

Whether the U.S. government should provide funds directly to the Extraordinary Chambers in the Courts of Cambodia (ECCC)

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U.S. Ambassador Mussomeli and his staff are of the view that the ECCC is now on the right track and that the U.S. should now seriously consider direct support. I believe direct U.S. support of the tribunal is appropriate, but only if the ECCC agrees to some key reforms to keep the trials on track:

Robust Anti-Corruption Commitments – One key condition is that the ECCC adopt tough anti-corruption controls. Since the issuance of a scathing UNDP audit last summer, the tribunal has taken minimal steps to crack down on alleged corruption. The tribunal must appoint an ad hoc panel immediately to investigate the allegations and must take decisive action against any employee found to have engaged in malfeasance. The United Nations and Cambodian government must publicly commit to stringent measures going forward. The Khmer Rouge trials are above all a chance to show Cambodians how justice can be done, and corruption could deal the process a fatal blow.

A Clear Operating Timeline – The ECCC also needs to commit to a clear timeline for the completion of its mandate. It is essential to conduct the trials carefully and to deliver credible verdicts, but efficiency is also important. Cambodians have waited for three decades for justice, and an unnecessarily drawn-out process would likely generate considerable public dissatisfaction. If the ECCC lasts as long as the ICTY or ICTR, all of the Khmer Rouge defendants may pass away without ever facing justice.

A Credible Budget Plan – Third, the ECCC needs to present a credible, binding financial plan. The fact that it has already asked for additional funds is somewhat disconcerting. The Special Court in Sierra Leone began with a 3-year, \$56 million mandate like the ECCC but has now spent roughly \$150 million and five years with no clear end in sight. The ICTY and ICTR have consumed well over \$2 billion. Tribunals sometimes press donors for funds by insisting that justice cannot be done without large additional contributions. In some cases, their pleas are justified, but a balance needs to be struck. Bureaucracies have powerful incentives to perpetuate their own existence, and tribunals are no exception. The United Nations and Cambodian government may view the tribunal's relative success to date as a way to secure more funding, but funds should only be given if the UN and RGC commit to efficiency measures, such as using local resources and outsourcing functions where appropriate.

Civil Society Participation – A third condition for direct U.S. assistance, related to the first two, should be inclusion of civil society participation in periodic reviews of the ECCC's budget and operations. An outside voice can help the tribunal allocate resources more efficiently, help to break political impasses, and provide a useful watchdog function.

The reforms above will not eliminate the risks associated with the tribunal, but they need to be taken if the ECCC is to complete its mandate effectively. U.S. assistance may not be financially critical for the ECCC, but both the United Nations and Cambodian government will view it as symbolically and politically important.

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