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KRT causing massive brain drain

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The UN-backed court has employed many of the most talented staff from Cambodia's own legal system, leaving the domestic courts groaning under the weight of too many cases

THE Khmer Rouge tribunal is causing a large-scale brain drain that is taking talented local staff away from the civil court system and causing a pile-up of unheard cases.

"The ECCC is one of the major causes of the lack of judges and prosecutors at the local court," Hanrot Ranken, a high-ranking member of the Supreme Council of Magistracy and a general prosecutor at the Appeals Court told the Post by phone Wednesday. "This has led to a slowing of the court process and a backlog in the amount of cases to be heard." The issue forced the council to appoint 55 judicial graduates as judges and deputy prosecutors last week at 21 municipal and provincial courts across the Kingdom.

"Right now we have judges in training, but it is still not enough," said Hanrot Ranken. "We tried to move ECCC judges back to the local courts, but they are on duty at ECCC so they could not."

The Phnom Penh Municipal Court currently has 16 judges and eight prosecutors on staff, with each judge now expected to handle around 700 cases annually. According to the latest budget estimate for the ECCC, the court will need at least 21 more Cambodian judicial staff over the next two years.

ECCC spokesman Reach Sambath said the court was aware of the negative effects on the local legal system, but insisted they were only short-term.

"Sometimes you have to sacrifice a small duck for a big fish," he said. "The most important thing for this court is the judges at the ECCC will be able to go back to their courts and have something to share with their colleagues."

Terminal shortage?

Co-Investigating Judge You Bun Leng said the problem went much further back than the history of the tribunal and questioned the role of the ECCC.

"We had a shortage of judges since before the establishment of the ECCC, so I don't think this is the cause," he said, adding that the ECCC was unlikely to need more judicial staff.

"Currently the ECCC does not require more judges or prosecutors, as we have learnt of the shortage of legal officers."

The growing seriousness of the legal "brain drain" has started to alarm observers concerned about the long-term impact of the internationally-sponsored tribunal.

Sok Sam Oeun, director of the Cambodian Defenders Project said that despite the ECCC's efforts to have a lasting legacy on the Cambodian legal system, it was not proving to be the "model court" many had hoped for.

"I don't yet see the positive effects [of the ECCC] on the local legal system," he said.

A report by the UN Office of the High Commissioner for Human Rights in April on the legacy of hybrid courts warned that short-term effects, such as the depletion of local judges, could have lasting effect if not addressed early.

"If the focus of the court is diverted away from investment in the necessary domestic legal reforms ... or if staff use the experience gained to seek jobs abroad, or in the private sector, and do not return to the domestic system... [the draining of the domestic system] may develop into a longer-term concern."

According to the report, at other hybrid courts, such as Sierra Leone, national staff have returned to the domestic system only to be frustrated by the lack of resources, leading them to get jobs elsewhere.

"Sometimes judges try to reform, but when they bring changes into the local system, they get a negative reaction from staff," said Sok Sam Oeun.