



Analysis: Khmer Rouge Tribunal in Crisis

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With unpaid salaries, demoralized staff and a catalogue of high-profile controversies, observers say Cambodia's Khmer Rouge Tribunal is in crisis.

A total of 317 Cambodians working at the war crimes court, including judges, prosecutors and legal officers, have not been paid since October due to a lack of international funding. The shortfall has 'demoralized' staff and is a 'serious concern,' according to the tribunal's administrative office.

The funding crunch is just the latest difficulty to dog the tribunal, which aims to bring to justice those most responsible for crimes under the Khmer Rouge. Between 1.7 million and 2.2 million people are estimated to have died during the regime's 1975-79 rule.

The past year has seen several allegations of judicial misconduct and political interference.

In January, the UN accused Cambodia of breaching a 2003 agreement on Khmer Rouge prosecutions when the Phnom Penh judiciary decided not to approve UN-nominated Laurent Kasper-Ansermet as international co-investigating judge following concerns over his use of Twitter.

'The court is again at a crisis, perhaps its biggest crisis, because of the breach,' said Anne Heindel, legal advisor at the Documentation Centre of Cambodia, a research institute. 'It's a clear-cut issue they have to deal with.'

But it is not yet clear what will be the consequences of the alleged breach and the reality of Kasper-Ansermet's position in investigating upcoming Cases 003 and 004, which senior Cambodian officials have repeatedly said will not be allowed to reach trial.

Though the UN has stated that Kasper-Ansermet can carry out investigations regardless, government spokesmen have said the judiciary had the power not to appoint him.

The latest row, coupled with the court's chequered history, could affect its international standing.

'Funding is a major challenge tied to legitimacy,' Heindel said. 'I think there can be no doubt that states are not going to line up and give money to this court until the legitimacy crisis is resolved.'

Clair Duffy, a tribunal monitor at Open Society Justice Initiative, an organization funded by US billionaire George Soros, said she believes an inquiry into previous alleged misconduct would also boost the credibility of the court.

The co-investigating judges' decision to close Case 003 investigations without interviewing suspects or inspecting alleged crime sites drew widespread criticism in April.

International prosecutor Andrew Cayley appealed against the closure citing a litany of judicial failures.

In October, German co-investigating judge Siegfried Blunk resigned over concerns that his ability to withstand perceived government pressure could be 'called into doubt.' He had been accused by rights groups of violating his duties.

'You can't compromise on fundamentals like judicial independence,' said Duffy, who added that the court 'can undo some of the damage that's been done by conducting credible and genuine investigations in Cases 003 and 004.'

It is not clear if such an inquiry will take place. Martin Nesirky, spokesman for UN Secretary General Ban Ki-moon, said that the body 'has consistently called upon all persons to respect and support the integrity and independence' of the judicial process.

But analysts are agreed that the UN should not falter in its engagement with Cambodia.

The appointment of David Scheffer, a UN special expert who was dispatched to Phnom Penh in January following the alleged agreement breach, has been seen as a step in the right direction.

Just weeks ago 'all options were being discussed - including is the court going to continue?' Duffy said. Scheffer's appointment and stated commitment to working in Cambodia has been seen as a positive step, she added.

The UN expert told reporters last month that he had come away from a recent series of high-level discussions with the Cambodian officials and donors feeling 'optimistic.'

He added that despite any difficulties it was very important that Cambodians took a 'degree of pride' in what the system could achieve.

But for prominent court critic and Khmer Rouge survivor Theary Seang, it is a case of too little, too late.

'We are experiencing the rolling momentum of the weight of these crises to the tipping point of sham,' she said, adding that the tribunal's legitimacy was 'beyond restoring.'

'It is now only an issue of damage control.'

A government spokesman could not be reached for comment.