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Justice for Cambodia

By Leslie Hook

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The news from the Khmer Rouge war-crimes tribunal is good: Five former leaders are in custody and the first hearings began in November. The news is so good, according to the U.S. State Department, that Washington is mulling injecting a chunk of money into the tribunal. Supporters say this will help the impoverished nation come to grips with Pol Pot's 1975-1979 genocide, which left a quarter of the population dead.

Not so fast. Although it's finally getting off the ground, the tribunal is flawed, and has yet to prove it's capable of delivering justice. Before any taxpayers' dollars are put on the line, there are several issues to consider.

For starters, the tribunal will likely try fewer than a dozen defendants. During negotiations between the Cambodian government and the United Nations in the 1990s, the definition of whom the tribunal could try -- "senior leaders" and "those most responsible" for the genocide -- was carefully crafted to limit the court's scope. In the eyes of Cambodian government officials, many of whom had some involvement with the Khmer Rouge, the sooner this dark period can be laid to rest, the better.

Phnom Penh also insisted the trials be held in Cambodia -- the first time a U.N. genocide tribunal has been held where the crimes were committed. After years of negotiations, the U.N. and Phnom Penh agreed that a majority of judges would be Cambodian, but that foreign judges would hold a supermajority power. This meant that no decision could be passed unless at least one foreign judge agreed.

A few sponsoring nations, including the U.S., balked at this arrangement, on the grounds that the notoriously corrupt Cambodian judicial system would still play a leading role. Yet the U.N. had no trouble persuading more than 20 other countries to ante up, and nearly \$50 million in donations have poured in since fund raising began in 2004.

The cash has not been enough. The official courtroom is still under construction. The translation team is already backed up, unable to handle the 300,000 pages of Cambodian-language documents through which the judges are sifting. The witness protection team has a skeleton staff and no director. On the day I attended the court last month, a throng mobbed the entrance and the security check took nearly an hour.

Then there are the corruption allegations. A U.N. audit last spring found, among other irregularities, that the Cambodian side of the court had hired underqualified staff and was

paying inflated salaries. The United Nations Development Program, which oversees that part of the program, tried to bury the news, limiting circulation of the audit and refusing media inquiries. The report was finally released in October, but only after these pages exposed the scandal. In an interview last month, Deputy Prime Minister Sok An promised, "We are deeply engaged in the fight against corruption." Sounds good, but where are the actions to back up these words?

Now the tribunal has its hands out for more cash. The U.N. is planning a major fund-raising drive this month that will likely double the court's original budget estimate to more than \$120 million. For the first time, there's a real chance that Washington may chip in.

In October, the U.S. embassy in Phnom Penh cabled Washington that it was time to start investigating whether the tribunal met the standards that would qualify it for congressional funding. This prompted exploratory visits by representatives of several members of Congress and the ambassador-at-large for war crimes, Clint Williamson. Last month, after a trip to Cambodia, Mr. Williamson said the tribunal is "moving in a very positive direction." In an interview, U.S. Ambassador to Cambodia Joseph M. M. M. acknowledges there have been "bumps in the road," but puts his faith in the international judges, who would "walk out" if the court didn't meet international standards.

That's not good enough: At the very least, the U.S. should use any offer of money as a lever to enforce new and better practices -- such as a full investigation into the allegations of kickbacks that have dogged the court's administrative offices.

The real measure of the war-crimes tribunal's success, however, will be whether it can bring a sense of closure to Cambodia's people. On the day I was in court, a man sitting nearby told me, "My father was killed at S-21." Sothea Sambath was referring to the torture and detention center run by the defendant, Duch. "This man signed on top of my father's confession," he said. "I really wanted to see his face, to look him in the eyes, and to see the beginning of justice." He smiled politely, as if this tragic part of his family history is an ordinary matter.

In some sense, it is: Practically every Cambodian has a relative who died during the Khmer Rouge genocide. Which is all the more reason to ensure that these trials turn out not to be a sham.

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