



Making justice relevant for all Cambodians
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In a recent opinion piece published in The Phnom Penh Post, United States Senator and Chairman of the Senate Foreign Relations Committee John Kerry noted the potential of the Khmer Rouge Tribunal to leave a lasting legacy “by demonstrating the virtues of judicial independence, fairness and due process of law” (“More justice for cambodians”, August 16). The Cambodian Centre for Human Rights is a strong advocate for maximising the KRT’s positive impact on Cambodia’s wider justice system. In this regard, Senator Kerry touched on an important point: If the KRT’s positive impact is to be maximised, along with an increase in the judiciary’s ability to supply justice, there must be an increase in Cambodians’ demand for justice.

Cambodia’s justice system was rebuilt in the 1980s based on the communist model of its Vietnamese patrons. As in other communist states, courts were established as legal institutions subservient to the ruling party, with no recognition of the concept of an independent judiciary or the separation of powers. Despite the introduction of a new Constitution in 1993, guaranteeing an independent and impartial judiciary, the ruling Cambodian People’s Party has been reluctant to abandon its one-party-state ideology and respect the Constitution. The courts remain a political tool. They are all too often used to silence criticism of the government by the media, opposition politicians and ordinary citizens. It is in this context that we must consider the potential legacy of the KRT.

Senator Kerry posited that “the more Cambodians witness a higher standard of justice, the more they will be inclined to demand it in their own judicial system”. Without strong demand for an independent and impartial legal system from a broad section of society, efforts to develop the knowledge, capacity and resources of the judiciary are unlikely to benefit ordinary citizens. One could argue that such efforts will contribute to demand for change from within the judiciary and a greater pride in work, and will make it harder for wrongs to go unnoticed. On the other hand, such capacity building might be counterproductive to the cause of human rights, improving the sophistication of an institution used to persecute those perceived as opponents of Cambodia’s political and business elite and sharpening a tool of oppression.

The USAID-funded Programme on Rights and Justice has noted: “Despite widespread public dissatisfaction with Cambodia’s legal system, judicial reform has yet to move large constituencies of ordinary citizens or business people to mobilise and take corrective action.” It is essential to expand constituencies for legal and judicial reform beyond Phnom Penh-based NGOs, to include a broad cross-section of society. In order to encourage and empower such demand, the positive demonstration effect of the KRT must be maximised. This can only happen if it is viewed as a credible, independent institution and, further, if it implements legacy initiatives focused on sending clear messages to the Cambodian people about what real justice looks like. The KRT is not a magic cure. But it does have the potential to influence the demand for reform; focusing on supply alone could be a very big mistake.

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