

## **The United Nation's Useless Genocide Trials**

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How effective is the United Nations at tackling genocide? When it happens or is about to happen, its peacekeeping forces usually find a good reason to be somewhere else. And the Security Council and General Assembly find some pressing Israeli matter to concentrate on. But what about after the fact?

The United Nations boasts of leading the charge against genocide through its tribunals. Warlords and generals who commit mass murder are supposed to fear the wrath of the international community. But how much wrath is there to fear?

Thirty years ago, the Khmer Rouge Communist Party carried out one of the bloodiest reigns of terror in the region causing the deaths of millions.

During the Cambodian Genocide, the UN Security Council did not issue a single resolution on it. But it did find time to issue a string of resolutions on Israel. While millions were dying, the UN occupied itself with condemning the Israeli expulsion of the Sharia judge of Hebron and the United States for allowing former members of the Rhodesian government to enter the country.

It was not UN action, but the Vietnamese invasion that finally put an end to the worst of the terror. But the United Nations, after being approached by the Cambodian government nearly two decades later, finally got down to the task of trying some of those involved for genocide.

That was 1997. An agreement to conduct the actual trials was signed six years later. Another three years after that, actual judges were finally approved to preside over the tribunal. It had taken nine years just to get to this point.

In 2007, the first indictment was issued against Pol Pot's second in command. Nuon Chea had been 70 when the UN was first approached. He was now almost 80. Today he is 84 and the trial is still going on. The odds are very good that he will die before it is all over.

So far the only man convicted of anything in the proceedings, whose origins date back to the 90's and have budgets in the hundreds of millions of dollars, is Kaing Guek Eav who ran the Tuol Sleng prison.

The Khmer Rouge Tribunal could hardly have sent a louder message of UN impotence in the face of genocide, demonstrating that even when there was no risk and the defendants were out of power—their trial would still become nothing more than another UN

employment and fundraising opportunity. A forum for its officials to prattle about justice and law, while practicing it as little as possible.

Is the Khmer Rouge Tribunal exceptionally incompetent? The International Criminal Tribunal for the Former Yugoslavia has been going on for 18 years. Slobodan Milosevic, its key defendant, died after being on trial for 5 years. Possibly of boredom. So did 16 other defendants. It might be reasonable to conclude that any court where defendants routinely die before the end owes a little too much to Kafka.

The International Criminal Tribunal for Rwanda has been going on for 17 years. In 1998, Resolution 1165 urged "the organs of the International Tribunal for Rwanda actively to continue their efforts to increase further the efficiency of the work of the International Tribunal in their respective areas" and mentioned "an exceptional measure to enable the third Trial Chamber to begin to function at the earliest possible date."

7 years later, citing a long string of previous resolutions, Resolution 1503, recalled and reaffirmed "in the strongest terms" a deadline to end all investigations in 2004, to end all activities at first instance in 2008 and to shut down by 2010. It's 2011 and the tribunal is still going strong. The latest deadline is 2014. Or 20 years after the actual genocide took place.

After 17 years, only 38 convictions have been completed with no appeal. That isn't even 2 convictions per year. 19 more cases are still pending appeal. 8 were acquitted. 10 cases are still going on.

The International Criminal Tribunal for Rwanda has 25 judges and only 92 defendants over the course of 17 years. That's not even four defendants to a judge for a caseload stretching over nearly two decades. This may make the Tribunal the least efficient justice system in all of human history. The biennial budget for the tribunal is around 250 million dollars with nearly 700 posts. This is actually a reduction, as there used to be well over a 1000 posts. The total cost of the whole affair has long ago run into the billions. In 2005, some 15 million dollars alone was spent on the defense teams. There are entire countries with a smaller judicial budget than that. Half of Africa could have been fed with the money spent on the tribunal.

While the United States and its victorious allies had managed to begin the Nuremberg Trials less than half a year after the war in Europe, and end it on the next year... the United Nations was not able to act on the Khmer Rouge Tribunal without the consent of the Cambodian government almost two decades after the fact. And even then it set into motion, a long series of procedures that have been going on in one form or another for 14 years.

There is no comparison between the effectiveness of the United States and the United Nations approach in punishing genocide. The Nuremberg Trials sent a message. The Rwanda Tribunal and the Khmer Rouge Tribunal have sent a contrary one. It does not take a scholar of international law to determine which one tyrants fear the most.

And even the convictions are often farcical. Vincent Rutaganira was charged on eight counts, including genocide, extermination and murder. He pleaded guilty to one count of a Crime against Humanity, Extermination as an Accomplice by Omission. After three years of assorted hearings, it was decided that due to his "good behavior" and "advanced age of 60"-- that he should be released in three years time. And he was.

If such a short sentence for Crimes against Humanity from a billion dollar genocide tribunal was not ridiculous enough, the case notes make it clear that Vincent should probably never have been tried at all. Rather than being tried for perpetrating genocide, he was charged with failing to prevent it. A number of Tutsi survivors however testified that he had saved their lives, given them shelter and false identity cards.

The tribunal had arrested the Hutu version of Oskar Schindler and dragged him through the system and imprisoned him on what basis? For failing to prevent the massacres. And what was he supposed to have done?

According to the judgment, "the Chamber finds that the Accused had the power to convene a meeting of the inhabitants of the secteur to initiate and conduct discussions on the tragic events that were taking place in his secteur, in order to prevent participation in the massacres that occurred at the church, at least, by civilians."

With the conclusion being that, "Vincent Rutaganira's intervention saved some people who had been targeted by attackers. It can be inferred from such a finding that a similar intervention by the Accused against some civilians who participated in the attacks on Mubuga church would have had the same decisive effect in sparing human lives." Vincent's very attempts to save lives were used to indict him for not averting larger massacres.

Yet if a failure to prevent genocide is a cause for indictment, then why has the entire UN not been indicted?