Special Report

Extraordinary Chambers in the Courts of Cambodia:

The Khmer Rouge Tribunal
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Special Report

Extraordinary Chambers in the Courts of Cambodia: The Khmer Rouge Tribunal

By Caroline Cook, carolinecook@sandiego.edu

In 1997, after nearly two decades of silence and impunity, an agreement was reached between the Cambodian Royal Government and the United Nations, establishing a tribunal to try the most senior and responsible members of the Khmer Rouge regime. From 1975 to 1979 the Khmer Rouge ruled Cambodia with forced labor, execution, and torture. It is estimated that over two million Cambodians lost their lives during this genocide.

The tribunal, officially titled the Extraordinary Chambers in the Courts of Cambodia (ECCC), is a national court, run by the Cambodian government and supported by the UN. It is composed of both foreign and local attorneys and judges. Its focus is crimes against humanity, war crimes, and genocide.

After 10 years of developing the tribunal and building cases, charges were filed against Khmer Rouge leaders in 2007. The first trial, Case 001, prosecuted Kang Kew Iew (also romanized as Kaing Guek Eav), director of the infamous S-21 prison camp. He was convicted in July 2010 of crimes against humanity, genocide, and breaches of the Geneva Conventions, and sentenced to 35 years imprisonment. In February 2012, his appeal was rejected and his sentenced extended to life imprisonment.

Case 002 is currently in trial and began in June 2011. The defendants include Nuon Chea (Brother #2 and right hand man of Pol Pot), Khieu Samphan (President of the State Presidium during Khmer Rouge rule), Ieng Sary (Deputy Prime Minister and Foreign Minister during Khmer Rouge rule), and Ieng Thirith (sister in-law of Pol Pot and Minister of Social Action of the Khmer Rouge). Ieng Thirith was found in November 2011 to be unfit to stand trial, due to her severe Alzheimer’s. This ruling is currently under review. All defendants are being tried for crimes against humanity, genocide, and breaches of the Geneva Conventions.

After a long delay in justice, many around the world celebrated the tribunal’s creation and prosecution of Kang Kew Iew. Its elements of national education and rehabilitative services for victims were much needed for Cambodia, where ignorance and impunity were rampant.

However, in recent years, the ECCC has received widespread criticism from the international community due to signs of corruption and dysfunction. There have been several reports of political interference in the trials, since Prime Minister Hun Sen and Cambodian government officials, many of whom were Khmer Rouge members, maintain total control over the court’s proceedings.
In Cases 003 and 004, investigative efforts have been repeatedly thwarted by the government, particularly Hun Sen who has repeatedly objected to the proceedings. Brad Adams, Asia director at Human Rights Watch reported that, “the investigating judges concluded their investigation into Case 003 without notifying the suspects, interviewing key witnesses, or conducting crime site investigation.” The organization called for the judges’ resignations last fall.

Weeks later, in October 2011, German investigating judge Siegfried Blunk resigned, stating that the interference of Cambodian investigating judge You Bunleng and Cambodian authorities prevented him from freely performing his duties. Replacement Swiss judge, Laurent Kasper-Anserment, resigned in March 2012 citing similar reasons.

On June 11, 2012 defense counsel for Nuon Chea in Case 002 stated that they were considering quitting the trials due to political interference as well. They claim the Cambodian judges will be biased in their ruling against Nuon Chea because Hun Sen has repeatedly called the defendant “deceitful” and a “[genocidal] killer”. Additionally, counsel Michiel Pestman stated, “every time we raise an issue that is unpopular or threatens to expose interference [such as the role of senior government figures under the Khmer Rouge], they turn the microphone off.”

In early June, the Sydney Morning Herald reported that four senior officials are among the “persons of interest” in Cases 003 and 004, including current Cambodian senate president Chea Sim, National Assembly president Heng Samrin, Deputy Commander in Chief of the Royal Armed Forces General Meas Sophea, and another senator who was not named.

Due to government interference and dwindling funds, many fear an early end to the tribunal. Anne Heindel, a legal advisor to the Documentation Center of Cambodia, stated that “nobody” believes there will be additional phases to the ongoing trial, let alone prosecution of Cases 003 and 004.

On June 26, American judge Mark Harmon was appointed by the UN and approved by Cambodia to serve as the new co-investigating judge. However, many maintain he will face “increasing difficulties” in pursuing Cases 003 and 004.