

Cambodia: Truth, Justice, National Reconciliation and the Khmer Rouge Trial

by

His Royal Highness Prince Norodom Sirivudh

and

Dr. Kao Kim Hourn

Prince Norodom Sirivudh: So first, thank you Professor John Ikenberry and Professor Fred Brown and honorable guests, distinguished participants, friends, and ladies and gentlemen. Before we go to our subject today about Cambodia - to justice, national reconciliation, and the Khmer Rouge trial - I would like first to thank the Sasakawa Peace Foundation USA for organizing this seminar.

To come back a little bit to the U.S.A. situation, I was asked by your Ambassador Wideman before we left what we thought about the United States situation and about the presidential election. I told him that, "You know, we are a small country, Cambodia, but we have some experience." In the peace agreement in '91 and the elections in '93, the United Nations spent more than two billion U.S. dollars to bring peace to Cambodia and to have a free and fair election. So in '93, FUNCINPEC (Royalist Party) had won the election, but, the CPP (Cambodian People's Party) from the province of Ensen refused to recognize the elections. Finally, we got two prime ministers.

So, I said to our American ambassador friend, just joking, "Then why not just get two co-presidents?" A lot of people had been very comfortable with Cambodia's situation in getting two prime ministers using two billion U.S. dollars. So, we won't interfere with American affairs. But

now I think the Supreme Court has already decided.

Khmer Rouge Refused to Implement Peace Agreement

In '91 the Khmer Rouge signed a peace agreement. I can remind you that in the past the Peace Agreement in Paris was signed by the four factions, and the Khmer Rouge people are one part of the peace agreement. I don't know if it's fortunate or unfortunate that they refused to implement it, because we're supposed to disarm people first, take control of their weapons, before we move to election. So they refused to come to the election process. Fortunately, we went to the election without disarmament in '93 and nothing serious happened in terms of violence.

This is just to say the Khmer Rouge refused to come. My approach is this: not to remake history. But just imagine for one second that in '93 the Khmer Rouge said, "Yes, we agree to come to the process, we agree to be disarmed," and they came to the process. So you could see Pol Pot—now he has died—but imagine in '93 Pol Pot together with Mr. Akashi on U.N. broadcast TV. Plus, you could see Kieu Samphan and all the Khmer Rouge leadership had been elected in '93, under United Nations supervision. They could have been MPs somewhere who run the government.

Khmer Rouge Are Outlawed

It's a real problem now when we talk about the Khmer Rouge trial. Once again, they have been blamed during this time, for not coming to the process. They are out of the process. Therefore, we make Khmer Rouge outlaws, because they still controlled, during '94 and '95, the north-west of Cambodia, a small area called Pailin. At least there is a clear situation; the Royal Government coalition arose from the two parties in '93, and the Khmer Rouge are outlawed because they refused to come.

But once again imagine if they had come in '93. There's a real problem now to talk about the Khmer Rouge trial because they are MPs or ministers, perhaps. In terms of moralities, it depends on where you stand. It was politics, and now, it could be politics, and could be once again politics as a trial. The Cambodian people do not want to see this trial as politics; they would like to see the trial conducted on behalf of the Cambodian people. But don't go too far.

As we meet here in Washington, D.C., the steering committees of the National Assembly of the Kingdom of Cambodia have just recently completed the screening of the draft law on the Khmer Rouge trial. This draft law, which is called the law of the Ita Bishmen, is in extraordinary shambles in the courts of Cambodia for the prosecution of crimes committed during the period of Democratic Kampuchea. It is now awaiting full debate of the National Assembly. After the current plenary debate of the 2001 national budget law, the National Assembly of the Kingdom of Cambodia will begin a full plenary debate of this draft law.

At the moment, it is anticipated that the long-overdue draft law will be passed, hopefully before the end of the year. The draft law on the Khmer Rouge trial should have been passed long ago. I am very happy that the National Assembly has now decided to move forward. And I ask our friends from the Sasakawa Peace Foundation USA to circulate and provide you with the last declaration of Prince Norodom Ranariddh.

It's still unclear, even in 2001, whether the law will be fully debated. So, personally, I have some doubt that there's real political will to move for this. I just caught some information from Radio Australia called "The Last Interview from the Prince."

Let's come back to the past. When the Khmer Rouge took over in 1975, a lot of people felt very, very comfortable somehow with the situation. The embassy of the United States, like many others, was evacuated from Phnom Penh only during the last few days before they took over. As there was no news or talk about Khmer Rouge atrocities between '75 and '79, some governments, like the Swedish, even had contact with the Khmer Rouge.

I'm not an expert on the issue, but one thing's for sure—it was silent. I remember reading the stories from those who stayed behind in Cambodia and how they were welcoming the final victory of the Khmer Rouge by firing guns into the air. This was an expression of support for the Khmer Rouge, as well as a sign of the end of the war and the beginning of peace.

During this period, many Cambodians wanted very much to have peace. Their desire for peace was based on the

abomination of what had gone on before. Not only the people of Cambodia, but also the people around the world believed that the Khmer Rouge victory was, perhaps, the best outcome for Cambodia.

No one could have imagined or believed what was going on—or what was going to happen for the next four years—in Cambodia.

Terror of Khmer Rouge Remains Living History for Cambodians

During its reign of power, the Khmer Rouge murdered massive numbers of the people of this gentle land—nearly two out of seven million Cambodians—through a variety of instruments: execution, starvation, disease, overwork, exhaustion, and deprivation. This is now, as some people have strongly argued, “history,” and is becoming irrelevant to Cambodia and the world. But I would contend otherwise. This is a living history for the people of Cambodia, who have suffered so much and continue to live with the fresh legacies of the past. All Cambodians must come to terms with the past in the most constructive way.

