



Khmer Rouge trial is failing victims of Pol Pot's regime

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November 25, 2011

At a conference on Cambodia in Berkeley, California, last week, an elderly Khmer man tearfully explained to me why he won't go back to his homeland. "How can I go there and have any peace so long as the people who killed all of my family are still free?"

The Extraordinary Chambers in the Courts of Cambodia, set up by the Cambodian government and the United Nations, were supposed to ease his way home. But after five years and more than \$150 million, the court has tried just one defendant, Kaing Guek Eav, alias Duch, the warden of the infamous Tuol Sleng detention center where approximately 14,000 people were tortured and then executed. Repentant, Duch confessed and was convicted of crimes against humanity.

This week the long-awaited trial of former Khmer Rouge leaders Nuon Chea, Khieu Samphan and Ieng Sary finally began. The first case takes up the forced removal of Phnom Penh residents to the countryside, where large numbers were executed or died after being subjected to forced labor.

Some are calling this the most important trial since Nuremberg. Along with Pol Pot, who died in 1998, the three presided over a regime of unprecedented viciousness in which as many as two million Cambodians — a quarter of the population — were killed or died from disease or starvation. But from the outset the ECCC has been mired in controversy over political interference, corruption and long delays between court proceedings that have left many Cambodians wondering if the court can ever deliver justice.

The tone had been set back in 1998 when the Cambodian prime minister, Hun Sen, invited Nuon Chea and Khieu Samphan to his home and announced over a Champagne toast that they would "bury the past." A former Khmer Rouge fighter himself, Hun Sen recently said he would rather see the ECCC fail than take up more cases, leading to speculation that he is protecting some of the former Khmer Rouge members in the ruling Cambodian People's Party. It would take a brave judge to defy the ruler of a de facto one-party state.

In the court's most recent scandal, the Cambodian and UN co-investigating judges moved to close a case against additional Khmer Rouge commanders without interviewing key witnesses or conducting crime site investigations. Criticized for mishandling the case, the UN co-investigating judge resigned. The UN is now trying to replace him with a Swiss reserve judge, but the Cambodian government has thus far refused to formally appoint him.

While there is now wide agreement in UN circles that the ECCC is a mistake that should never be repeated elsewhere, a fair trial of Nuon Chea, Khieu Samphan and Ieng Sary would allow the

court to keep some of its promises to victims. The reputation of the UN, which has dithered in the face of repeated controversies in Cambodia, is at stake.

While it can't control Hun Sen, it can set up an independent committee to report on the failures of the ECCC and take action to correct them. It can press Japan, France, the United States, Britain and other donors who continue to provide almost half of Cambodia's annual budget to take action to reverse the ECCC's descent into quagmire.

The most urgent task is to make sure the new investigating judge is appointed so he can continue investigations into additional cases.

If additional cases are not allowed to go ahead, only four people will end up going on trial for one of history's darkest moments. This will allow many Khmer Rouge officials responsible for large-scale atrocities to continue to live freely, some in the same communities in which they carried out mass killings. It will mean the man I met in Berkeley may never feel like he can go home. "I want to die in my country," he said. "But not of a broken heart."