

Cambodia's Khmer Rouge genocide trial battles political pressures

Simon Montlake

June 27, 2011

A UN-backed tribunal began hearings Monday into the cases of four Khmer Rouge leaders accused of genocide and crimes against humanity from 1975 to 1979 after toppling a pro-US regime at the end of the Vietnam War. The procedural battles in the landmark trial underline the tribunal's complex makeup.

As many as one-fourth of Cambodia's population died from execution, famine, torture, and overwork under the Khmer Rouge, which tried to build a classless agrarian utopia sealed off from foreign influences. The group was driven from power by invading Vietnamese forces and fought a guerrilla war that lasted into the 1990s before it collapsed.

All four suspects deny the accusations and some have challenged the court's jurisdiction, setting the stage for a lengthy and complex trial. Using witnesses and written evidence, prosecutors will try to show a chain of command between the leadership and the mass killings and other abuses carried out in its name. The indictment cites the deliberate targeting of ethnic minorities as evidence of genocide. Other charges include war crimes, torture, and religious persecution.

The Khmer Rouge tribunal was set up in 2005 to provide accountability and justice to a nation that has struggled to come to terms with its violent past. Until now, it has only prosecuted a prison-camp director who was sentenced last year to 19 years in jail. The current batch of suspects, however, may be the last to be tried, as investigating judges appear unwilling to take on further cases. Legal experts say pressure from Prime Minister Hun Sen, who wants to limit the tribunal's scope, as well as fatigue among some foreign donors, have weighed on the court.

In a preview of the legal battles ahead, a lawyer for Nuon Chea, the regime's second in command, accused the court Monday of bowing to political pressure. The lawyer cited the tribunal's failure to take on other cases as a sign of such interference. "The sole purpose of the judicial investigation was to collect evidence against our client and ignore the evidence that would put [him]... in a positive light," says Mr. Nuon's lawyer, Michael Pestman, as opposed to the impartial investigation it was set up to be.

Monday's pretrial hearings

Hundreds of Cambodians packed the public gallery to watch the pretrial sparring between legal teams. Substantive hearings and witness testimony are expected to start by

September, though the trial could run for several years, raising doubts about the longevity of the aging cadres, some of whom are said to be in poor health.

he presiding judge said Monday that suspects who weren't fit to appear in court could watch the hearings on television in their nearby prison. Nuon Chea, who wore dark glasses and a black ski hat, later left the courtroom in an apparent fit of pique after speaking briefly of his unhappiness with the legal process.

Theary Seng, an activist who has helped victims' groups file civil suits in the tribunal, said she welcomed the trial and was hopeful that it would shed light on the secretive regime. But she expressed frustration regarding the judge's leniency toward Nuon Chea. "We just lost the most visible symbol of justice: his face," when he walked out, she says.

Hybrid tribunal

The other suspects are Ieng Sary, the regime's head of state, his wife, Ieng Thirith, a senior minister, and Khieu Samphan, the foreign minister. Pol Pot, the regime's Paris-educated leader, died in a remote jungle camp in 1998.

The judges can hand down a maximum penalty of life in prison, as Cambodia doesn't have the death penalty. Many Cambodians criticized the 19-year jail term for Kaing Guek Eav, the prison-camp director, which is currently under appeal as being too soft.

The tribunal is a Cambodian court with international aspects, a hybrid institution that was originally touted by the UN as a possible model for post-conflict justice. But slow progress and political tensions over its mandate have chipped away at its reputation.

Doubts have also surfaced over the complexity of staging a war-crimes tribunal based on both domestic and international laws. "That's the tension in the court that has run through it and continually bubbles up," says Alex Linton, who runs the Center for the Study of Genocide, Conflict Resolution and Human Rights at Rutgers University.

Lawyers for Ieng Sary tried to highlight these ambiguities in a motion for his case to be dismissed for double jeopardy. In 1979, Ieng Sary and Pol Pot were convicted in absentia by a Vietnamese-run court in Phnom Penh and sentenced to death. That court was criticized as a Communist show trial. But lawyers argued Monday that the tribunal couldn't arbitrarily ignore this ruling.

"Mr. Ieng Sary should not be tried twice for the same crime," his American lawyer, Michael Karnavas, told the court.

Underscoring Cambodia's blurred politics, Ieng Sary received a royal pardon in 1996 after he defected to Hun Sen's government. Two years later, Hun Sen feted Nuon Chea and Khieu Samphan at his house and said Cambodians should "dig a hole and bury the past," according to Human Rights Watch. Hun Sen, a former Khmer Rouge soldier, later backtracked and asked the UN to set up a joint war-crimes tribunal.