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The Washington Post

washingtonpost.com

The Washington Post

March 27, 2002 Wednesday

Final Edition

A Blind Eye to Justice in Cambodia

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The United Nations, which has had a terrible record in dealing with Cambodia ever since the horrific Khmer Rouge revolution, has now added a new chapter to the sorry tale. The United Nations recently abandoned its negotiation with the Cambodian government over establishing a tribunal for prosecuting Khmer Rouge leaders. The reason offered was that it would be too difficult to guarantee observance of international standards of justice. Surprisingly, international human rights groups have greeted this act with approval, because of their fear that the proposed tribunal would not measure up to international standards.

Both the United Nations and the human rights groups are wrong on this matter. And by overstating the importance of international standards of justice, they have missed a great opportunity to continue to pressure Cambodia to build a culture of accountability.

The United Nations' unenviable record in dealing with Cambodia goes back more than a quarter-century. The world body ignored atrocities during the Khmer Rouge's brutal reign in the 1970s, and it continued to recognize the Khmer Rouge as Cambodia's legitimate U.N. representatives until 1991, even though the whole world knew that they were mass killers. Worse, it refused to provide any systematic assistance to the Cambodian people during the 1980s, while aiding the Khmer Rouge by supplying them food in refugee camps on the Thai-Cambodian border.

The 1991 Paris Peace Agreements, which formally ended the Cambodia conflict, ushered in a massive U.N.-led operation to conduct elections and keep the peace. Though the elections were successfully held, the United Nations let the Cambodian people down by allowing the losing Cambodian People's Party to muscle its way into the government. In the years after the elections, the United Nations did little to build on the democratic gains of the vote and never did much to support the country's weak human rights office.

Nor, during this time, did the United Nations even raise the issue of accountability for the crimes of the Khmer Rouge. In fact, if the Khmer Rouge had not violently pulled out of the peace agreement, they would have been entirely legitimated. This silence only emboldened Hun Sen, the leader of the Cambodian People's Party, to strike deals with the aging Khmer Rouge and ensconce them in comfortable military and government positions.

After being pushed by nongovernmental organizations and senior U.N. human rights officials, the United Nations finally was forced to enter into negotiations with the Cambodian government to establish a tribunal. But throughout the negotiations, the United Nations assumed a haughty and unrealistic attitude that made it that much easier for the People's Party-led regime to sabotage the talks.

While the United Nations raised legitimate concerns about the law that establishes the tribunal, it has squandered any chance to fix it by pulling out of the negotiations. Worse, by withdrawing, it has made the insincere Cambodian government look good, while confirming to the average Cambodian that the United Nations does not care, and has never cared, about what the Khmer Rouge did.

Given its history of disregard for justice in Cambodia, the United Nations sounds altogether too sanctimonious in insisting on international standards of justice as the reason for pulling out of the negotiations. The reality is that the international standards are themselves malleable, dependent upon the caliber of the individual judge, the evidence that can be marshaled against those charged and the political context of the crimes with which individuals are charged. In effect, different standards apply in different cases even before the same court. This was true at Nuremberg, and it is true in the tribunals for the former Yugoslavia and Rwanda.

Too often the protagonists of international justice are willing to dismiss any local attempts to bring criminals to justice, whether it is the gacaca system of community courts in Rwanda or Cambodia's own flawed pursuit of aging Khmer Rouge leaders. The resulting imperial insistence on international justice has too often sacrificed the need for accountability, a slow and often painful process, at the altar of glib posturing.

Now that the United Nations has pulled out, Cambodians are left to wonder once again whether their inept and insincere government is really interested in pursuing what remains of the senior Khmer Rouge. Are there countries that can step into the breach? The record so far is not encouraging. The major Western countries, including the United States, Australia and France, have shown little interest. China, for its part, has worked to oppose any attempt to bring the Khmer Rouge to justice, out of fear that unsavory details of its support for the brutish regime might come to light. Other Asian countries, whether neighbors in the region or India, have neither the interest nor the principled commitment to push for accountability.

In fact, the best hope for accounting for the massive crimes of the Khmer Rouge may lie only in the flawed Cambodian domestic system. Given the sorry state of international justice toward Cambodia since the crimes of the Khmer Rouge, that might not be such a bad idea.

The writer, a professor at MIT and director of its program on human rights and justice, worked for several years with the U.N. human rights office in Cambodia.

LOAD-DATE: March 27, 2002

LANGUAGE: ENGLISH

DOCUMENT-TYPE: COLUMN

PUBLICATION-TYPE: Newspaper