

Inaccurate Article on Khmer Rouge Tribunal

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Nathaniel Myers' article, "Khmer Rouge Tribunal needs more than money" (June 19, 2005) is based on what he terms two worrying developments. Both so-called developments are inaccurate.

First, Mr. Myers writes that in March the Royal Government of Cambodia unexpectedly announced that it could not cover most of its own share of the required budget. The government made it clear at the time when a two-column budget was established, allocating financial responsibilities between the government and the UN, that it would be well beyond its means to contribute \$13.3 million in cash, and that it would be seeking bilateral help.

During the meeting with the United Nations Secretariat and the Group of Interested States (GIS) in June 2004, in response to suggestions by the GIS to transfer some \$10 million from the United Nations' side of the budget to the Cambodian side for the purpose of reducing the international budget, the government reiterated that it was flexible as to whether items are allocated to the UN or to the Cambodian side of the overall budget, provided that in accepting items to be moved to its side of the budget, the government does not thereby indicate it can accept financial responsibility for meeting more costs from its national budget.

It has, therefore, always been understood by UN member states that Cambodia would seek bilateral contributions for its share of the budget.

Second, contrary to Mr. Myers' assertion, the government has not yet begun the process of selecting judges and prosecutors. The Secretariat for the task force responsible for establishing the Extraordinary Chambers, has collaborated with the UNDP, the Royal School for Judges and Prosecutors and the Bar Association of the Kingdom of Cambodia, to organize two legal training courses to promote a better understanding of the substance and application of international law.

The most recent, conducted in June-July 2005 was made possible by the government of the Netherlands. The two courses, taught by international academics and foreign judges and legal practitioners from international criminal tribunals have been open to over 30 judges and prosecutors and over 40 practising lawyers. These numbers are far greater than those that will be

required to staff the Extraordinary Chambers: our aim is not only to try to prepare the Cambodian legal community for the trials but also to use the opportunity to promote improved legal education beyond that needed for the Khmer Rouge trials.

The government does not believe that this amounts to shrouding the process in secrecy.

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ANALYSIS / CAMBODIA

Khmer Rouge tribunal needs more than money

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After nearly a decade of negotiations and planning, the Khmer Rouge tribunal continues to inch closer to reality in Cambodia.

Earlier this year, United Nations Secretary-General Kofi Annan announced that pledges from member states now covered the UN's \$43 million share of the tribunal's \$56.3 million budget.

The process hit a snag in March, however, when the Royal Government of Cambodia unexpectedly announced that it could not cover most of its own share, and appealed to international donors to help it come up with the remaining \$11.8 million it owed.

Little progress has been made in the months since. International donors are reluctant to give again, and the Cambodian government has rejected suggestions of a national fund-raising campaign, even though some local business leaders have expressed interest in donating.

Yet, in the midst of this confusion, the government appears to have begun the process of selecting judges and prosecutors to staff the future tribunal, but it has shrouded the process in secrecy. No official list of candidates has been released, and the government has refused to describe the selection process, keeping secret the criteria for evaluation and the time frame for its undertaking.

Both of these developments are worrying. The first has been taken by some observers to suggest that the government does not fully support the tribunal.

As one observer noted, the government didn't seem to have much trouble finding the millions of dollars needed to pay for damage caused in the infamous anti-Thai riots in 2003. If the tribunal does come to fruition -as still seems likely - it may not be able to count on full cooperation from the government. At the same time, the lack of transparency in the jurist selection process suggests that the court may not take place in the open and transparent manner advocates had hoped.

This would be a tragedy. The Khmer Rouge tribunal holds great potential benefits for the Cambodian people; chief among them is its potential impact on the deeply troubled judicial system. A tribunal that respected international norms of fairness and due process would provide a powerful example to the national system, and could inspire increased independence and reform while dealing a significant blow to the entrenched culture of impunity.

At the end of this month, the consultative group of leading foreign donors is scheduled to meet with Prime Minister Hun Sen to discuss progress on commitments made last December.

Donors have already done much for the tribunal, but their work is not done. In order for the tribunal to make good on its potential for the Cambodian people, it is now clear that these major donors will have to exercise their political influence on its behalf. At their upcoming meeting with MrHun Sen, they should push the following three points:

First, the selection process for judges, lawyers and court staff must be made open and transparent. The public deserves to know who is being considered, what criteria will be used to evaluate them, and when decisions will be made. Civil society, particularly those NGOs who work in the legal sector, should be approached for comments and recommendations.

Second, the government must explain, to donors and the public alike, how it plans to cover its share of the tribunal's budget. It cannot expect donors to rush to bail it out, and it must adequately explain why it rejected the idea of a national fund-raiser.

Though not all Cambodians can afford to donate money, many have suggested they would like to give as a way of feeling involved in the process of holding the former Khmer Rouge leaders accountable.

At the absolute least, the government should accept donations offered freely by private citizens.

Third, donors should impress upon the government the importance of a successful tribunal outreach campaign to educate the general population. There have long been misconceptions amongst the public as to how the tribunal will work and who it will prosecute; it is time they be cleared up.

Such misunderstandings have the potential to ferment unrest- particularly if former Khmer Rouge cadres mistakenly fear they may be jailed- and they will certainly lead to disappointment with the tribunal when victims notice that ex-Khmer Rouge in their communities are still at liberty.

Though many Cambodian NGOs are preparing outreach programmes, their plans do not excuse the government from its own responsibility to educate. Mr Hun Sen could begin to demonstrate his commitment to a successful process by recording public service announcements for radio and television which introduce and describe the tribunal. Donors have much to discuss and there is much work that still needs to be done in Cambodia to help its people. But given the enormous potential and equally enormous cost of the Khmer Rouge tribunal, it deserves a high place on the agenda.