Many important questions remain. What do we know about the Khmer Rouge today? How much do we know about them? Should we pursue the truth of the issues? And how about justice? Do we care about the process of reconciliation and this deeply divided society? What benefit would a trial of the Khmer Rouge bring to Cambodia? What are the likely impacts of the KR trial? Are the people of Cambodia ready to open Pandora’s Box? Will the trial of the Khmer Rouge’s top leaders hail the process of national reconciliation, or further hurt it? In this sense, will there

be a trial of the top ex-Khmer Rouge leader at all? The list of the questions goes on and on.

Talking about the truth, how many people were involved in planning the executions and genocide? While more evidence and documents have been collected in recent years, we are still far from knowing the truth. The fact of the matter is that we are still in search of the truth about what actually happened in Cambodia during the tragic period of the Khmer Rouge. I am convinced that if we were to have the trial, we may be able to learn more about the truth of the Khmer Rouge, the most violent revolution in the world. One of the most important lessons of history, I would think, is to not only attempt to discover the truth about what happened, but also to keep from repeating the costly mistakes of the past.

The American university, Yale, has spent a lot of time and money to assess Cambodian centers of genocide and research in Cambodia, and I must say they have achieved a lot of good work. This kind of work is very hard, because people don’t talk. We must go deep into archives, even from foreign sources, and list examples. Even Russian scholars have been involved, because they have some links with some farmers in the Communist Bloc who were imprisoned in Cambodia between ’75 and ’79. We can talk about this kind of link, according to this Russian scholar, when it occurs between a foreign country and Cambodia. Some examples could be China, could be Vietnam, etc.

Future Generations Need to Know Truth About Khmer Rouge Period

I believe Cambodia has a responsibility to the young and future generations of our country. They need to know the truth about the Khmer Rouge period. Otherwise, it will be a black hole in our history, which we may not be able to explain to both the present and future generations of Cambodia. Certainly, we should not deny them the true history that they ought to know. Moreover, the truth of the tragic Khmer Rouge revolution certainly should not be manipulated or reconstructed to only fit into our own thinking, our own belief, or even of our own theory.

True history cannot be added to or subtracted from at will by those who are in power. If we truly want to know the truth of what the Khmer Rouge regime has done to the Cambodian people and the country, we should not look far from the realities. We should ask the Cambodian people, who have the first-hand account, knowledge, information, experiences, and certainly, the truth. Why don't we bother to ask the silent majority of Cambodian people? No doubt they can tell us. They can explain to the world how the people of Cambodia were led to the so-called Democratic Kampuchea. Their testimonies and their stories of the how's and why's of this wide Khmer Rouge era are, perhaps, the most powerful statements of the truth. I am sure that there are many Cambodians who would be willing to come out and share their difficult and painful living memory of the past. This is the truth.

Justice Is a Dilemma For Cambodia People

Justice. I strongly feel that we Cambodians must be more committed to a sense of justice in our lives and in our society.

“Justice” made victims of some of my friends, as well as myself. There is some doubt about the independence of the judiciary system. I say this because I was in jail. I was exiled. But I'm not the only case; there are others who have been in jail, too. So that's a real dilemma for the Cambodian people.

Of course, what kind of justice? Political show? Justice just to please some people in power, or just to run very fast and forget, what we call a fake trial? Will there be a political will to achieve this in a very quick way? I think the dilemma of the Cambodian people is that they don't trust their own judiciary system. The reason why is that they face what we call a “sovereignty notion.” Nobody would like to see foreigners become involved in this kind of judicial system. I don't think that the Supreme Court of the United States or some other country would like to see some lawyer from Cambodia, from the other side of the world, come over to decide your presidential election or decision. That is a kind of “sovereignty notion.”

Difficult to Go Back to International Court of Justice

But in terms of the Khmer Rouge trial, we are supposed to reach this kind of compromise. I think going back to the International Court of Justice is quite difficult. It is very clear that China has already expressed their objection to supporting this kind of international court. So perhaps the solution will be some kind of compromise on the national framework, determining the justice system of Cambodia with the involvement of some friends of Cambodia and, in particular, from a United Nations' proposal.

This is the reason why I am very pleased to bring to you copies of the draft law prepared by my friends from the Sasakawa Peace Foundation USA. It's so big, but there's one part that will be a memorandum of understanding and cooperation between the Cambodian Royal Government and the United Nations. I think this part is very important. You can face this kind of dilemma so that it seems Cambodia is a more sovereign nation, because it will be mixed with lawyers, prosecutors from both sides. Personally, I prefer to see Cambodian justice occur. But due to a lack of confidence in my own judiciary system, I'm not against the involvement of the United Nations with the Royal Government to set up this court. That's my personal perception.

Strong Culture of Impunity In Cambodia

Without justice the current culture of impunity in Cambodia will flourish. Therefore, it is imperative that Cambodia must commit itself to the future by focusing on building a greater sense of moral responsibilities in the culture for justice. This would undoubtedly reverse the strong culture of impunity in our society today. It is being done, I am convinced, and the trial is essential in restoring trust and confidence in the society, as well as building a greater sense of justice for the Cambodian people.

We have talked about the truth and justice. Now let's go back to reconciliation, national reconciliation. How to be reconciliated? I would like to talk about some countries. There are two groups of friends of Cambodia. One has the opinion they should have nothing to do with Cambodian affairs, that it's an internal issue.

They want to let the Cambodian people handle the trial themselves. China, for example – and some, I don't know, you can perhaps start to list some standard vis-à-vis tribunal. The other group, one country really pushing is the United States of America, joined now by Japan, the EU, etc., saying "You must have this trial." So now this memorandum of support will be signed, I hope, and the law will be adopted. There's some divergence between the United Nations' concept and the Royal Government's concept, but that will be a compromise and this memorandum could be provided to you by the Sasakawa Peace Foundation USA later.

