



Commentary: No immunity for Sihanouk

Column: Rule by Fear

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Over the last two weeks, the Cambodian government has mounted vitriolic attacks against a request for former King Sihanouk, now 84, to be stripped of his immunity and face trial in the mixed Cambodian-U.N. tribunal set up to try senior Khmer Rouge leaders.

The government branded the request by the Cambodian Action Committee for Justice and Equity, a U.S.-based non-governmental organization, a "public agitation" that "could have the result of jeopardizing the peace and unity" of Cambodia "and play into the hands of those who would seek to return [the country] to its former state of war and chaos." Prime Minister Hun Sen called the request "very barbaric" and said that the top state institutions could not stand by and watch it set a fire blazing in the heart of the Cambodian people.

Other leading state institutions joined the government in "absolutely rejecting" and "condemning" the request. They glorified Sihanouk's services to the nation, which included giving Cambodia its independence, territorial integrity, unity and national reconciliation. They also claimed he had suffered when he had been overthrown by a coup in 1970 and when he had been under the rule of the Khmer Rouge between 1975 and 1979. Sihanouk "had suffered more than most rulers," Hun Sen claimed.

In line with Cambodian law and assistance agreements between the Cambodian government and the United Nations, Peter Foster, the tribunal's U.N. spokesman, in his comment on the same request, was reported as saying that it was up to the tribunal to decide whom to call as a witness and whom to indict. He added that Sihanouk could be called as a witness.

Following this statement, the government issued a warning on Aug. 31 that "Cambodia will kick out the Khmer Rouge Tribunal if it brings Great, Valorous King Sihanouk to trial." Moreover, it asserted that there should not be a summons to Sihanouk to appear in court as a witness. If the judges or prosecutors of that tribunal "issue such a summons, we shall kick out that tribunal," it added, claiming that any such summons would "humiliate" what it called the "symbol" of Cambodia.

Sihanouk became king of Cambodia in 1941 and abdicated in 1955. In 1960, he became head of state with executive power but was not crowned king at that time. In 1970, he was overthrown in a coup, which engulfed Cambodia during the Vietnam War

and led to the Chinese-backed Khmer Rouge's armed struggle alongside and with support from the Vietnamese communist forces.

Sihanouk, while in China in the immediate aftermath of being overthrown, became the head of the Khmer Rouge-dominated government in exile. From China, Sihanouk used his popularity to mobilize the Cambodian people to "go into the maquis (jungle)" to join the Khmer Rouge. The latter's army then grew from strength to strength and won power in 1975, and Sihanouk remained head of state of the Khmer Rouge regime until 1976.

In 1982, Sihanouk again became head of state of the Cambodian resistance movement against the Vietnamese-installed government in Cambodia. At the end of the latter war, in 1993, he was re-crowned king. Although he abdicated again in 2004, the Cambodian Parliament named him "Great Valorous King" in recognition of his lifelong dedicated service to the country and achievements and conferred upon him the same privileges and immunities as those constitutionally conferred upon the reigning monarch, which includes immunity from prosecution.

This act of Parliament conferring immunity was unconstitutional, however, as the Constitution of Cambodia confers this immunity only upon the reigning monarch and not upon anyone else. Nor has that act any moral legitimacy, for under its Constitution, Cambodia is supposed to be governed by the rule of law under which all are equal before the law and no one is above the law.

Furthermore, many Cambodian people still believe that Sihanouk was instrumental in the Khmer Rouge's victory and was therefore also responsible for the suffering of the Cambodian people under the Khmer Rouge's rule. They also want justice and to know the truth about their horrible past history in which Sihanouk must have had a hand due to his association with the Khmer Rouge.

Sihanouk's immunity from prosecution is illegitimate, unconstitutional and indefensible. Any use of it by Sihanouk himself or with government support to evade any court action only strengthens the belief in his share of responsibility for the suffering of the Cambodian people under the Khmer Rouge's rule. It is an obstruction of justice and jeopardizes the rights of Cambodia's people, who have endured enough grief. It will prevent the Cambodian nation from addressing their past through the tribunal.

The Khmer Rouge Tribunal thus should not be intimidated by the Cambodian government's latest threat and should maintain its independence. It should challenge Sihanouk's immunity and summons him to appear whenever truth, justice and/or the rights of the people so require.

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