

Questions linger over more tribunal indictments

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September 18, 2009

The investigation of five more suspects under the Khmer Rouge tribunal continues to be controversial, and the question of whether more suspects will be indicted in a heavily politicized environment remains.

The government promised amnesty for ex-Khmer Rouge in 1996, a move that led to peace and stability in subsequent years. But the government and the UN also established a law between 1999 and 2003 to try Khmer Rouge leaders involved in crimes.

UN prosecutors have moved to investigate five more suspects, but it is now up to the investigating judges to determine if the cases warrant arrests. Prime Minister Hun Sen and other Cambodian officials have warned that widened indictments beyond five Khmer Rouge leaders already in custody could lead to national instability.

James Goldston, executive director of the Open Society Justice Initiative, which monitors the UN-backed tribunal, told VOA Khmer the court must be free of influence from politicians and other outside actors, to allow the investigating judges to do their work.

“Tribunal staff is legally obligated to arrest and investigate the additional suspects if the evidence justifies it,” he said. “It is not an optional exercise.”

“Investigators and police must do their jobs and enforce the law regardless of the personal preferences of one or more government officials,” he said. “This is about the rule of law.”

At least two former Khmer Rouge leaders who could face indictments have echoed Hun Sen’s remarks. One, Meas Muth, now an adviser to the Ministry of Defense, has said he will go to court if it is the government’s wish. Another, Im Chaem, currently a deputy commune chief in Anlong Veng district, Oddar Meanchey province, has said she will not go if summoned.

John Hall, an associate professor at California’s Chapman University of Law, said there is less chance war will erupt in Cambodia over the indictments. Rather, observers say the objection of Hun Sen to bring more members of the regime to trial could implicate current members of the government and the ruling Cambodian People’s Party.

“The apparent willingness of the tribunal to move forward with additional prosecutions suggests that the international judges, at least, are unwilling to allow Hun Sen to

influence the legal proceedings with alarmist threats of impending civil war,” he said, adding that Hun Sen’s position was not based on a legal argument.

“So while Hun Sen has thankfully been unable at this point to hijack the tribunal’s legal decisions, the independence and integrity of the proceedings seem to hang by a thread, thanks to the firm stand of the international prosecutor and international judges,” he said.

Knut Rosandhaug, the UN’s tribunal coordinator, said the court has so far complied with international standards and made independent decisions.

“It’s a clearly established international standard that courts do not seek approval or advice on their work from the executive branch,” he said.

Lao Monghay, a senior researcher for the Asian Human Rights Commission, said politicians “should develop a culture of utmost restraint regarding the functioning of any court of law and uphold its independence and impartiality.”

If the Cambodian investigating judge does not cooperate with his international counterpart, Lao Monghay said, he “would show his political bias and would fail in his job.”

More questions arise as to who will actually make arrests if more indictments are handed down.

Latt Ky, a tribunal monitor for the rights group Adhoc, said peace has so far been adequately maintained. “So I do not see anything impacting the seeking of justice for the victims of the regime of Democratic Kampuchea.”

Caitlin Reiger, head of the prosecutions program for the International Center for Transitional Justice, said the Khmer Rouge no longer exist as a fighting force.

“However, Cambodia is not the first or last country to raise these tensions,” she said.

“Where a conflict is ongoing and peace is the immediate priority, there may be legitimate concerns about whether pursuing justice may be an obstacle to securing peace.”

Such concerns emerged with former Yugoslavian president Slobodan Milosevic and former Liberian president Charles Taylor, she said. “Yet with the benefit of hindsight, we can see that their indictments actually contributed to peace by moving those ‘spoilers’ from the negotiations.”