Potential Threats to Security During Trial

In conclusion, let me touch briefly on the upcoming Khmer Rouge trial. I wonder who will be handling the security issue? Suppose that during the prosecution, some Khmer Rouge leadership is not in custody. What kind of force, or police, will go to catch Mr. Kieu Samphan and the other leaders if they are hiding somewhere in the Cambodian/Thai border or even, perhaps, inside Cambodia? I don't see any possibilities on this issue. Suppose that some Khmer Rouge, so-called Khmer Rouge, perhaps fake Khmer Rouge, will launch grenades to some embassy that has been very supportive to bring the trial to the table. Do you think that the Royal Government of Cambodia will be able to contain or proactively prevent this kind of incident? I'm not sure. So reconciliations, stabilities, could be affected.

Also, suppose for one second that thousands and thousands of Cambodian people came from the provinces just to see the trial, because they have not seen the

Khmer Rouge leadership for a long time. They just come in, like a mass, to Phnom Penh or somewhere the trial is supposed to be held. So can we really think about stability? Cambodian people are very emotional sometimes. So, personally thinking, it's a real dilemma between principles. We must not forget the genocide. We must compromise with the United Nations to preserve the serenity of the nation in terms of the international, instead of international court, unless China will not agree to this international court.

Cambodian People Want to See a Trial That Will Find the Truth

So we come back to the compromise. Who will pay for this? So, I have disappointed you by not bringing any answers. Instead, I have brought more questions to all of us. In conclusion, Cambodian people don't want to see any show. They are ready to see a trial on their behalf, a real trial that will bring justice and find the truth. Because the Khmer Rouge issue involves politics, it's now politics again, and they don't want to see it become politics.

Allow me to stop here. Personally, I think that the Cambodian people have elected a National Assembly, and the National Assembly has adopted the Royal Government mandate. So now there exists the responsibility of our institutions in Cambodia—starting with the Royal Government, the National Assembly, and the Senate—to adopt, as soon as possible, this draft law, based on compromise with the United Nations and focused on finding out the truth for the Cambodian people. Once again, they have a second duty: to take care of stability, the national reconciliation spirit, and in particular, the out-of-

control situations that could affect stability in the future.

Thank you for your attention.

Kao Kim Hourn: Your Royal Highness, Prince Norodom Sirivudh, Professor Ikenberry, Professor Fred Brown, excellencies, ladies and gentlemen. I think it would be very difficult to speak after His Royal Highness, especially after His Royal Highness has already raised so many key issues on this topic. But having said that, let me, of course, try and complement some of the issues that have been raised already or not really been fully touched upon. I will touch on five different areas in my presentation. First of all, I will look at the pros of the trial, and the cons. Then we will look also at the potential impact of the trial. Of course, there are some other issues that are very important that relate to the trial, and finally, perhaps at the prospect, as I see it.

I think that in Cambodia, we have two groups. We have those who are in the pro-trial group and those who are in the con group. Of course, they are very wide-ranging, including those in the government, the people at large, academics, intellectuals, and so forth and so on.

Pros of the Khmer Rouge Trial

Now, why it is important to have the trial, the pros. Those who argue that it is absolutely important for Cambodia to have the trial think the trial would reverse the current process of the culture of impunity.

Second, the trial would help strengthen the moral responsibility of the current leadership in the government, and I think that's very important.

Third, it would be very important that the trial would have to promote the royal law and justice. It's also important for the government to have the opportunity to gain the trust and confidence of the people. Because, you see, over the past two decades, the people have had no confidence and little trust in the government. Therefore, this is really the opportunity. If the trial is credible enough, then there is a big opportunity for the people to once again trust their leadership and authority. So these are really the main arguments for having the trial.

Cons of the Trial

But for those who are not in favor of the trial, they also have their own arguments. They say that right now the number one priority is peace, stability, and security. Second, that the trial is not a priority of the Cambodian people. The trial is not a present bread and butter issue, therefore the trial should be something we look into in the future, not now. Perhaps if the current Khmer Rouge leaders are dead by then, of course the trial will be irrelevant. They also argue that we have to wait until we have reached a consensus in Cambodia, because right now we have no consensus, even within the Cambodian government. Therefore, it's absolutely important to have consensus before we can proceed with the trial.

Another important issue that they also have been raising is that the trial—if we proceed at the moment—may have a negative impact on the current coalition government. It may split the current coalition government, and why are we risking this? So I think there are underlying factors, there are so many risk factors that may impact the trial. So I think these are

really the main arguments of the second group.

But let me, perhaps, look at the potential impact of what's also been touched on briefly already. We have to anticipate that this trial would not be a speedy one. Therefore the trial would be a long, drawn-out trial. In the process, as His Royal Highness has hinted at already, the question of a security issue will be a priority. In fact, the trial may hurt the Cambodian economy, because a lot of tourists may not be going to Cambodia.

Trial Could Negatively Affect Cambodia's Economy

Right now, one of the most important sectors of the Cambodian economy is tourism. At the same time, I think the trial will impact the FTI, foreign tech investment, i.e. people will not invest in Cambodia. So I think this has a real potential impact on the economic side. The question, is, of course, who will bear the cost of the potential negative impact on the economy? Will it be the people of Cambodia? So I think it's very, very important. The international community, particularly the United Nations, who are very much assisting us in proceeding with this trial, may have to look at this economic downturn, and I think that's very important.

The other thing that also has been raised by His Royal Highness, and that I also want to touch on, is the impact of this trial, particularly on the psychology and the emotions of the people. There will be an enormous emotional outburst, because the trial will not be a secret trial, it will be an open trial. It will be broadcast. Therefore, I'm quite sure that we can open, maybe not Pandora's Box, but open the

“all ghouls box.” And I think it’s very important that we come up with strategies to deal with the impact of the trial on the emotional feelings of the people. I think that’s very important.

