

Cambodia Court Hearing Khmer Rouge Court Close to Bankruptcy
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The trials of those allegedly responsible for the deaths of at least 1.7 million people under Cambodia's Khmer Rouge regime could collapse unless European governments come to the financial rescue of the country's UN-backed tribunal, the chief international prosecutor warns.

Andrew Cayley QC is having to tour Europe to drum up enough funding to ensure the court survives. He met with officials from the Foreign Office on Monday to try to guarantee the future of what he described as the most important case since the Nuremberg trials, and will address the European Union on Wednesday.

Under Pol Pot's bloody reign, from April 1975 to January 1979, a quarter of Cambodia's population were murdered or died from disease or starvation. Having waited more than 30 years to see an international court deliver judgment on the Khmer Rouge, around 150,000 Cambodians have attended trials at the tribunal in the capital, Phnom Penh.

Chum Mey, a lead witness in the court's first trial and one of the few living survivors of the notorious Tuol Sleng prison, where as many as 17,000 people were tortured and killed, said that only the court can help to "wash away" his suffering.

When the court finally opened its doors in 2009 for the trial of the regime's chief jailer, Kaing Guek Eav – known as Duch – hundreds of people, including victims of the Khmer Rouge, queued up to hear evidence of mass executions and systematic torture of men, women and children.

Duch admitted to overseeing the torture of prisoners at Tuol Sleng before sending them for execution at the "killing fields". He was convicted of war crimes, crimes against humanity, torture and murder, and sentenced to serve 19 years in jail in July 2010. This was extended to life imprisonment in February this year.

The current case before the court focuses on the forced removal of Phnom Penh residents to the country, where large numbers were killed or died after being subjected to forced labour.

But the war crimes tribunal only has enough funds to last until the end of February. It relies on voluntary donations which have been hit by the euro crisis, the recession and the Japanese tsunami. Japan has made up nearly 50% of international contributions since the

court began operations in 2006, but has considerably reduced its donations as it seeks to recover from the 2011 natural disaster.

The UK, US, France, Germany and Australia have been major donors but Cayley told the Guardian: "Due to the financial crisis, other states have found it very difficult to up their contributions so up until two weeks ago we were going to run out of money by the end of November.

"We've now dodged the bullet on that and we have money for the first two months of next year but we have to get the other ten months for the rest of the budget that we don't have yet."

The court – known officially as the extraordinary chamber in the courts of Cambodia (ECCC) – has a budget for 2013 of \$43.9m (£27.2m). Cayley described the difficulties of retaining good staff under such financial uncertainty, "especially in Cambodia where it is quite a challenging environment to work in".

He was hopeful that a solution could be found after meeting with the human rights committee of the German parliament last week to persuade them to increase their contributions.

"Germany has been extremely supportive," he said. "I've asked them to liaise and co-operate with all of the donors to agree a stable financial plan ... we can't go from month to month, where suddenly we pay the electricity bill with one day to go before it gets switched off – that's how it's working at the moment. You can't maintain the confidence of the staff if you can't guarantee that they will be paid".

The UN's special expert on the court, ambassador David Scheffer, is also in Europe to engage in fundraising talks with several governments, including the UK's. Scheffer said: "I hope governments will view sustained support for the ECCC as an investment in the rule of law in Cambodia and in international justice globally.

"When the United Nations approves the creation of a criminal tribunal like the ECCC to address the most heinous atrocity crimes known to humankind, sustaining critical support for its relatively cheap administration of international justice should not be this difficult.

"I remain optimistic because I have found senior government officials sincerely interested in and committed to seeing this endeavour through to its end, and we at the United Nations as well as, if I may speak on their behalf, Cambodia's victim population are deeply grateful for their support."

The court cost \$141.1m up to the end of 2011, with an estimated \$45m for its 2012 budget. The tribunal has been beset by problems, as allegations of political interference call its credibility into question. Three judges have resigned and Cayley is the court's second international prosecutor.

