

Groups fear Khmer Rouge tribunal may halt trials

Mike Eckel

May 4, 2011

PHNOM PENH, Cambodia — Legal and human rights groups say they fear Cambodia's U.N.- backed genocide tribunal will shut its doors prematurely without prosecuting former second-tier Khmer Rouge officials accused of atrocities.

Lawyers for the regime's aging former foreign minister, meanwhile, pressed Wednesday for his release from prison, saying he should be held under house arrest instead until his trial later this year.

Ieng Sary's lawyers argued that his three years of pretrial imprisonment was illegal. A ruling on the appeal is expected later.

In its first case, the tribunal sentenced Kaing Guek Eav to 35 years in prison last July for running the regime's notorious S-21 prison.

Its second case involves Ieng Sary, former Khmer Rouge chief ideologist Nuon Chea, head of state Khieu Samphan, and Ieng Sary's wife Ieng Thirith, who was minister for social affairs.

They are charged with war crimes, crimes against humanity and other offenses related to the Khmer Rouge's four-year rule in the 1970s, which resulted in the deaths of an estimated 1.7 million people.

Human Rights Watch expressed concern Wednesday that the tribunal will shut down its operations after the current case and abandon plans for trials of other former Khmer Rouge.

The proceedings follow French-style law, which mandates that investigating judges collect evidence that is then forwarded to prosecutors who decide whether to go to trial.

There are parallel sets of Cambodian and international judges and prosecutors working together.

Last week the co-investigating judges – You Bunleng of Cambodia and Siegfried Blunk of Germany – officially informed the court that their investigation for Case No. 3 was complete. The names of those being probed have been kept secret, but they are believed to include at least five second-tier Khmer Rouge officials.

Critics including Human Rights Watch say the co-investigating judges have done an incomplete investigation in an effort to scuttle future prosecutions.

"The investigating judges have acted precipitously to shut down the investigation, and I say that because we know from talking to people working in the court that they have not gone to crime scenes and done the kind of investigation that one would expect in any criminal case, much less a case of this seriousness," said Brad Adams, Asia director for Human Rights Watch.

"They've basically done a desk study and it appears that that desk study was a sham," Adams said in an interview in Bangkok. "It was a political decision, it appears, to shut down this case."

The Open Society Justice Initiative, an international legal watchdog group funded by billionaire George Soros, says the court may ultimately decide to strike a deal with the government, agreeing to end cases No. 3 and 4 in exchange for full cooperation from the government and witnesses in the current case.

"Victims of the Khmer Rouge will be cheated of the more comprehensive accountability farther trials would have produced. And every Cambodian will know that all the will the international community could muster was not sufficient to create a truly independent court," James Goldston, the initiative's executive director, wrote in a recent opinion piece.

Adams said Cambodian Prime Minister Hun Sen has long been the main opponent to broadening the tribunal's targets, claiming improbably it could spark a revival of civil war.

"He's covering up, it appears, for people in his party, because there are senior figures in his party who could be held accountable," said Adams, adding that it is not likely that they would be the ones prosecuted. Hun Sen once served with the Khmer Rouge but defected from the group at a relatively early stage.

"There's nervousness in his party and he has publicly said over and over again that he would rather have the court fail than for it to go ahead with these cases," said Adams. "So there has been extreme political pressure. "

He said pressure has also come from the nations funding the tribunal, who would like to wrap things up quickly without having to raise new money beyond the costs so far, which have well exceeded \$100 million.

Because of the inadequate investigations, "I think it's very dubious whether these cases will go forward and if they do go forward, that they will result in convictions," Adams said.

Tribunal spokesman Lars Olsen said it was speculative to say that the investigating judges plan to dismiss the remaining cases. He said it was wrong to draw exact parallels between the first two cases – which involved extensive research and investigations – and the two pending ones, saying each case has its own set of circumstances.

He also noted that under the deal reached between the United Nations and the Cambodian government, the court has been limited in its scope from the day it was founded.

"What's important is that there is a legal process that has been done; that impunity for the most responsible and the most senior leaders has ended," he said.

Associated Press Television News producer Jerry Harmer in Bangkok contributed to this report.