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Corruption allegations affect Khmer Rouge trials

Seth Mydans

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Even as Khmer Rouge trials in Cambodia gain momentum with compelling testimony from the regime's chief torturer, allegations of corruption among the tribunal staff have slowed the international funding that keeps the process alive.

A United Nations envoy left Cambodia late Wednesday saying he had failed to reach an agreement with the government over internal mechanisms for the reporting of corruption allegations in the jointly administered trials.

The U.N. official, Peter Taksoe-Jensen, assistant secretary general for legal affairs, placed the blame on the government side, which he said was refusing to make a key compromise.

Five leading figures in the Communist Khmer Rouge have been arrested in connection with the deaths of 1.7 million people during their 1975-79 rule. The tribunal was established in 2006, and courtroom hearings began last month.

The United Nations Development Program, which administers funding from donors including the United States, Japan, the European Union and Australia, is withholding the money, saying it is waiting for the issue to be resolved.

"It remains critical to the United Nations that the allegations of corruption and other misconduct are effectively addressed," Mr. Taksoe-Jensen said in a statement.

The corruption allegations, together with an appearance of government manipulation of the judicial process, have thrown a shadow across the trials at a moment when they appear to be bearing fruit with gripping and self-incriminating testimony from Kaing Guek Eav, also known as Duch, the commandant of the Tuol Sleng torture house. In hearings this week, Duch, the first of the defendants to face trial, has portrayed himself as a dedicated and creative functionary in a hierarchy of terror and killing.

But an appearance of political interference has tainted the process since early this year, when a Cambodian prosecutor objected to widening the indictments beyond the five defendants who are already in custody. She gave political rather than judicial reasons for her objection, echoing positions that have been taken by the government.

Last week, Prime Minister Hun Sen took those positions a step further, saying he would rather see the trials collapse than have the number of defendants increase.

He cited the possibility of popular unrest, but foreign analysts said it was more likely he was seeking to keep control over a legal process that could lead in unpredictable and damaging directions.

“My greatest fear is that the tribunal will simply fade away from lack of funding — with the donors reluctant to fund a tribunal unable or unwilling to address the allegations,” said John A. Hall, a professor at the Chapman University School of Law in Orange, California, who has been monitoring the trials.

“In terms of what is happening inside the courtroom, this is an amazingly exciting time,” he said. But he added: “We shouldn’t pretend that progress can continue unless the corruption issue is dealt with.”

Just to get it to the end of this year, according to a revised budget forecast, the court needs new funding of \$44.1 million in addition to the \$56.3 million already budgeted.

The corruption allegations involve reports of kickbacks from Cambodian employees to Cambodian officials in return for their jobs, a system that reflects a common practice in Cambodia.

Such kickbacks might not affect the quality of justice at the tribunal, but they raise questions about the possibility of more damaging corruption, trial monitors say.

“Can you support a judicial institution that is willing to tolerate serious allegations of corruption without addressing them?” asked Heather Ryan, the Cambodia representative of the Open Society Justice Initiative, a legal monitoring group based in New York.

“Funding a court that is unwilling to address credible allegations of corruption is a significant problem,” she said. “It makes it appear that you are in some respect condoning the situation.”

The Cambodian side is insisting on parallel reporting mechanisms in which Cambodian staff report corruption allegations only to Cambodian officials. Critics say this system would have a chilling effect on whistle-blowers.

“The United Nations continues to believe that, for the ethics monitoring system to be credible, the staff should have the freedom to approach the ethics monitor of their choice and put forward complaints without fear of retaliation,” Mr. Taksoe-Jensen said in his statement.

“Such freedom of choice is an imperative element of a trustworthy ethics monitoring system,” he said.

The corruption allegations were originally made two years ago by the Justice Initiative and were followed by news media reports that Cambodian staffers had complained about having to make payments of as much as 30 percent of their salaries.

The United Nations has investigated the allegations — which the Cambodian side denies — and has come under criticism for refusing to disclose its findings.

The impasse over a corruption reporting mechanism reflects a broader problem at the tribunal, which has been in place for nearly three years: an uncomfortable and sometimes adversarial relationship between the Cambodian and foreign staffs.

“One problem in the court is that the two sides don’t trust each other,” said Panhavuth Long, a project officer at the Justice Initiative. “The national side and the U.N. side, after two or three years working together, have not established a network of trust that allows them to sit together and have a frank discussion.”