

## **Khmer Rouge Tribunal Nearly Broke, Risks Collapse** **August 22, 2012**

BANGKOK, Thailand — The Cambodian cabal accused of orchestrating the Khmer Rouge atrocities, among Asia's grisliest state-led massacres, is now reduced to frail, old men with hoarse voices.

Until they were rounded up by a Nuremberg-style tribunal five years ago, they had eluded long prison terms and revenge killings by kin of the 1.7 million whose deaths are linked to their regime.

Now they owe their best shot at freedom to the euro-zone financial crisis, tightening budgets in the West and even Japan's 2011 tsunami.

The joint United Nations-Cambodian tribunal set up to seek justice for the Khmer Rouge war crimes is squeaking by month to month and check to check. Japan, its largest donor, remains financially shaken by last year's tsunami. The other reliable funders — Australia, the US and a bevy of European states — are also coping with budget woes.

The money crunch has the UN Secretary General's special expert to the tribunal, a US attorney named David Scheffer, bouncing from embassy to embassy to plead for checks that will keep the tribunal alive.

"I just have to keep plugging away," said Scheffer, the first-ever US ambassador-at-large for war crimes issues, who helped design tribunals following atrocities in Rwanda, former Yugoslavia and Sierra Leone.

"It's frankly almost too horrific to try to envision ... that trial has to survive," he said. "It would be outrageous for that trial to collapse and for these men to walk free without judgement having been rendered."

There's no disputing that the three men and one woman currently prosecuted by the tribunals (formally the Extraordinary Chambers in the Courts of Cambodia) were senior leaders during the Khmer Rouge's 1975-79 reign. Nuon Chea was its chief ideologue, Ieng Sary its deputy premier, Khieu Samphan its official head of state and Ieng Thirith its social affairs minister and highest-ranking woman. All are in their 80s. Thirith is too elderly and senile to stand trial, according to her defense. (Pol Pot, the chubby-faced revolutionary believed to be the regime's true leader, died in 1998. He was never prosecuted.)

The tribunal seeks to expose their precise actions during the regime's hyper-violent reign. After ousting a corrupt US-backed ruler in 1975, the communist Khmer Rouge attempted to dial Cambodia back to a theoretical "Year Zero" in which no trace of the former nation remained. They set about murdering the educated, monks and the upper classes. Urban dwellers were dragged to farms where, along with peasants, they toiled in slavery to advance a Maoist fantasy.

After witnessing so many foreign incursions into Cambodia — from French colonialists, the Vietnamese and US bomber jets — the Khmer Rouge leaders hoped Cambodia could become totally self-reliant through agricultural revolution.

Nuon Chea, considered Pol Pot's right-hand man, remains unrepentant at 86. "I had to leave my family behind," he told the tribunal earlier this year, "to liberate my motherland from colonialism, aggression and oppression ... by the thieves who wished to steal our land and wipe Cambodia off the face of the world."

The mission left roughly a fifth of Cambodia's population dead from execution, disease and starvation. Its legacy continues to warp the nation, one of Asia's poorest. Tourists and Cambodians alike can visit Cambodia's so-called killing fields, mass graves where bone fragments still fleck the soil and skulls are arranged in tall towers. At the most notorious grave site, Choeung Ek, visitors are guided by audio tour to a tree used by Khmer Rouge soldiers to bash in babies' heads. More skeletons remain buried in undiscovered graves: in recent weeks, villagers in Cambodia stumbled upon a previously unknown burial site filled with at least 20 skulls.

Seeking justice for those atrocities isn't cheap.

According to the tribunal's financial records, the trial now requires roughly \$3.8 million a month to stay afloat. Initiated in 2006, the tribunal has so far spent in excess of \$140 million, a sum amassed from both major donors (Japan, \$76 million; US, \$11 million) and much smaller contributions (Microsoft, \$100,000; Namibia, \$500).

More than 60 percent of the money pays salaries and benefits for the 470-odd jobs created by the tribunal.

Scheffer, an ambassador-turned-fundraiser, has grown accustomed to defending the tribunal's price tag. "The perception that international justice is expensive is somewhat misleading," he said. The budget, he said, is the "whole ball of wax": witness protection, a new court building, heavy security, training and skilled teams of investigators. "These are not common crimes," he said. "Investigating them costs money and bringing leaders to justice costs money."

And what of the contention that Cambodia — beset with decrepit infrastructure and a compromised justice system — could make better use of \$140 million? "You go to Capitol Hill and say to members of Congress, 'You know what? I'd love to have tens of millions of dollars to build up legal reform in Africa or Latin America or wherever.'

You're confronting deer eyes. It does not compute," he said. "They don't look at that money and say, 'Oh, by the way, we're going to abandon international justice and pump it into development objectives.'"

The scramble for funds has previously tilted the tribunal into crisis mode. Earlier this year, the courts were unable to pay many of its Cambodian employees for more than a month. The courts will continue presenting evidence on the current four defendants well into next year. If it collapses before their sentencing, the trial will end with a single conviction. Kaing Guek Eav, alias Duch, is serving life in prison for overseeing a torture and execution center the tribunal's judges called a "factory of death." He is complicit in 12,000 killings, the court ruled.

Also in the balance are troves of evidence collected against other high-ranking Khmer Rouge leaders. This would please Cambodia's current premier, Hun Sen, himself a former Khmer Rouge battalion commander. (He later defected and aided Vietnam in toppling the regime.) Via his foreign affairs minister, Hun Sen publicly warned the UN to stop indicting ex-Khmer Rouge cadres after the current quartet are prosecuted.

The tribunal as originally conceived would target more than a dozen suspects, Scheffer said, even though victims' support groups have agitated for many more. "I know this is a great disappointment to many Cambodian victims," he said. "But it would be misleading for anyone to think this court has a capacity to go beyond, in the best case scenario, the 10 to 15 range."

But as it stands, the tribunal is in no position to plan for best-case scenarios. Foreign judges have resigned, citing government interference. In the current global financial climate, the case for funding the tribunal is more difficult to make. And the high-ranking Khmer Rouge officials who brought so much killing and sorrow upon their fellow Cambodians are fading with age.

"I'd hope the prospect of [the trial's collapse] would shock governments and some philanthropists into saying, 'Well, that cannot possibly be the outcome of this effort,'" Scheffer said. "Let's just hope we don't face the unthinkable."