With just one conviction under its belt, the three defendants in the current second trial – Ieng Sary, the Khmer Rouge's former foreign minister; Nuon Chea, the regime's chief ideologist and Pol Pot's right hand man, and Khieu Samphan, a former head of state – are frail men in their 80s.

Ieng Thirith, Ieng Sary's wife and one of the Khmer Rouge highest-ranking women, was freed in September, having been declared mentally unfit for trial. She is thought to be suffering from Alzheimer's disease.

Controversy has surrounded attempts to get two further trials off the ground, as they were initially thrown out by the Cambodian judges seemingly without investigation, amid accusations of judicial misconduct and pressure from the Phnom Penh government. Cayley hopes that the court's mandate will be completed in the next three years, although current financial worries throw anything beyond the next few months into question.

The Foreign Office said: "International justice is central to foreign policy. It is essential for securing the rights of individuals and states, and for securing peace and reconciliation. Our support for the ECCC is an important element in our strategy to reduce conflict and strengthen the rules based international system.

"We are fully supportive of the court's key role in delivering long-awaited justice for millions of Cambodians through the trials of the most senior and responsible surviving members of the Pol Pot regime. The scale of the crimes committed and the number of victims makes it one of the most significant tribunals of its kind since Nuremberg."

Timeline

April 1975 - Khmer Rouge takes power

September 1976 - A group of exiles asks United Nations to investigate acts of genocide by Khmer Rouge

January 1979 - Khmer Rouge regime overthrown

July 1997 - Former regime leader Pol Pot sentenced to lifelong house arrest following a one-day "trial"

April 1998 - Pol Pot dies in a Khmer Rouge camp where he had been imprisoned

January 2001 - Cambodian National Assembly unanimously approves law to create a court to try serious crimes committed under the Khmer Rouge

October 2001 - UK donates \$500,000, becoming the first country to officially offer financial assistance to the proposed court

June 2003 - Agreement with the UN eventually reached detailing how the international community will assist and participate in the court

July 2006 - Cambodian and international judges, co-prosecutors, and co-investigating judges sworn into office

February 2007 - Open Society Justice Initiative alleges that Cambodian judges and staff are forced to kick back part of their wages to Cambodian government officials in exchange for their position

January 2009 - Human Rights Watch issue report calling the tribunal "deeply flawed", accusing the Cambodian government of obstructing justice

February 2009 - Trial of Kaing Guek Eav, better known as Duch, begins. Later that month the court holds public hearings in which lawyers for Ieng Thirith, Ieng Sary, and Khieu Samphan argue for their release from pre-trial detention due to health and evidentiary concerns

March 2009 - Hun Sen, the Cambodian prime minister, says that pursuing further defendants could cause the country to descend back into civil war, adding that he would "prefer this court to fail"

June 2009 - Canadian international co-prosecutor Robert Petit resigns, citing personal and family reasons

December 2009 - British lawyer Andrew Cayley is appointed as new international co-prosecutor

July 2010 - Duch is convicted of crimes against humanity and war crimes and sentenced to 35 years in prison, but will only serve 19, after court agrees to deduct 11 years already spent in detention and five he spent illegally detained in a military court. Victims complain the sentence is too lenient for a man whose facility was found to have been responsible for more than 12,000 deaths

November 2010 - French judge Marcel Lemonde resigns for personal reasons

October 2011 - German judge Siegfried Blunk resigns, because of "perceived" government interference

November 2011 - Trial opens for three surviving members of Khmer Rouge leadership: Nuon Chea, 85; Khieu Samphan, 80 and Ieng Sary, 86, for crimes against humanity, genocide, religious persecution, homicide and torture

February 2012 - Duch's sentence is increased upon appeal to life in prison

March 2012 - Swiss judge Laurent Kasper-Ansermet resigns, saying his Cambodian counterpart, You Bunleng, had blocked attempts to investigate former members of the 1970s regime, leading to a "dysfunctional situation"

September 2012 - One of the regime's most senior women, Ieng Thirith, 80, the wife of Ieng Sary, is set free. She is declared mentally unfit, believed to be suffering from Alzheimer's disease