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## OPINION

## The Khmer Rouge Tribunal's Rebirth

By JOHN A. HALL  
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*PHNOM PENH, Cambodia*

Eight months ago the United Nations-sponsored Khmer Rouge tribunal in Phnom Penh didn't look like it was worth funding. The United Nations Development Program, which distributes donor funds to the Cambodian side of the tribunal, had tried and failed to suppress an embarrassing audit, first revealed on these pages. The Open Society Justice Initiative's Phnom Penh office brought to light various irregularities at the tribunal, including damning allegations that Cambodian tribunal staff and judges were required to kickback part of their salaries to keep their jobs.


Now the cash is running out. This week, the tribunal is expected to ask donor nations for around \$100 million to fund its activities for the next three years. Given the advanced age and poor health of the surviving leaders of the Khmer Rouge, the stakes are high. But the tribunal's progress over the past few months has been marked. It is now worth funding.

Last year's audit noted grievous mismanagement, fiscal irregularities and grossly deficient staffing at the tribunal. In response to those complaints, hiring procedures have been improved and made more transparent. International managers now participate in evaluating Khmer staff; Cambodian appointees must meet the advertised minimum qualifications required for their positions, and the unqualified have been eased out. True, some reforms are more dubious, like the requirement that Cambodian staff sign a pledge stating their opposition to corruption at the tribunal. And the comical suggestion box set up for whistleblowers to report dereliction of duty remains unused. But the trend is generally in the right direction.

New senior managers show promise. Take Knut Rosandhaug, who last week took over as coordinator of U.N. assistance to the Khmer Rouge trials and deputy director of the tribunal administration. The pragmatic Norwegian lawyer boasts 20 years of experience in policy making, negotiation, program management, human rights and conflict negotiation. As a director at the U.N. mission in Kosovo, he won a reputation for knocking heads and getting results. He promises the same in Phnom Penh, where five senior Khmer Rouge leaders are – some 30 years after their alleged crimes – finally in the dock.

The tribunal's newly appointed "Special Expert," ex-Yugoslavia tribunal prosecutor David Tolbert,

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has also won plaudits – especially when it comes to the tribunal's much-maligned budget process. Having exhausted its woefully inadequate initial budget of \$56 million, the tribunal submitted a new budget in January asking for an additional \$114 million. Donor nations, reluctant to keep funding such a corrupted enterprise, tied their pledges to clear proof that their checks would not be squandered or stolen.

Mr. Tolbert has carved out better lines of communication between donors and the tribunal, after years of distrust and suspicion between them. He has also encouraged tribunal staff to adopt plans for increased fiscal and managerial transparency in order to keep cash pipelines flowing. The new budget, revised since January, will be formally proposed this week.

There remain good reasons to be skeptical of both the Cambodian government and the U.N. No investigation has ever been undertaken, for example, to address the kickback allegations. The Cambodians have insisted auditors found no such evidence. In fact the auditors did not investigate that issue, as it fell outside their mandate. Privately, international observers acknowledge that the Cambodian government will simply refuse to undertake such an investigation. One solution may be to ignore past allegations of corruption, while making clear that any future wrongdoing will not be tolerated. That's not a perfect solution, but it would allow the tribunal to move ahead and perform its work.

The greatest fear, of course, is "slippage"; the idea that the Cambodian side of the tribunal is on its best behavior because the donors are so focused on the issues of corruption and mismanagement, and will return to business as usual as soon as the magnifying glass is removed. The trick, then, will be to ensure that the good behavior is not fleeting, requiring airtight checks and balances to fend off the bad habits of old.

Despite these doubts, there is a growing sense in Phnom Penh that an important corner has been turned and that we may be witnessing the rebirth of a tribunal that deserves support.

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