Question of Sovereignty

Now, issues. I would underline that there are several key issues that perhaps we might wish to consider. One thing that was also raised by His Royal Highness is the question of sovereignty, because right now this is a very important issue within the Cambodian National Assembly. Why is this? Because we have the current draft law, which is based on the government draft law, and this draft law is based on the memorandum of understanding that was signed between the Royal Government of Cambodia and the United Nations.

The U.N. already stated that if this draft law—particularly also the MOU (Memorandum of Understanding)—is substantially changed by the National Assembly, the U.N. would have nothing to do with the trial at all. But also we have Cambodian leaders, those in the government and those in the parliament, arguing that Cambodia is a sovereign nation, therefore Cambodia should draft its own law on this issue, and we therefore would have to limit the role of outsiders.

So I think what we see right now is that this process will unfold. We will see to what extent the U.N. will continue to be involved. How many outsiders will be involved? If it’s going to be a Cambodian-driven process, it’s going to be very difficult, because it’s very important, as I say, that this trial must have sufficient credibility, not just for the people of Cambodia,

but also for the international community. Because without sufficient credibility, this trial will be a sham.

Okay, let’s come back to why we have a mixed trial. Why not have a national trial, why not an international trial? I think under the current circumstances, we cannot have a national trial. A national trial would not have any weight at all. It would be a waste of time, a waste of resources.

But also we cannot have an international trial. You know, I think the process the United Nations is going through right now is a very complex process. It’s not going through the U.N. Security Council at all; it’s going through the Secretary General and they’re trying very hard to maneuver through this process.

A Mixed Trial Approach Is the Best Outcome

I think the best outcome we can have under all these different circumstances is a mixed trial approach. This is, of course, number one: to compromise on the part of the Cambodian issue of national sovereignty, but also on the part of the United Nations. I consider next the question of this mixed trial. To what extent will it be influenced by Cambodia? To what extent will it be influenced by outsiders? In other words, who will control the process of this trial? That’s the ultimate question, because on the Cambodian side we look at the current draft law. Certainly, it has an upper hand on the current draft law and, of course, I think the draft law will eventually be argued by outsiders. If this is the case, then it implies the fact that Cambodia does not have an independent, competent judicial system. It’s very much

prone to the influence of the executive branch.

Let me also address, quickly, the issue of a pardon, because this is also a big issue in terms of who will have the right to pardon and who should be pardoned if they were to be convicted. Now, according to our constitution, the only person who can pardon would be the king. Now, if under the current draft law, the king will have no rule at all, I think it would be unconstitutional, and therefore we may have to amend the constitution on this part.

Royal Role in Pardons Must Be Examined

So we have to also look at the royal role in pardons, particularly those who have pardons, like Ieng Sary who led the defection of the Khmer Rouge that eventually led to the demise of the Khmer Rouge. People are arguing, our prime minister is arguing that the pardon was a mistake. In other words, the current draft law will not have any impact on those who have been pardoned already. And I think we also have people arguing on the other side, saying that although the king may have pardoned Ieng Sary, for example, his pardon is limited because it was done in a politically convenient way. It was political expediency, and therefore it does not exonerate him from any more responsibility. So I think this will come up again and I think the pardon issue will be a key issue.

I also think it's important to keep in mind that, whether we like it or not, in Cambodia this trial will be forthcoming because of the pressures from within and without. From without, you know very well that more and more countries are joining the ranks. A few months ago we heard that

eleven nations issued a statement. Then we have Japan coming on board, Russia is now advocating for the trial, and so on and so forth. And within the Cambodian society we now have, of course, the role of civil society, the proliferation of civil society, which has been mobilizing opinions while educating and publicizing the issue.

Now the pressure is really boiling, and I think that eventually it will lead to something. I would argue that this will bring more pressure on the Cambodian leadership to proceed with the trial.

Now let me conclude by looking at the prospect of the trial, how I see the trial. Hopefully there will be a trial. I would argue that if there would be a trial, the trial will be very complex, very complicated, maybe due to the plurality of actors and players, from outside and from within. I think that it's not going to be an easy process, because it will be a complicated process. You have countries like China and Vietnam and others arguing against the trial.

You have other groups arguing in favor of the trial. So there will continue to be divided influences on Cambodia. Second, as I said already, we should not anticipate a speedy trial; this trial will be a long, drawn-out process. We should not expect it to be over in six months or one year. Instead, we should expect it to take more than one year, maybe two or three years. So this is going to be very complex. That involves the question of cost, also raised by His Royal Highness.

Trial Could Divide an Already Fractured Society

Now the cost of financing the trial, according to the MOU, will be contributed by the United Nations, of course. The U.N. would have to have a role. But I think on the Cambodian side, the cost of a long trial on the economy, on the emotions of the people, would be enormous. It cannot be calculated in U.S. dollars, and I think this also has to be taken into account, taken into consideration as well. At the same time, I think the trial itself will raise all sorts of issues that perhaps, in my view, if not properly managed and properly conducted, can further divide Cambodia, which continues to be a very fractured society. Thank you very much.

Frederick Brown: First, let me thank the Sasakawa Peace Foundation USA for putting on this symposium. I think it's very timely and you have attracted Prince Sirivudh who is intimately knowledgeable and involved in the whole political process, as well as the larger social process in Cambodia that's going on now with regards to the issue of the trial.

Prince Sirivudh figured out that the last time we met was in a small village called Ampil some time in 1993, during the UNTAC Process (United Nation's Transitional Authority in Cambodia), and it's a real pleasure to see him again. Kao Kim Hourn and I are old friends. I think we met last personally during the momentous events of July 1997 when interesting things were going on.

International Community Must Recognize Real-Politique Component

Thanks very much to John for moderating the proceedings today. It is difficult for an outsider such as myself to really add to what Prince Sirivudh and Kao Kim Horn

have said, but let me throw out a few ideas. I remember in 1997, in July, talking to some of the people in the government who were knowledgeable about the events at that time, and trying to be persuaded by them that one must recognize reality, the realities of the situation. As nasty and unpleasant as some of the events may have been, there's a certainly reality component, "real-politique," that the American government and the international community must recognize.

