



Q+A – Cambodia’s Khmer Rouge War Crimes Tribunal July 23, 2010

Kaing Guek Eav, known as Duch, is charged with war crimes and crimes against humanity while chief of the S-21 torture centre, where more than 14,000 died during the 1975-79 Khmer Rouge era.

Below are some questions and answers about the tribunal:

WHY HAS THE PROCESS TAKEN SO LONG?

The United Nations and the international community set up a tribunal more than a decade ago, but the government sought to retain control of the court and the plan languished for years.

The U.N. gave the go-ahead for the Extraordinary Chambers in the Courts of Cambodia (ECCC), as the tribunal is known, in 2005.

The trial, originally expected to cost around \$20 million a year over three years, was delayed by bail hearings, appeals and pre-trial machinations. The ECCC has spent \$78.4 million of foreign donations so far and was granted a further \$92.3 million last year for 2010-2011.

The whole process is extremely bureaucratic and painstakingly slow. Khmer Rouge victims have right to a lawyer, to call witnesses and to ask questions and some lawyers have tied up proceedings with repetitive or irrelevant questions.

The Documentation Centre of Cambodia, which collects evidence of Khmer Rouge crimes and estimates about five million survivors of the regime are still alive, accuses the tribunal of failing to invest enough time and resources. The tribunal hopes to streamline victim participation for its next four cases.

HOW POLITICISED ARE THE CASES?

Many Cambodians have expressed frustration over the slow pace of bringing Khmer Rouge leaders to justice and fear the complex nature and politicisation of the cases will mean many will never go to trial.

Many former Khmer Rouge members have been reintegrated into Cambodian society and work in businesses, the civil service and top levels of government.

Allegations of political interference in the court have been made and Cambodia's government has been in no hurry to speed up the hearings. The United Nations has appointed a special expert it hopes can address issues of political meddling and corruption.

Long-serving Prime Minister Hun Sen, himself a former Khmer Rouge guerrilla who says he defected to the Khmer Rouge's eventual conqueror, Vietnam, has warned of a potential civil war if the court indicts more suspects.

WHO HAS BEEN CHARGED SO FAR?

Duch is among five ageing and infirm senior cadres facing various charges of war crimes and crimes against humanity. They include ex-president Khieu Samphan, former Foreign Minister Ieng Sary and his wife Ieng Thirith, a former Shakespeare scholar, and "Brother Number Two" Nuon Chea, Pol Pot's right hand man.

All four received additional charges of genocide in December, prompting concerns among experts that the court could become even more bogged down. "Brother Number One" Pol Pot, the French-educated architect of the ultra-Maoist movement, died in 1998 and there are fears his surviving allies will die of old age before they face trial.

HOW DOES THE JOINT TRIBUNAL WORK?

Conducted under a modified form of Cambodia's French-based judicial system, Cambodian and foreign judges and prosecutors work together and try to reach unanimous decisions. If they cannot all agree, then a decision requires a "super-majority".

The Trial Chamber of three Cambodian and two foreign judges requires four to agree on a verdict. The seven-judge Supreme Court Chamber -- comprising four Cambodians and three foreigners handling appeals -- must have five judges in agreement.

Sentences can range from a minimum five years to a maximum of life in prison. There is no death penalty in Cambodia. The court can also seize money or property acquired unlawfully.

WILL ANYONE ELSE BE INVESTIGATED?

Cambodia's prosecutor opposed a bid by her foreign counterpart to go after six more suspects, citing the need for national reconciliation. Critics saw a political move to stop the court from digging too deep and avoid implicating senior figures in Cambodia's business and political circles.

More broadly, some critics say the role of the United States and China in supporting Pol Pot's regime should also be probed. The court says it can only try individuals for crimes committed in

Cambodia between April 17, 1975 and Jan. 6, 1979, and cannot try countries or organisations.

(Compiled by Martin Petty; Editing by Jason Szep and Sugita Katyal)