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POINT OF VIEW/ Sara Colm: Japan can help Cambodia's quest for justice

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THE ASAHI SHIMBUN

The long-delayed court process to bring Khmer Rouge leaders to justice is under way in Cambodia.

Five former Khmer Rouge officials are now in detention, and the first trial--of the former chief of the regime's notorious Tuol Sleng prison, where 14,000 people were tortured and executed--is expected to take place later this year.

The Extraordinary Chambers in the Courts of Cambodia (ECCC) is a hybrid tribunal presided over by both Cambodian and international judges.

Based in Phnom Penh, it was established to try those deemed most responsible for the deaths of as many as 2 million Cambodians during the Khmer Rouge's four-year rule, which ended in 1979.

Though the tribunal has started to move forward, for the ECCC to successfully find justice for the victims of Khmer Rouge atrocities, it must overcome several major hurdles.

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Cambodia's judiciary is widely known for its lack of independence and corruption, and for most Cambodians, a courthouse is not a place to seek justice.

Often the accused do not have access to a lawyer. Judges have been known to arbitrarily refuse to admit defense evidence and issue verdicts written in advance of trials. In politically sensitive cases, judges receive instructions from senior government figures.

In contrast, the ECCC is expected to meet international standards of justice.

However, the ECCC was established as a special chamber within the Cambodian court system, with the majority of its 19 judges Cambodian. The United Nations initially opposed the arrangement, fearing that the Cambodian government would try to manipulate the ECCC.

The tribunal's office of administration is split into a Cambodian-administered side and a U.N. side, with serious allegations of corruption already plaguing the Cambodian side, such as wage kickbacks to the Cambodian government.

In this context, what needs to be done to ensure fair trials?

Chief among the issues yet to be resolved is how far the ECCC will be willing to go in following the evidence and identifying additional individuals to investigate and prosecute.

ECCC budget projections presented to the donors in January indicate that at most three more individuals may be prosecuted.

However, can the ECCC be credible if it only tries a handful of the most notorious individuals? Many former Khmer Rouge government officials and senior military officials continue to live freely.

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Donors should insist that the ECCC strengthen its witness and victim protection programs, without which prosecutions will be hard to conduct.

They should also support the ECCC so that their international investigators can carry out thorough investigations to bring more people to justice and enable victims to participate in the process.

As Japan and other international donor countries now consider a request for an additional \$114 million (around 11.8 billion yen), they should insist upon significant reforms, including conditioning pledges on the ECCC improving its transparency and addressing the alleged corruption charges.

Japan, which has already made significant contributions to the ECCC's budget and has one judge sitting in its supreme court chamber, is ideally placed to lead the call for reform.

Only if key donors insist on all possible safeguards will it be possible for the Khmer Rouge tribunal to deliver to Cambodians the justice for which they have long been waiting.

* * *

The writer is a senior researcher on Cambodia at Human Rights Watch, a New York-based nongovernmental organization. (IHT/Asahi: May 29,2008)

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