I think, actually, you can make a point on the question of realities. But I think today you also have to recognize realities, because I think there are some, and I think they're directly relevant to the issues that Prince Sirivudh and Kao Kim Hourn have raised for us today. I think there are a lot of uncomfortable questions that already have been raised.

Exchange of Stability For Possible Destabilization During a Prolonged Trial

One is, are the Cambodian people ready to exchange the modicum of stability and slightly increasing, but nonetheless increasing level of prosperity in the country? Are they willing to exchange that—or risk that, let me put it that way—for the possibility of destabilization that might occur, as the prince points out, from a prolonged and divisive trial? I don't know the answer to that. I think the only entity that can really judge that is the government of Cambodia. Under the current circumstances, I guess I would question whether or not the government is really prepared to address that question in a forthright manner.

There is a lot of information on what happened during the years of the Khmer Rouge rule. There is the documentation center that has been in operation in Phnom Penh and elsewhere doing interviews, with hundreds of thousands of documents collected and many, many interviews. This was created by an Act of Congress and funded by the United States government, so there is a lot of information around on what happened during those unfortunate years.

Another question would be: Is the current government really interested, genuinely interested, in addressing the dilemma in a forthright manner? In the end, it's got to be the government; it's got to be, specifically, the CPP and Prime Minister Hun Sen and his leadership to address this.

The third question is about credibility. The only way that this issue, it seems to me, is going to be addressed adequately is if there is a lot of involvement not only by the government of Cambodia but also by international observers.

I would certainly not advocate a purely international trial. I think that would be wrong. I think it wouldn't work, and I think it would be counterproductive. But there has to be some kind of an international presence in order for this event, this process, to be credible, not only for the Cambodian people, but also to the members of the international community who are bankrolling and supporting the reconstruction of Cambodia.

Conditionality of Amount of Aid Given to Cambodia for Reconstruction

And I think that brings up the question of conditionality. Whether we in this room or

the Cambodian government likes the idea of conditionality with regard to attaching conditions to how much aid will be given to Cambodia for reconstruction; what strings are attached to it with regard not only to the trial issues but to other issues, and I'll list a few of them. That's a reality that I think the government has to face. I'd say a number of years have gone by now, the old Khmer Rouge leadership is sitting in Pailin, put there by the current government, and that's a fact of life. The debate within the National Assembly may take a month, or two months, or a year. Maybe that's the way to go about it. Certainly, it cannot be rushed through in a hurry, but the reality is that, sooner or later, it could be.

I don't know what the attitude of the new Bush administration will be on this subject, I have no idea at all. But certainly the international community has already shown, and many people in the international arena are advocating for some kind of conditionality on progress for this issue.

I mentioned "other issues," and there are other issues besides the question of a trial for the Khmer Rouge high-level leadership. There's the question of linking aid to genuine government reform in a number of areas. The recent consultative group meetings have certainly shown that the donors are very restive about what they feel is very slow progress on a number of fronts, including the whole question of land disputes, and land grabbing, much of which is identified with the current government.

There's the question of demobilization, and the extent to which the Cambodian military is being reduced. In a way, that is

commensurate with the economic situation of the country. There's the question of commune elections. This has been dragging on for some time now. And then there's the question of the whole way that the CPP (Cambodian People's Party) and the Hun Sen leadership addresses the question of an opposition party. The question of treatment of people like Sam Rainsy. These are issues that are salient, they are going to get a lot of attention. Certainly in the Bush administration and in the international media, this is a reality. So I think these are things that we have to think about, and I just put them on the table for further discussion. Thank you very much.

Q & A

John Ikenberry: Thank you. Well, we're going to move directly to Q and A, as they say. I'll point to you, and please come to one of the microphones and identify yourself, give us your affiliation, state your question or comment, and then we'll move forward.

Questioner: I pose this question: It may be one that Prince Sirivudh and Kao Kim Hourn may not want to answer, but I'll put it primarily to Fred Brown. Is it possible that things might be a little more comfortable in Cambodia politically if there were accountability and responsibility put on some of the players outside of Cambodia for the period? I'm thinking of the supporters of the Khmer Rouge during the late seventies, the supporters of seating the Khmer Rouge in the U.N. in the eighties, i.e., the United States, and then support for the anti-Hun Sen forces in the late eighties – again the United States and Thailand. If there were some owning up to that by other countries, would it perhaps

make it easier within Cambodia to bring about the process that we're talking about here?

Brown: Let me be realistic, if I may. I don't think there's really any chance that you're going to get any kind of statement, either from Beijing or Washington or the ASEAN capitals with regard to the stance taken by the CGDK (Coalition Government of Democratic Kampuchea) and by its supporters from the early eighties onward. I don't think there's any chance of that happening. And I know that in Phnom Penh you hear this brooded about as something that has to happen. I don't think it's going to happen. I think it would immensely complicate all sorts of things; I don't think it would be the best way to proceed. That's my personal opinion.

Prince Sirivudh: Let me just add that it's a very strange situation. During the eighties, we were in a coalition with the Khmer Rouge. We have been blamed. During the Vietnamese intervention in Cambodia, all the political friends from Phnom Penh came to try to get support in the U.N. It was anti-Khmer Rouge. The argument that we used said, "Oh, it was a Vietnamese prison in Cambodia. That is why we fight back - liberation from the Khmer Rouge." All the same people now are very reluctant, since for years they have based their political stance on being anti-Khmer Rouge; it was their argument.

