

Khmer Rouge Tribunal Agreement in Peril

NY Times Online News Report: March 29
Khmer Rouge Tribunal Agreement in Peril
By THE ASSOCIATED PRESS

PHNOM PENH, Cambodia (AP) -- A quarter century after the Khmer Rouge turned Cambodia into a killing field, justice may finally be at hand.

But doubts have replaced the optimism which greeted the agreement reached here on a joint U.N.-Cambodian tribunal for former Khmer Rouge leaders accused of crimes against humanity.

Critics say that unlike the tribunals set up for Rwanda and the former Yugoslavia, this one's neutrality is compromised because it will sit in Cambodia, the scene of the crimes, and have Cambodian judges.

Human rights groups say verdicts will depend not on foreign judges but on Cambodians who they say are routinely influenced by money and politics.

London-based Amnesty International says the U.N. General Assembly, which must approve the agreement reached March 17, should wait until a "major revision" is undertaken.

An estimated 1.7 million Cambodians -- nearly one-quarter of the population -- died of starvation, disease, overwork and execution during the communist Khmer Rouge's 1975-79 reign of terror. No one has ever been tried for their deaths. In fact, many former Khmer Rouge members are now in government, including Prime Minister Hun Sen.

"Hun Sen must be very pleased; he can control everything," said Brad Adams, who heads the Asia division of New York-based Human Rights Watch. "No Cambodian judge or prosecutor is going to act without his permission."

Amnesty International said the accord suffers from "insufficient guarantees for an independent and impartial court" and "inadequate victim and witness protection."

After Cambodia invited the United Nations in 1997 to help establish an international tribunal to try the Khmer Rouge, agreement was reached relatively early on holding the trials in Cambodia with the Cambodian judiciary participating.

Hun Sen's government, however, found excuse after excuse to delay reaching

an agreement for a trial with mixed panels of Cambodian and international prosecutors and judges.

Its tactics stoked suspicions that Hun Sen might not want to stage a trial because he and political allies could face embarrassment or worse.

The Cabinet approved the draft, and it still needs parliamentary and U.N. ratification.

But some Cambodians think it's best to let things lie.

“More than 20 years have passed and the feelings of revenge in most Cambodians have vanished,” said Hem Monyphek, a 35-year-old social worker in the capital, Phnom Penh. “Justice is not worth stirring up old hatreds and risking political stability.”

A year ago, Hans Corell, U.N. deputy secretary general for legal affairs, stopped negotiations on the tribunal because Cambodia insisted its laws should prevail over international legal norms.

A General Assembly resolution, backed by powers including the United States, forced the U.N. team back to the bargaining table.

Corell last week acknowledged disappointment about the provision giving Cambodians a majority of judges, the issue that most worries human rights groups.

The draft agreement sets up two courts -- a trial chamber with five judges, and a supreme court chamber of seven judges that incorporates an appeals chamber.

Cambodians would be the majority of judges in both courts, but verdicts will require a so-called super-majority -- a simple majority plus at least one international judge.

The countries that will contribute judges have not been identified and there are fears that some will be vulnerable to pressure.

“The process is as strong as the weakest international member,” Adams of Human Rights Watch said. “It only takes one of them to side with the Cambodians and the whole process is a sham.”

But Youk Chhang, director of the Documentation Center of Cambodia which collects evidence of atrocities, said the Cambodian side could not easily block indictments, and that ensures a public accounting of the Khmer Rouge's atrocities, no matter what verdicts are reached.

“It will be a checked and balanced process, which is badly needed in this country,” he said. “There are two sides conducting this trial, with different experiences and approaches to justice.”