

Bringing Justice Home

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CAMBODIA'S NATIONAL Assembly this week took a step that would have been politically unthinkable in that country a few years ago: It voted to set up a special tribunal, with help from the United Nations, in order to try some of the world's most notorious mass murderers. The Khmer Rouge movement systematically killed more than 1 million Cambodians from 1975 to 1979, a staggering act of genocide for which no one has ever been brought to justice. The Khmer Rouge leader, Pol Pot, died two years ago, but a number of his chief lieutenants are still alive and could be tried by the new court if the government of Prime Minister Hun Sen sticks with the process.

The move to establish the court has been politically difficult for Hun Sen, himself a former low-level Khmer Rouge member, and U.N. officials are worried that the prosecutions could be diluted by local pressure not to push too hard for a reckoning with the past. Still, the fact that the Cambodian tribunal may move forward at all offers more evidence of how recent international efforts to hold dictators and war criminals accountable are beginning to push national governments and judiciaries toward action of their own. Another brutal ruler from the 1970s, the Chilean Augusto Pinochet, is now at last facing a legal process in the courts of his country; the Chilean Supreme Court recently lifted the immunity he had enjoyed in a case prompted by Mr. Pinochet's 1998 arrest in London and near-extradition to face charges in Spain. And Yugoslavia's new democratic leaders have suggested they are likely to arrest and try their former president and warlord, Slobodan Milosevic, if only to head off demands for his extradition to the international tribunal on Yugoslav war crimes at the Hague.

None of these prosecutions is likely to entirely satisfy Western human rights advocates. The Chilean courts, for example, seem likely to rule that the senile Mr. Pinochet is unfit to stand trial, and Mr. Milosevic remains a long way from being held seriously accountable in Belgrade for his many crimes of the past decade. But none of the local trials would be happening without the international impetus. And therein lies the right goal for the international justice movement: not trials before a world tribunal but justice delivered by the courts of the countries where the crimes take place -- courts that are subject to local politics and pressures but that ultimately can reinforce respect for human rights and the rule of law where it is most needed.

That, ideally, would be one effect of the Rome treaty creating an international criminal court, which the Clinton administration signed last weekend. Critics have rightly focused on weaknesses in the treaty that could allow politically motivated international prosecutors and judges to single out U.S. citizens for prosecution. They also worry about the court interfering with national sovereignty and rules of due process. But a more positive likely consequence is a scramble by countries around the world to adjust their own criminal and military codes to cover genocide and war crimes so that they can avoid

the new court and prosecute their own citizens in the event of such abuses -- an alternative the Rome treaty explicitly encourages.

The continuing process in Cambodia demonstrates that when international justice is thus domesticated, compromises may be made, and legal purists disappointed. But to those in Washington who would scrap the Rome treaty entirely, Cambodia offers another message: Without some international initiative to set standards and apply pressure, the Khmer Rouges of the future are unlikely to be prosecuted at all.

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