Now we see this government, like Prime Minister Hun Sen and the others, make clear that they are not so pro-trial. So it just brings to your attention that things could be switched politically to the other direction. When Prime Minister Hun Sen welcomes Khieu Samphan with flowers, with a red carpet, Cambodian people don't

understand this. What's going on there? It was anti-Khmer Rouge as an argument during this trial, and now, even Khieu Samphan does not get amnesty, not yet.

We come back to the amnesty that Kim Hourn mentioned, in some detail. Yes, constitutionally the king can give a pardon and amnesty to people.

The draft law now says the government doesn't have any right to request a pardon from the king. So it will not be unconditional, because the government will not allow a pardon to be asked for from the king's amnesty. So I just wanted to add this point. Thank you.

Questioner: I just want to ask Fred about the conditionality. I also read that people push for conditionality because it has been a long time that Hun Sen has now been in power and yet things have not improved, with a few exceptions such as tourism. But the misery in Cambodia continues. So how long will the government of Hun Sen be allowed to just do whatever they want without complying with the conditionality? Conditionality is not really being implemented there, by the IMF, the World Bank, and so forth, and bilaterally, also. But don't you think that this conditionality will be a bit weakened by the fact that the Chinese factor comes into consideration?

Brown: Well, there's multilateral conditionality, then there's bilateral conditionality. The United States does not give aid directly to the government of Phnom Penh, it gives aid through foundations to domestic, non-governmental organizations – that's my understanding. There's no direct aid to the government of Cambodia, the Royal Kingdom of Cambodia.

Reaction of Donors to Slow Pace of Reform in Cambodia

I'm simply raising the question of the heightened level of frustration on the part of the donor community generally, part of which are bilateral donors. Each country must make up its own mind on that. I think France, for example, if I'm not mistaken, gives aid directly. Other countries do also, not only humanitarian aid, but also development aid. So I think each country has to make up its own mind. I don't see any chance that the donor community is going to come together in terms of bilateral programs which aid the Cambodian country directly. My guess is that each one is going to do its own thing, and I stand to be corrected if that is not the case.

On the multilateral front, I do think that the IMF and the World Bank and others may decide that since not enough progress is being made in terms of the reforms that are felt to be necessary and which have long been on the books—certainly with regard to logging, for example—you could see a coming together, a consensus in the donor community. That consensus would put a great deal of pressure on the regime, not necessarily with regard to the trial issue, but with these other issues that I mentioned very briefly.

Prince Sirivudh: Well, I actually heard this by the presentation of Professor Fred Brown. I think conditionality hasn't worked and will never work in the case of Cambodia. And I don't think we need conditionality.

You know very well since 1997, and of course this year, that the U.S.—your're actually right Professor Fred Brown—has

suspended all direct aid to the government. In fact, all of the training of the officials has been further suspended. I've been informed that the training of the military personnel of the Royal Government of Cambodia has been even further suspended because of the Khmer Rouge issue. But I think there are a number of reasons why this will not work.

One, of course, is that there is no aid coordination among donors. Donors have different agendas and therefore, whether the U.S. continues to push it on its own, others will continue to have their own way. It will never work. And at the same time, the multilateral donors are very happy. They're very comfortable working with the current government; they're happy with it, so why is there a need for conditionality?

Questioner: I'm trying to understand the internal politics within the Cambodian government about this issue, which, as Kao Kim said, are complicated, to say the least. And Dr. Kao, you said that you saw a risk that the coalition would be split or would be threatened by passing a draft law or moving the trials forward.

I'm curious whether you meant between the two parties in the coalition, or within the parties, and how you would analyze the differences of opinion that exist in there. Also, I know it's almost impossible to get inside Prime Minister Hun Sen's head about anything, but I used to think that when it came down to it he was basically for some kind of trial. Now I no longer think that way, and I'd be interested to know what you think about it, where you think he stands on this, and where he'll come down. Thanks.

Fragile Coalition Government

Kao Kim Hourn: Thank you very much for that question. You know, the current coalition government was pretty much the same coalition government that was put in place by the 1993 election. This coalition government is very fragile. So I would say that, according to my own sources of information, the parties are, with respect to His Royal Highness, towing the CPP line right now.

And I think all the issues they're towing is making some of the FUNCINPEC members very unhappy. So eventually it will come up: how will FUNCINPEC decide whether it will continue to toe the CPP line, to play the second junior partner? Or, of course with elections coming up, will they have their own independent position? This is an issue that is now emerging between CPP and FUNCINPEC as coalition partner.

Additionally, I would argue that there are also splits within the party. Of course, we see factions emerging within the CPP, and also within FUNCINPEC. The prince actually used to argue that they have many different groups, factions within the party. I would say that in fact, with the recent violence, one could argue that it's really to some extent a power struggle within the political party.

I would say that the trial will further complicate the party politics, and also the coalition government. This is the reason why, for example, Prince Ranariddh has been saying that if FUNCINPEC is strong enough, he would probably ask the present National Assembly, would probably try to move the current debate on the draft law more quickly.

The fact is, to some extent the CPP has really influenced the current political process, and that's why I think the debate of the current draft law on the Khmer Rouge is not getting anywhere at all. I think that this delay will continue into next year. I'm not sure that by next year we will have a draft law at all on the Khmer Rouge.

Questioner: I'm a former Phnom Penh correspondent for the *Far Eastern Economic Review* and also a former Khmer Rouge survivor. I'm very surprised sitting here listening to the prince and former acquaintance. I'm addressing myself directly to Dr. Kim Hourn. It seems to me that everybody pays attention to the lack of the law for the prosecution of the Khmer Rouge leaders.

My first question is, who is the sponsor, the main sponsor of the law that's now before the National Assembly? Is it called a government proposition? Yes? From Hun Sen himself, more or less? As I see it, there need not be that law. Why? Because Ta Mok himself and the prison wardens are all under detention right now. So what. Under what law are they being arrested and detained? That's it, thank you.

