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Cambodia: More Hurdles for Khmer Rouge Trials

In Cambodia, there've been more hurdles in bringing to trial, those most responsible for the atrocities committed by the Khmer Rouge in the 1970's. Judges to the international tribunal last month failed to agree on internal regulations that would give shape to the UN-backed genocide trials.

Presenter/Interviewer: Liam Cochrane

Speakers: Helen Jarvis, Extraordinary Chambers in the Courts of Cambodia; Ly Tai Seng, Secretary General of Cambodian Bar Association; Sok Sam Oeun, head the Cambodian Defenders Project; Suon Visal, formerly elected president of the Cambodian Bar Association

COCHRANE: It seems there's rarely an easy day at Cambodia's Khmer Rouge tribunal.

After years of painstaking negotiations, the Cambodian Government and the United Nations are inching towards the establishment of a court to prosecute leaders of the murderous Khmer Rouge regime. However, last week saw those involved fail to agree on 110 crucial internal regulations for the court and also a clash between the Cambodian Bar Association and its international counterpart over training for lawyers.

The International Bar Association planned to hold a course to teach Cambodian lawyers about international criminal law and fair trial standards. But days before it was due to begin, the training was cancelled after protests from the Cambodian side.

In a press release, the International Bar Association said lawyers were threatened with repercussions if they joined the training and said the dispute was part of a wider scheme to obstruct the tribunal.

Ly Tai Seng is the Secretary General of Cambodian Bar Association. He denied there'd been any threats made and said the clash was a result of the international bar Association not asking permission for the training.

SENG: In Cambodia, Cambodia Bar Association has the full authority to approve the training program and the agenda for training of Cambodian lawyers. We do not mean that their training, the contents of their training are not in compliance with Cambodian law, we appreciate the content and we fully agree that the training is good, but the procedure required under the law has not been fulfilled.

COCHRANE: This seemingly bureaucratic problem ended with something of a face-off between the two parties and the International Bar Association called off the training session.

At the heart of the issue is ambiguity about how the tribunal will operate within the structure of the Cambodian court system. In particular, the Cambodian Bar Association says there is no legal basis for the Defense Support Unit which is expected to provide legal representation for any of the accused who can't afford a private lawyer.

The law passed in 2001 to establish the tribunal didn't explain the role of the Defense Support Unit, although it did mention the need for fair trials by international standards.

Sok Sam Oeun is the head the Cambodian Defenders Project, the country's main provider of legal aid.

OEUN: Right now the misunderstand like this, they think that look like the Defense Unit come to create another bar and the lawyer who want to represent the Khmer Rouge accuse must register with the Defense Unit.

COCHRANE: But some tribunal observers see the clash as an early test of the role of international bodies in the Khmer Rouge tribunal. The court is unique in that it combines Cambodian judges and those hand-picked by the UN. The success of the tribunal depends not only of the meshing of international and local law, but also of judges, co-prosecutors and defense lawyers.

Suon Visal was formerly elected president of the Cambodian Bar Association and has written a thesis on the Khmer Rouge Tribunal. He believes the recent clash was a misunderstanding but warns that Cambodian lawyers do need the sort of training offered by the International Bar Association to ensure a fair trial.

VISAL: But, you know if the UN tries to proceed based on this way, do not consider the fair trial principle, why the United Nations come? For what purpose? It's a failure of the United Nations also, for me I don't want to see that situation.

COCHRANE: The independence of the Khmer Rouge tribunal remains a hot topic for speculation, but with proceedings set to begin in mid-2007, the real evidence is yet to come.

Helen Jarvis, who has spent seven years trying to make this tribunal a reality, says the clash between the two bar associations is not likely to derail the court, and—like the failure to pass the internal regulations - was just another rough patch in a long struggle for justice.

JARVIS: Well I'd say we've had a number of sticky points along the way and I've been involved in this issue for seven years, seven and a half years now through the negotiations and there've been a number of points at which people have felt how on earth can they be reconciled but and we've managed to do so—with good will on both sides. I don't see this as bigger than other things we have overcome.

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