

The ECCC will reinforce and reinvigorate notions of the global rule of law first developed and implemented at Nuremberg. Even after 30 years, justice can and will prevail. In a country that still reels from the horrors of Pol Pot’s regime, bringing to justice those surviving leaders allegedly responsible for the atrocity crimes of the past will aid reconciliation and bring some small measure of consolation, or at least resolution, to victims and their families.

Most importantly, in holding leaders accountable for their crimes the ECCC will deter similar-minded politicians the world over. My own service as a prosecutor at

Nuremberg was sparked by the words of my father. Over a Sunday night dinner conversation in 1935, he asked me, “How do you stop wars?” I was stumped. As Mayor of a small Connecticut town during the First World War, he observed firsthand the devastating effect of war on the nation’s youth. He told me, “the people don’t want wars. It is their leaders. To stop war, you have to punish the leaders.”

The ECCC – like the other international and hybrid Tribunals across the world – is a stark reminder to leaders inclined to order atrocities that they are not invulnerable and that, as in Cambodia, they will be punished by their own people and by the international community, even decades after their crimes. Increasingly we are disproving the old saw that legal accountability is least where power is greatest.

I’d like to conclude with one caveat. The importance of fair, open trials cannot be overstated. The secret of Nuremberg’s success lay in its rigid adherence to procedure; Nazi criminals were presumed innocent; they were accorded counsel and the opportunity to defend themselves. As Justice Jackson counseled in his opening statements at Nuremberg, “to pass these defendants a poisoned chalice is to put it to our lips as well.” The trials at Nuremberg were perceived as legitimate, even by the defendants and their counsel. The struggle against human rights violations cannot win by fighting fire with fire. We must hold ourselves to the standards we espouse. That will be particularly true of the Extraordinary Chambers in the Courts of Cambodia.

I applaud the arrival of the Cambodia Tribunal Monitor, which will provide an invaluable service by webcasting the trials of the ECCC to the world. It is the video record of the Nuremberg trials that perhaps to this day stands shoulder to shoulder with the written transcripts of the proceedings for the benefit of all succeeding generations.

So the legacy of Nuremberg marches on today. I hope the ECCC will have a similar effect in Cambodia and across the world, helping to prevent atrocity crimes by demonstrating that violators will be hauled in front of their people and the international community and held accountable.