

The Election and the ECCC

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What does the election mean for the ECCC and the former Khmer Rouge?

At the time of writing it is unclear who will continue to govern Cambodia in the coming years, with both Hun Sen's Cambodian People's Party (CPP) and Sam Rainsy's Cambodia National Rescue Party (CNRP) claiming victory in Sunday's election. The result of this standoff will likely have a major impact on the future of the Extraordinary Chambers in the Courts of Cambodia.

The opposition CNRP have an inconsistent approach to Cambodia's past and the Democratic Kampuchea regime. On the one hand, it has been long-held CNRP policy that those former members of the Khmer Rouge who are currently in government posts should be put on trial.² Yet on the other hand, then acting CNRP president Kem Sokha, was recorded claiming that the atrocities committed at the S21 prison camp (Tuol Sleng) were in fact staged by the Vietnamese.³ Mr Sokha later distanced himself from the comments, claiming that they had been taken out of context and that he had in fact been explaining that the Khmer Rouge made a theatre of Tuol Sleng, not the Vietnamese.⁴

On balance it can be expected that an increase in CNRP power will lead to an increase in support for the court, be it through an outright CNRP win or an increase in their minority in the National Assembly.

By way of contrast, Hun Sen's CPP has over recent years been keen for the court to wrap up and bring its cases to a close without indicting additional persons.⁵ Most poignantly, Hun Sen told UN Secretary General Ban Ki-moon in 2010 that he expected Case 002 to be the final case heard by the tribunal. Thus the outcome of the current power struggle will likely have an important impact upon the Cambodian government's stance towards Cases 003 and 004.

It is not only the government's stance that the election will bring into question but also that of the international community, whose donations are crucial to keep the court afloat. "Donor fatigue" is already a major issue for the ECCC, as international funding remains key to supporting both the international and domestic segments of the ECCC's funding agreement. This means that if the

¹ The information presented and opinions expressed herein are those of the author and do not necessarily represent the views of Cambodia Tribunal Monitor and/or its partners.

² Meas Sokchea, *CNRP Urges More KR Cases*, THE PHNOM PENH POST, Apr. 18, 2013, <http://www.phnompenhpost.com/national/cnrp-urges-more-kr-cases>.

³ Neau Vannarin and Zsombor Peter, *Hun Sen Calls for Law against Denial of KR Crimes*, THE CAMBODIA DAILY, MAY 28, 2013, <http://www.cambodiadaily.com/archive/hun-sen-calls-for-law-against-denial-of-kr-crimes-27128/>.

⁴ Abby Seiff, *The Denial Law Dilemma*, THE PHNOM PENH POST, June 7, 2013, <http://www.phnompenhpost.com/national/denial-law-dilemma>.

⁵ Georgia Wilkins, *HRW Bashes Hun Sen on ECCC Stance*, THE PHNOM PENH POST, July 24, 2009, <http://www.phnompenhpost.com/national/hrw-bashes-hun-sen-eccc-stance>.

Cambodian Government were to fall further out of favor with the international community, the court could face an even greater struggle in staying afloat. Prior to the election, members of the U.S. Congress emphasized the importance of free and fair elections in Cambodia and the possibility of conditions being attached to future aid. Since then, the U.S. Department of State has already called for an investigation into election irregularities.

If the CPP continues to ignore these calls, and refuses to investigate allegations of systemic irregularities during Sunday's vote, Cambodia will become an even less attractive recipient for international aid, which will in turn have implications for the funding of the ECCC.