



## The Khmer Rouge Tribunal (KRT)

### Background

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Between 1975 and early 1979, Pol Pot and Ieng Sary led the Khmer Rouge – the Communist government of Cambodia. Their government turned Cambodia, which it called Democratic Kampuchea, into the “killing fields.” The Khmer Rouge emptied all cities and towns, sending the entire urban population to the country side to farm the land and be “re-educated.” They banned all institutions, including stores, banks, hospitals, schools, religion, and the family.

Dissenters were brutally executed. Teachers, doctors, lawyers, artists, and just about anybody with an education were killed. Hundreds of thousands starved or died of disease. During a four year period, more than 2 million people died; almost one third the 1975 population of Cambodia.

Thirty years later, those responsible have yet to be punished for their atrocities. Pol Pot died in hiding in 1998, and only two of the other half dozen most culpable individuals are in custody. Efforts to convene a criminal tribunal languished for years, in large part because the current Cambodian government is not very interested in trying the leaders of the Khmer Rouge.

However, in March 2003, after five years of negotiations, the UN and government of Cambodia signed an agreement to create a court to try senior leaders of the Khmer Rouge. The Cambodian government tried to back out of the deal at the last minute, but on October 4, 2004 the Cambodian Legislature ratified the agreement to create a Khmer Rouge Tribunal (KRT).

### About the KRT

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The KRT will be a hybrid national/international court. It will operate as part of the Cambodian judicial system, but it will employ international judges, investigators and prosecutors. It will use Cambodian procedural law, but the substantive law – which crimes can be punished and how those crimes will be defined – is based mostly on international law.

The KRT will prosecute senior Khmer Rouge leaders for:

1. **Genocide** – as defined in the 1948 Genocide Convention
2. **Crimes Against Humanity** – as defined in the statute that created the International Criminal Court
3. **War Crimes** – as defined by the Geneva Conventions; and
4. **Homicide, Torture and Religious Persecution** – as defined by Cambodian law.

The KRT will be composed of a trial chamber, an appeals chamber and a Supreme Court. Each chamber will have both Cambodian and international judges. A majority of the judges will be Cambodian, but decisions will have to be taken by a super-majority so that at least one international judge will have to vote in favor of each decision. This structure was used because the Cambodian government insisted that it should be a majority Cambodian court, but the United Nations insisted that binding decisions of the tribunal could not be taken without the concurrence of at least one international judge.

# FACT SHEET

The agreement between the United Nations and Cambodia stipulates that while Cambodian procedural law will apply, suspects will receive a fair trial, including: a presumption of innocence, a prompt and public hearing, the right to counsel, and the right to present and examine witnesses.

The UN currently estimates that the KRT will cost \$57 million over its expected three year lifespan. So far, countries have contributed about \$40 million, and the UN expects that the rest of the money can be raised fairly soon. The KRT should begin hiring staff and start its work later this year.

The U.S. State Department has voiced support, saying “the United States supports efforts in Cambodia . . . to bring to justice those most responsible for serious violations of international humanitarian law committed under the Khmer Rouge regime.” But so far, efforts to pass resolutions committing financial support have languished. In fact, the 2005 Foreign Operations bill specifically prohibited funds from being used to provide assistance to any tribunal established by the Government of Cambodia.

## Recommendations

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- Repeal the restriction on U.S. financial support for the KRT and contribute money to the tribunal.
- Support the tribunal by providing legal advice and training to ensure that the tribunal meets its commitment to fair and impartial trials.
- Keep up the pressure on the Cambodian government to make sure that it does not interfere with the independence of the KRT.

## Further information

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Track Impunity Always (TRIAL): [http://www.trial-ch.org/en/justice\\_cambodia.html](http://www.trial-ch.org/en/justice_cambodia.html)

Yale Cambodian Genocide Program: <http://www.yale.edu/cgp/>

Holocaust Awareness Project: <http://www.dithpran.org>