

Cambodia prepares Khmer Rouge trial

By Seth Mydans
International Herald Tribune
JANUARY 16, 2006

KANTORK, Cambodia Twenty-seven years after the brutal Khmer Rouge regime was driven from power, it appears that at least some of its leaders may soon be put on trial for causing the deaths of nearly one-fourth of the Cambodian population.

Under an agreement between the United Nations and the government here, a courtroom is being prepared, technical staffs are beginning their work and staff is being hired.

Next month, the head of a United Nations administrative team is expected to arrive and set up shop in Cambodia. Foreign and Cambodian judges, prosecutors and staff are being selected now for the mixed international tribunal.

Diplomats and analysts who have been skeptical over nearly a decade of negotiations and delays now expect to see some measure of judicial accounting for the 1.7 million people who lost their lives from 1975 to 1979.

"From a technical point of view, we are almost there," said Craig Etcheson, an expert and researcher on the Khmer Rouge regime. "I guess it's what you might call a rolling start."

At a military headquarters here on the southwestern outskirts of Phnom Penh, not far from a killing field where thousands of bodies were buried, a large, empty building filled with dust and sunlight is being furnished as a courthouse.

There are still, as always, possibilities for delay, and nobody is rushing to take the plastic slipcovers off the 540 blue chairs in the hearing room. At one point, for example, an infestation of termites in the roof of the National Assembly building caused months of delay in the approval of a trial format.

But most of the \$56.3 million budget has been secured now, and some time soon, analysts say, the clock will start ticking on a three-part time frame: a year for investigations, a year for the trial and a year for appeals.

A decision has been made to aim for a small pool of senior figures and not to seek to indict the many thousands of people involved in the deaths of nearly a quarter of the country's population.

The top leader, Pol Pot, died in 1998. A half dozen names are most often mentioned as likely defendants; two of these are in custody and the others are living freely among the survivors of the regime they led.

Although Cambodia's current leadership includes a number of former middle-ranking Khmer Rouge officials, experts say there is no reason to believe that Prime Minister Hun Sen was culpable.

"We have investigated that back and forth and up and down, and there's just no evidence that he was involved in any prosecutable crimes during the period of

jurisdiction for the tribunal," Etcheson said. "He looks clean."

Experts say the evidence against the likely defendants is substantial, though mostly indirect. A private Cambodian organization, the Documentation Center of Cambodia, has compiled tens of thousands of documents, interviewed hundreds of witnesses and identified thousands of mass graves.

The center has set aside rooms in its headquarters for prosecutors and defense lawyers to study its archives and is putting together a rapid response team to provide any requested materials. "We are ready," said the center's director, Youk Chhang.

Sean Visoth, the tribunal's coordinator, said that at its peak it would employ a staff of 200 Cambodians and 100 foreigners designated by the United Nations. Under the mixed structure of the tribunal, his deputy will be a representative of the United Nations, Michelle Lee, who is scheduled to arrive here next month

Visoth, who survived the Khmer Rouge years doing hard labor, said the trial had three goals: to offer justice to the victims and survivors, to prevent similar atrocities in the future and to give the younger generation a clear picture of what happened.

Interviews and polls in recent years have shown that most people are eager for a trial, although, according to the historian David Chandler, "There is no real concept of accountability in Cambodia."

In interviews with rural people, the notion of justice often seems to be equated with revenge, and a proverb is sometimes cited: "Do not answer hatred with hatred."

In a village near Kantork, a woman making rice cakes by the side of the road, Phoung Vuthy, 53, laughed when she heard those words. "Don't tell me that stuff," she said. "I hate them. I lost my husband and never had a chance to have children. I want to see them punished."

Her sister, Phoung Im, who said she was about 71, said, "We want to see a trial now. When will the Khmer Rouge be put on trial? I heard there will be a trial. When? When?"

But even now, as the process gets under way, it remains controversial among advocates of justice and human rights. The years of wrangling between the United Nations and the Cambodian government produced an awkward hybrid format that raises questions about the quality of justice on offer.

The sentiment among many diplomats here can be summed up, in the words of one of them, as: "The only thing worse than no trial would be a trial that is a farce."

Unlike the UN tribunals for Rwanda and the former Yugoslavia, this one will include local judges and prosecutors who, critics say, are ill trained and subject to political manipulation. Under a complicated "supermajority" formula, the Cambodians will be in the majority, but their international counterparts will have veto power over any disputed decisions.

A recent wave of convictions of Hun Sen's political opponents on libel and

related charges has highlighted the role of the courts in Cambodia as a political arm of the prime minister.

"Clearly the way the judiciary is being used as an instrument against critics now is a real problem," said Brad Adams, the Asia director for Human Rights Watch, the New York-based monitoring group. "It shows the problems for the trials and the problem for the United Nations to be mixed up with these people."

There is no real answer to the question of whether to proceed with a flawed formula, experts say. Only the outcome will show whether the process did more good than harm in its handling of one of the great atrocities of the past century.

"Some people want a perfect trial," said Youk Chhang on a recent visit to the building where the aging Khmer Rouge leaders may be made to answer for their actions.

"But this is what we have, and let's make the best of it," he said. "Sometimes you have to be optimistic for a change."

Copyright © 2006 The International Herald Tribune | www.iht.com

Kartick KUMAR, Executive Director
Cambodian Genocide Group (CGG)

Tel: 011.254.734.163.723 (Africa)
E: kartick.kumar@utoronto.ca
W: <http://www.cambodiangenocide.org>