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Cambodia: Hun Sen's Hand in Genocide Trial Delays?

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BANGKOK — The long-delayed special tribunal to prosecute the surviving leaders of the genocidal Khmer Rouge regime has hit a verbal barrage that exposes the murky side of Cambodian politics.

The prime mover, whose actions are being viewed with alarm in some quarters in the country, is Ky Tech, president of the Cambodian Bar Association (CBA). Over a week ago, he demanded that foreign lawyers stop participating in the Tribunal—known officially as the Extraordinary Chambers in the Courts of Cambodia (ECCC).

By Wednesday, his demand to make the exercise of legal representation a completely Cambodian one, despite local lawyers being poorly trained or lacking knowledge of international law, had intensified. "We are being violated by foreigners," Ky Tech was quoted as having told the English-language 'Cambodian Daily'.

Such animosity resulted Friday in the International Bar Association (IBA) abruptly stopping a training programme that was to be held this week to make Cambodian lawyers sensitive to the scope of justice in cases dealing with crimes against humanity, a charge that the Khmer Rouge leaders face.

The CBA has issued instructions "forbidding lawyers from attending a training programme" planned by the IBA and the ECCC, states the IBA on its website. "The Bar's president, Ky Tech, has publicly threatened that 'measures' will be taken against any attendee, and against the IBA's international participants."

"The Bar's actions represent a disturbing development in the functioning of international justice, placing obstacles in the path of bringing those accused of international crimes to trial," says Mark Ellis, executive director of the London-based IBA. "The IBA's programme was intended to improve the quality of legal services and the administration of justice in Cambodia, and help educate and inform the Cambodian public about international justice."

The IBA's involvement in strengthening legal systems faced with the challenge of handling war crimes tribunals is spread across regions where the murder of civilians on a mass scale has occurred. It has trained lawyers, prosecutors and judges involved in special tribunals that dealt with the crimes against humanity in former Yugoslavia and, more recently, training the judges of the Iraqi High Tribunal.

So the objections to the IBA's involvement in the Cambodian tribunal have given rise to speculation that Ky Tech's motives may not be his alone, or that of the CBA. After all, the country's justice system is known for its questionable record on upholding human rights, being heavily politicised and even accused of corruption.

"The CBA president has become vocal to a degree that it is hard to believe that he is saying these things without political backing," Theary Seng, executive director of the Centre for Social Development (CSD), a non-governmental organisation (NGO), said in a telephone interview from Phnom Penh. "It seems to be aimed to either slow the process, or even stall it. This is worrying."

Cambodian human rights groups are equally alarmed, more so because they are aware of who Ky Tech's political patrons are. "There can be some political influence behind this statement," Ny Chakrya, a ranking member of the Cambodian Human Rights and Development Association, a Phnom Penh-based NGO, told IPS. "Some CBA lawyers work closely with the CPP (Cambodian People's Party). Ky Tech is pro-CPP."

Such allegations directed at the governing CPP, led by Prime Minister Hun Sen, are not the first pointing to its attempts to scupper a legal process that Cambodian civilians have been yearning for. The increasingly authoritarian Hun Sen has been a serial opponent of the special tribunal ever since the United Nations began talks with the Phnom Penh regime over a decade ago to create the ECCC.

Hun Sen's sensitivity towards the ECCC was on display in May, when he lashed out at human rights groups who called into question Cambodia's choice of judges to sit on a tribunal that stands out—unlike the ones for Rwanda and former Yugoslavia—in having a combination of local and international jurists to be part of the entire legal process.

He "likened his critics to perverted sex-crazed animals, among other things," the Hong Kong-based Asian Human Rights Commission, a regional rights lobby, said on the occasion. Human rights groups were not happy at the choice of Ney Thol, an army general and president of Cambodia's military court, being among the 17 local jurists for the ECCC. He has a record of denying the right for lawyers of the accused to call their own witnesses and to cross-examine the prosecution's witnesses.

What is more, a question still hangs in the air over Hun Sen if his name is dragged into the tribunal's proceedings, which formally got underway this year after years of delay. He was a member of the Khmer Rouge till he defected to join forces with the Vietnamese troops that drove out Pol Pot, the leader of that brutal regime, from power in 1979.

During their reign of terror between 1975-79, this extreme Maoist group, which wanted to create an agrarian utopia, was responsible for the death of close to 1.7 million people, nearly a quarter of this poor South-east Asian country's population at that time. The victims were executed or died of forced labour or famine.

Pol Pot died in 1998, evading justice. But other leaders of the brutal regime have survived, like Kaing Guek Eav, also known as 'Duch,' who presided over the Toul Sleng interrogation centre in the Cambodian capital, where 14,000 people accused of being traitors died and only 12 inmates survived.

For Cambodian women like Theary Seng, the thought of further delay in the ECCC's work will only add pain to a public deeply traumatised by Khmer Rouge atrocities and still searching for answers as to why it happened. It is reflected in the public meetings her NGO has been running since early this year to prepare the public for this unprecedented trial.

"We bring experts from the ECCC to these meetings so that the people from the villages can get direct answers from them," she adds. "There are so many questions out there about the KRT (Khmer Rouge Trial)."

At the most recent meeting in a province, an elderly man asked, "I have waited for 30 years. Who ordered people to be killed?" In that account, which appeared in an edition of the 'Phnom Penh Post,' another man said, "They murdered six members of my family in Takeo. In Kratie I went to jail with my family. I beg the NGOs to find the power to give me and my family justice."

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