Kao Kim Hourn: I want to touch on this very briefly. The current proposed law, of course, is really a Hun Sen-led draft law on the Khmer Rouge because it was drafted by the Council of Ministers with assistance by key countries like India and Russia. Of course, this has also been looked at by the other countries, including the U.S., because I think the U.S. also provided assistance in terms of looking at each article of the laws.

But I would argue that Hun Sen is not entirely CPP, and CPP is not entirely Hun

Sen, so there's different things here. Of course, CPP is not entirely Cambodia as such.

I would argue that the current arrest of Ta Mok and Duch, who are not under government detention, are being placed under different laws, because we don't have the Khmer Rouge law yet. We have another Khmer Rouge law that was put in place in 1994: the law on the Khmer Rouge. That law is not going to be used again, so they are basically amending parts of those laws in order to keep them behind the jails, until the current draft law comes into effect.

So I think, according to the human rights organizations—they have already pressed the government on this—that the government is violating the basic rights, human rights, by keeping these two fellows under detention for so long.

Questioner: First question, with the lack of political will to have this trial coming from the Hun Sen government, and with the general lack of a credible judiciary, what's the compelling argument for having a trial right now, as opposed to ten years from now, when there's been time to work on judicial reform, when there may be different political leadership? Is there a desire from the Cambodian people, for instance, that's pressing this forward so hard, or is it just coming from people in the international community?

And also, briefly if you could, I'd like you all to comment on the recent incident with the Cambodian freedom fighters in Phnom Penh. Is this straightforward? Is this group based in Long Beach? Did they hire some thugs and bring some guns out? Or is there a lot more to this than meets the

eye? There's been talk of a related opposition crackdown. Thanks.

Prince Sirivudh: Thank you. First of all, I'd like to say some people use the term "Hun Sen-ization" of the CPP, or the reaction, "anti Hun Sen-ization" of the CPP. This means the CPP and Hun Sen are not on the same level. So I don't say it.

But to come back to your question, the second one, it's personal. You know, sometimes there is a lot of suspicion about the cause of the Cambodian Freedom Fighters, CFF, composed of American Cambodians based in Long Beach.

One said that in terms of kidnapping, in terms of criminal cases, the national police and army haven't found any guilty persons and don't have any means to find out what's happened. The so-called fighting on November 24 was quickly resolved, and we found the guilty people. They have confessed, and with a CFF t-shirt, you know, "I'm CFF, please arrest me." Some people had some doubt that this was terrorism, you know? They said it's strange, that if CFF – I can imagine some crazy guys with guns based in the United States had some dreams, but the majority of the Cambodian people think that it's a little bit show perhaps, because it's so easy. If terrorists really to do this kind of thing, they like to be in the spotlight where the world can see them, like a thousand people. I won't say we don't have any proof that it's not CFF, but the perception is, it is.

But allow me to take us in this direction. The day when we hear rumors, when a civil society element, when the CPP politburo starts to say, "Oh, if we win the election in 2003, will the party gain with a

new prime minister or not?" The politburo starts to study the subject, and CPP contacts: "Will we keep the same prime minister?" Or, "Who will be the next prime minister?" From the day I heard rumors that the politburo started the discussion, there was attention in town, through a lot of speeches in public. Ironically, Prime Minister Hun Sen thinks, "Oh, some old guy's trying to take my place."

The intention is it's a start. In these days America has come very strongly with the KR trial, John Cary, and etc., you know, the Cambodian Freedom Fighters, *Khmer Serei*. The first sentiment is American, you know, it sounds very American. You disturb me with the KR trial; why don't I suggest somewhere to public opinion that American held bad things, too, in this country. That's the suspicion. So it's very balancing.

You talk about, as Professor Brown mentioned very strongly, reforms. Now the World Bank, IMF and donor countries come to us about reforming the national budget, more expanded, very based on defense and security. Now the National Assembly starts to talk about national budget law and you come to us about reducing defense and security. Oh now, with the CFF, even I can argue that I cannot agree to the reduction of the national budget on security and defense. To prove that, CFF is there, insecurity is there, so we need an army. The last suspicion is that the CFF is not really a hidden force. The CFF made a statement that all their documents had been controlled by the government and proven to the press.

Human Rights Groups Concerned With CFF Situation

Human rights groups are very concerned that, using the CFF situation, the government has arrested a lot of Sam Rainsy Party opposition, and who could be next? Perhaps – I mean, Kao Kim Hourn’s name is on the list, because if someone gives a name or connection, it’s 500 U.S. dollars. So 200 people have been arrested, from everywhere in the province. Again, human rights groups are very concerned that we are using this situation to scare. At the same time, the FUNCINPEC and human rights groups are supposedly a little bit scared about what’s going on, and, of course, the opposition party.

We must think seriously and very carefully about what’s going on with the CFF. I personally greatly doubt that a serious army has been trained to attack the government. I suspect that some poor guys had come from the provinces and were promised some job in Phnom Penh and after arriving in Phnom Penh they were given guns, and that was the situation. So I can imagine some crazy people think about armed forces again liberating the government, but I don’t think that’s really the case with the CFF situation. Thank you.

Brown: Tim advanced the first question, which I think is a good one: To what extent is it really the feeling of the Cambodian people that there has to be a trial now? And is it perhaps practical to look at this in terms of a longer term, when the Cambodian judiciary—if one can imagine that—might be more objective, less subject to domestic pressures, and perhaps have a situation where the trial would be better postponed? But you have to have a clear statement from the current leadership that crimes have been committed.

There were plenty of crimes committed. If a statement or a situation could be created whereby the government took the position that crimes were committed during the Khmer Rouge era, by whomever, then the question of when the trial would take place and under what kind of arrangement—international, semi-, half-international, half-Khmer—might be one way to handle the situation. I presume that kind of solution—not solution, it is a temporizing arrangement—is under discussion. It’s something worth considering there.

