

Khmer Rouge trials will not bring justice

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It is not surprising that many foreigners know the details of the Khmer Rouge regime, which ruled Cambodia from 1975-1979, while the young generation of Cambodians may not even know that this inhuman regime ever existed. Cambodian schoolchildren are taught almost nothing about this dark period of their country's history. Even 30 years after the Khmer Rouge committed its atrocities against the Cambodian people the subject is still sensitive among political groups.

Fortunately, "A History of Democratic Kampuchea," written by Cambodian author Khamboly Dy and published in 2007, helps to fill in the gap and educate the nation about the murderous regime. The Education Ministry has approved the book as a "core reference" for history classes, but not as part of the core curriculum.

Still, the scope of the textbook is limited and it is controversial in its naming of only certain individuals involved in the regime, its characterization of the massive movement against the Khmer Rouge, and its unclear interpretation of a long-standing political debate in Cambodia over whether Vietnam "liberated" or "invaded" the country when it ousted the Khmer Rouge. Therefore, the young generation is still skeptical about the truth concerning the Khmer Rouge.

When the Extraordinary Chambers in the Courts of Cambodia, popularly known as the Khmer Rouge Tribunal, was established, many Cambodians hoped it would bring justice, truth and reconciliation for the victims and survivors of the regime. This new hybrid, national-international tribunal was expected to accomplish three things:

First, it should bring justice to those who died and help those who survived to release their suffering.

Second, it should strengthen the rule of law by judging and punishing the criminals in fair and open trials. It should be a model marking the end of impunity and the beginning of law enforcement in Cambodia, and serve as a deterrent to all who contemplate such inhuman behavior in Cambodia or in the world.

Third, it should educate the people of Cambodia and raise awareness about this darkest chapter in the country's history, especially among the young generation. Ultimately, this would lead to the reconstruction of the society as a whole.

However, it is questionable whether these expectations will be met. The claim that the Khmer Rouge Tribunal will benefit Cambodians could turn out to be merely a myth – such a tribunal may not be the best option for national reconciliation.

For one thing, the scope of the tribunal is limited to senior regime leaders who planned its actions or gave orders, as well as those most responsible for committing serious crimes. The foreign countries that supported the Khmer Rouge, or acted as the main catalyst for the emergence of this cruel regime, will not be brought to court. The tribunal's regulations indicate clearly that only individuals who committed crimes will be tried. This court is not mandated to sentence countries or organizations.

Therefore, only local leaders and a few high-level leaders that were directly involved in the genocide will be sentenced, while many others will go unpunished. It is doubtful if justice and the rule of law will prevail.

Those who support the tribunal may say it is better than nothing, that it is better to accept justice in a narrow sense than to have none at all. But real justice would only be achieved if all who are accused are treated fairly by the court. If the trial procedures do not reveal the root cause of the problem, it is unacceptable.

It is also unclear to what extent these trials can serve as a model for an independent court system in Cambodia, as corruption and nepotism are so widespread, even within this court. Moreover, it is unlikely that the whole truth about the Khmer Rouge regime will emerge through the proceedings of the tribunal. If this tribunal is to be the final page in the Khmer Rouge history, it will be unjust and misleading for future generations.

There are better alternatives to this court setup if justice and national reconciliation are the goals. The funds allocated for the court, which have already exceeded the original budget, should have been used for restorative justice – a healing process – rather than this imperfect retributive justice.

For Cambodian society, real reconciliation will be found only when trust returns between individuals; when they can smile at and trust each other again. Thus, a national dialogue or truth commission should be set up so that people, especially the victims, can fully participate to address their suffering and their needs.