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A U.N. fiasco in Cambodia

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The U.N.-backed Khmer Rouge Tribunal in Phnom Penh continues to stagger from one scandal to the next. The most recent one involves the Tribunal judges, including an international one, stopping the investigation of suspects. It is time for the international community to pull the plug on this politically tainted and shamefully mismanaged undertaking.

The Tribunal was established by an agreement between the U.N. and the Cambodian government in 2003 to bring to justice those most responsible for the deaths of 1.8 million Cambodians between 1975 and 1979. So far, the \$150 million investment has produced a grand total of one sentencing. There are four other defendants facing trials. Whether these four elderly and increasingly infirm defendants in custody actually live long enough to stand trial is now in serious doubt.

Grave allegations have plagued the Court from the beginning: kickbacks to senior Cambodian officials in return for jobs at the Tribunal; hiring irregularities so pervasive that an independent audit suggested that all Cambodian staff at the Tribunal should have their contracts nullified; botched responses to allegations of corruption. The list goes on.

What is unfolding at the Tribunal now, however, is more serious and throws into doubt the legitimacy of the legal proceedings. Now, political interference has clearly erased the independence and impartiality of the judiciary.

The U.N. agreed earlier on a Tribunal that is "hybrid" in nature, in which Cambodian judges, prosecutors and court staff sit alongside their international counterparts and wield significant authority to shape the legal proceedings. Such an approach was a huge gamble for two reasons. First, U.N. reports warned that Cambodian judges are not independent of political influence. Second, in this context, the Tribunal would have worked only if the government in Phnom Penh acted in good faith and the U.N. was willing to demand good behavior.

On the first point, the Cambodian legal system is such that judges' careers depend on political patronage. Many of the judges selected for the Tribunal by the government had poor records of judicial independence.

This lack of independence has shown itself most evidently when the international community wanted to broaden the Tribunal beyond the five original defendants. Prime Minister Hun Sen has repeatedly voiced his opposition to broadening, on one occasion informing U.N. Secretary Ban Ki-moon that further prosecutions would not be "allowed." By impeding the Tribunal, Mr. Hun Sen is able to maintain political control of the

process while also shaping the narrative of the Khmer Rouge era so that only a few individuals appear culpable.

Cambodian Tribunal officials have followed their prime minister's lead. When the International Co-Prosecutor referred additional suspects for prosecution, his Cambodian counterpart opposed prosecution. When international judges supported a broadened investigation—based on more than enough evidence—their Cambodian counterparts refused.

The second issue is that the U.N. isn't fighting back. Consider one investigation, that of Case File 003, which dealt with two senior Khmer Rouge officials—air force commander Sou Met and navy commander Meah Muth. This investigation was stalled for many months and when it finally began in 2010 it soon became substandard.

The New York-based Open Society Justice Initiative has reported that the staff of the Office of Co-Investigating Judges stuffed the Case File 003 with irrelevant papers to give the impression that a full investigation had taken place. When the judges announced in April 2011 that they were closing the investigation, they had neither spoken with the suspects nor visited the alleged crime scenes. Human Rights Watch concluded that the judges "egregiously violated their legal and judicial duties."

Siegfried Blunk, the U.N.-nominated international Co-Investigating Judge jointly presiding over this case, is responsible. While it is to be expected that the Cambodian judge would thwart the investigation, it is outrageous that a U.N. official did so. At least five U.N. staff in Mr. Blunk's office resigned to protest the decision to terminate the investigation, while others have declined new contracts or accepted reassignment out of the judge's office. When the respected international Co-Prosecutor Andrew Cayley appealed the premature closure of the investigation of Case File 003, the co-investigating judges—including Mr. Blunk—ordered his request redacted and claimed that his request mentioned confidential information. Yet the U.N. continues to voice its support for Mr. Blunk and the Tribunal.

This shows the U.N. isn't blameless. The U.N. has exhibited a lack of will both in dealing with Phnom Penh and in refusing to withdraw support from a Tribunal that is in danger of becoming a legal embarrassment. Unable or unwilling to walk away, the U.N. appears to have accepted the idea that five prosecutions are all that will be permitted by Mr. Hun Sen, and that five are better than nothing. The U.N. has, in effect, condoned a legal process that appears determined to stifle the proper investigation of additional suspects alleged to have committed amongst the most serious international crimes of the 20th century.

Cambodians scarred by the Khmer Rouge atrocities deserve credible justice. The Hun Sen regime has anyway been thwarting that. Now the problem is that the U.N.'s failure has damaged its authority. It makes many suspect that future U.N.-led courts may not meet the minimum standards of independence and impartiality.