Kao Kim Hourn: I would argue that it’s better to have the trial today than wait for ten more years, for the very simple reason that you cannot try dead men; they’re dead, they’re gone, it’s useless. Second, we’ve lost a lot of time already. Since 1979 to today, twenty-one years have been wasted, and I think we don’t want to waste another ten years. That would be very unreasonable.

Political Will Must Be Created

The other thing is, I think, lack of political will. We must create political will. We must mobilize public opinion. We must put pressure on those in leadership positions to come to terms with this. I think we have more responsibility to do that, and that’s why I think we cannot wait ten more years until we have political will; we will never have political will in ten years. We will probably not have an independent and competent judiciary in the next ten years. So I think, let’s not wait. That’s my first point on the position.

Second, on the CFF, maybe I could add on, I look at this issue as four schools of thought. One: plain, simple, stupid for those CFF, if they basically have done it

on their own. But I think the CFF story was much more complicated, much more complex than that. I think first, at the party level, of course it would send a very powerful message to the political parties who are actually in control of the situation in Cambodia. Our P.M. had stated before, already, that without him in power, Cambodia will be in a very chaotic situation, and therefore, Cambodia needs him, maybe not only for this term but also for the next term. This is very clearly stated, he has stated this before.

Third, I would argue that at the national level this has been listed by the prince and sends a very powerful signal to civil society. It has been attempted to link, by the government, the act of terrorism to civil society. Of course, there was also an attempt, to some extent, to pressure FUNCINPEC members who have been arrested and denied by their own leadership who said that they are not FUNCINPEC members at all. Also, I think there are pressures on Sam Rainsy's Party. This is an attempt to use the opportunity as pressure. The question is, how will the government use this as a pretext to do what? I think that is a very critical question.

Now, perhaps more at the regional and global level, I see more of a political question here. It sends a message to Washington, to Beijing, and to Hanoi, to the U.S., saying, "Don't mess with this trial of the Khmer Rouge." Because now you have these American Cambodians involved in terrorism. "Let's extradite those Cambodian Americans who are involved in this terrorism back to Cambodia." The government has been saying already, of course, sending the message to Hanoi, saying that, "You know, Hun Sen is no longer the

horse of Hanoi, he has gone to Beijing already."

So I think this is a clear case already, because the scheduled visit of the Vietnamese president was cancelled, due to this incident. Of course, to China, basically it was saying clearly that Cambodia is pretty much in support of China, would do whatever is possible, and clearly there is an attempt to move away from Hanoi. Thank you.

(End)

About the Panelists

Main Speakers

His Royal Highness Prince Norodom Sirivudh is the son of His Majesty King Norodom Suramarit. Prince Sirivudh serves by appointment as Supreme Privy Counselor to His Majesty King Norodom Sihanouk, and as Chairman of the Board of Directors of the Cambodian Institute for Cooperation and Peace (C.I.C.P.), which he founded in 1994. He also has served as Minister of Foreign Affairs and Co-Deputy Prime Minister of Cambodia's provisional government and also actively taken part in numerous organizations including the GRUNCFUNK (Gouvernement Royale D'Union Nationale de Cambodge: United National Front of Kampuchea); and the National, Neutral, Peaceful and Cooperative Cambodia (FUNCINPEC), where he has been Chief Representative of HRH Prince Norodom Ranariddh in Paris, Chief of Humanitarian Department, and Secretary-General. HRH Prince Norodom Sirivudh, despite spending many years in exile, most recently from 1995-1999, plays a dedicated and active role in promoting collaboration, peace, cooperation, understanding, appreciation of human rights and democracy for the development of the Kingdom of Cambodia. He is a very staunch supporter of democratic reforms and an active participant in the forums of ASEAN and through CICP, instigates and promotes the Distinguished Lecture series, focusing on the many issues concerning Cambodia and the Region. HRH holds a degree in Mathematics and a Masters in Economics.

Dr. Kao Kim Hourn is Executive Director of the Cambodian Institute for Cooperation and Peace. He serves concurrently as a member, with the rank of Minister, of the Supreme National Economic Council (SNEC) of Cambodia; as Secretary General of Cambodia Committee for the Council for Security Cooperation in the Asia Pacific (CSCAP Cambodia); on the Board of Directors of the Human Rights Vigilance of Cambodia; and as an advisor to the Institute of Technology and Management. Dr. Kao Kim Hourn was advisor to Cambodia's Minister of Foreign Affairs and International Affairs in charge of ASEAN affairs. He holds degrees from the United States in Asian Studies, International Affairs and Political Science. Among his recent publications are *The Greater Mekong Subregion and ASEAN: From Backwaters to Headwaters* (2000), *Grassroots Democracy in Cambodia: Opportunities and Prospects* (1999), and *ASEAN's Non-Interference Policy: Principles under Pressure?* (2000). Dr. Kao Kim Hourn also has written for numerous compilations.

Discussant

Mr. Frederick Z. Brown founded the Southeast Asia Studies Program at the Paul H. Nitze School of Advanced International Studies in 1991 and has been Associate Director since 1995. He was a State Department foreign service officer from 1958 to 1984 with postings in France, Thailand, the Soviet Union, Vietnam (twice) and Cyprus. Mr. Brown also was a professional staff member for East Asia and the Pacific on the U.S. Senate Committee on Foreign Relations. He is the author of *Second Chance; The United States and Indochina in the 1990s* (1989) and other publications.

Moderator

Dr. G. John Ikenberry is Professor of Government and International Affairs at Georgetown University. In addition, he has been a Senior Associate at the Carnegie Endowment for International Peace and a Fellow at the Woodrow Wilson Center for International Scholars. He received his Ph.D. from the University of Chicago. Dr. Ikenberry is the author of numerous publications, including *Reasons of State: Oil Politics and the Capacities of American Government* (1988).