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Doubting U.S. Withholds KRT Funds

By Charles McDermid
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Congressional authority to provide direct United States funding for the cash-strapped Khmer Rouge Trials (KRT) is being withheld because of doubts in Washington and Phnom Penh about the participation of Cambodian judges, US Ambassador Joseph M. M. Mussomeli told the Post.

"It's way too soon to be clear if the trial is meeting international standards; the process is just beginning," Mussomeli said on August 9. "It would be premature and impetuous of us to make a decision at this time. Once this embassy is convinced, we will send a recommendation that direct funding be used - but we're not convinced.

"I firmly believe that no trial is better than a farce."

According to US Embassy officials, US Secretary of State Condoleezza Rice must be confident that the proceedings are legitimate and transparent. Mussomeli, a longtime supporter of the trial who has written of the Khmer Rouge atrocities as "arguably the worst genocide ever," has not ruled out US funding, but is firm about maintaining a wait-and-see approach.

"We're exploring the possibilities of direct funding for the trial, and the judges are the main concern," Mussomeli said. "The competency of the Cambodian judges has raised concerns on Capitol Hill. That's it. Why use US taxpayer money if they don't know the difference between habeas corpus and mens rea?"

Mussomeli said transparency, susceptibility to political influence and competency were the three worries of US lawmakers. The KRT is operating on a three-year budget of roughly \$60 million provided by the Government and international donors.

"There is still a shortfall on both sides of the budget and we hope that this will be met," said Helen Jarvis, chief public affairs officer of the Extraordinary Chambers in the Courts of Cambodia. "We're short but it's not stopping us. We have enough money for the first two years, anyway."

The absence of funding from the US, which has served as a pivotal architect in the decade-long trial formation process, has drawn criticism from analysts.

"As a contributor to the rise of the Khmer Rouge in its carpet bombings of Cambodia, the US has an obligation to redress the problem," said Theary Seng, executive director of the Center for Social Development.

"I believe the reasons the US is not providing direct funding to the KRT are principally two: personality and principle. Several individuals in Congress who have influence over budget allocation are not fans of this Cambodian government. As a matter of principle, these individuals are averse to funding a KRT that may not meeting minimum international standards."

But Seng, a US-educated attorney and author of *Daughter of the Killing Fields*, said the

US is correct to question the legitimacy of the proceedings that officially began last month.

"The KRT as established - within the courts of Cambodia - should make everyone pause in its ability to meet basic international standards of due process and fair trial rights.," she said. "It runs the risk of being a political whitewash and charade of international justice. Many donors have taken the practical approach that it is better to be a part of the process than outside of it, and I think it is time for the US to do the same, even if it does not think it will be of international quality."

But Mussumeli said legal restrictions are clear, and the US does not presently have authority to fund the KRT.

"The law says [the Secretary of State] must justify it to Congress. I would never recommend that [Rice] certify anything unless we had proof that international standards are being met," he said. "The best case scenario is that the trial proceeds in an orderly, transparent manner and is so well-coordinated that at some point it will be self-evident that the trial is transparent."

The US has provided between \$7 million and \$9 million to fund the Documentation Center of Cambodia (DC-CAM), a group that has provided extensive research on the Khmer Rouge period that will be used by court officials for both the defense and prosecution of those suspected of genocide and/or crimes against humanity.

According to a recent article by genocide scholar Craig Etcheson published by the Open Society Justice Initiative "US mediation with the Cambodian government managed to achieve a compromise that would permit the international community to endorse Cambodia's tribunal plans."

"Many Cambodians have repeatedly asked why the US is not funding the KRT," said ECCC spokesman Reach Sambath. "For us we are still optimistic that the US government and the congress will change their mind. We are not giving up hope."