

# LOOKING TO THE FUTURE



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## ARE CRIMINAL TRIALS EFFECTIVE TOOLS FOR US DIPLOMATS?

*By Gregory H. Stanton*

he 20th century has been a century of genocide, war crimes and crimes against humanity. Again and again, these violations have been committed with impunity in Uganda, Rwanda, Burundi, Cambodia, Equatorial Guinea, the former Yugoslavia, Iraq. And again and again, the violators have remained unpunished: Idi Amin, Pol Pot, Radovan Karadzic, Saddam Hussein.

National courts have proven ineffective in punishing those responsible for genocide, war crimes, and crimes against humanity, since so many of these offenses are committed by the very government leaders who control the justice system. International human rights provisions have lacked the force of law, because there are no effective enforcing mechanisms,

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no international police force with authority to arrest violators and no international prison to hold suspects. However, perhaps it is time for the world community of nations to consider developing all aspects of an international criminal justice system, which may prove an effective diplomatic tool in threatening governments involved in state-sponsored acts of genocide, war crimes and crimes against humanity.

Punishing those responsible for crimes requires investigation, arrest, prosecution and punishment. The main problem in international law has been that the world's nations have lacked the political will to create strong institutions to carry out those tasks. The next step must be to create institutions, such as an international criminal court system with universal jurisdiction, so no tyrants may escape. The world should not be discouraged if the United Nations has administrative difficulties in creating this court system. After all, common law courts took centuries to develop: International human rights law enforcement is still at the developmental equivalent of a 13th-century system.

Since diplomats conduct relations between nation states, they have a special interest in the creation of an international criminal court. As Yale law professor W. Michael Reisman has written, "Law is not the antithesis of force. Legal systems and the political systems of which they are a part and which they seek to regulate are based upon the authoritative use of force." With the creation of an international criminal court, diplomats will have another tool to apply that authoritative force.

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**I**n 1980, while on leave from Yale University Law School, I visited Cambodia under the auspices of the CARE/Church World Service relief program. I was appalled by the sight of mass graves filled by the Khmer Rouge and by stories of eyewitnesses who had watched their friends and relatives murdered.

From 1979-1994, some 2 million Cambodians were killed by the Vietnamese- and Chinese-backed Khmer Rouge, which left power after 1994. When I returned to America, I founded the Cambodian Genocide Project at Yale to document the crimes and seek international political support under the U.N. Genocide Convention, to which Cambodia is a party. After not one human rights organization would agree to take the case against Cambodia to the World Court, Sen. Charles Robb (D-Va.) sponsored the Cambodian Genocide Justice Act in 1994. It calls for the creation of an international justice tribunal to bring those responsible to justice. Meanwhile, the Cambodian Genocide Program at Yale is organizing thousands of pages of evidence in the hope that the tribunal will be created in the next year.

**W**hen Hitler was asked if the Final Solution wouldn't violate international law, he scoffed, referring to an earlier genocide, "Who ever heard of the Armenians?" One of the primary objectives of U.S. foreign policy is promotion of the rule of law in the world. Civilized society abhors a legal vacuum and where there is no law, tyranny triumphs.

International courts with the power to try individuals is one threat that diplomats may find useful in breaking the cycle of ethnic revenge. The best protection for ethnic groups is the protection of individual rights. Justice is the strongest antidote to genocide, war crimes and crimes against humanity. In the civilized world's box of tools for effective diplomacy, an international criminal court is an essential implement to advance peace and human rights. ■