



NEWSLETTER



4. SPECIAL EDITION
August 2014

KAS CAMBODIA OFFICE

I. End of Political Deadlock in Cambodia

CPP AND CNRP REACH AN AGREEMENT

DENIS SCHREY
HELEN LUDWIG
LENA WILMS

www.kas.de
www.kas.de/kambodscha

After roughly one year of political deadlock the ruling Cambodian People's Party (CPP) and the main opposition party Cambodian National Rescue Party (CNRP) agree to reform the National Election Committee (NEC) and thereby to end the political boycott¹.

In the Aftermath of the 2013 national elections the major opposition party, CNRP refused to take its 55 out of 123 seats in the National Assembly². Accusing the ruling party, CPP, of electoral fraud and the operating national election committee (NEC) of biasedness towards the ruling party, the CNRP initiated a political boycott demanding a reform of the NEC and the election law.



Phnom Penh Post, August 2014

Since then, working groups comprised of delegates of both parties frequently met in order to engage in discussions and find compromise. Although

it took almost one year for this constant search for consensus to be transferred to higher level meetings, party leaders Hun Sen (CPP) and Sam Rainsy (CNRP) finally met for negotiations agreeing on key reforms. Most important point of this agreement was the CPP's consent to reform the NEC if the CNRP would put an end to its political boycott³. Nevertheless, the success of these ongoing negotiations had been threatened recently by recurring violent demonstrations with serious injuries among demonstrators and police forces.

The Devil is in the Detail: Fighting the Details of the NEC-Reform

The agreement between the party leaders included decisions concerning appointments to official positions for the opposition. Firstly, Kem Sokha, vice president of the CNRP, will become the new Vice-president of Parliament. Secondly a new anti-corruption committee will be established and headed by the CNRP. Finally, five committees will be chaired by CNRP-MPs⁴. The reform of the NEC, which is among the central parts of the agreement, will not

¹ CNRP, CPP: Press Release, 23. Juli 2014 (in Khmer)
² Schrey, Tran-Sam & Hartwig, 2013
³ The Phnom Penh Post, 23. Juli 2014
⁴ Radio Free Asia, 24. Juli 2014

SPECIAL NEWSLETTER

4. SPECIAL EDITION

AUGUST 2014

DENIS SCHREY

HELEN LUDWIG

LENA WILMS

www.kas.dewww.kas.de/kambodscha

contain amendments of the internal voting modalities towards a two-thirds majority, as was demanded by the CNRP. Instead the CPP agreed to reform the committee's composition. Accordingly, the NEC will now be comprised of 4 members chosen by each party respectively and a 9th impartial member, agreed upon by both parties⁵. Considering the existing voting modalities – currently an absolute majority is sufficient to reach a decision – the choice of a 9th member becomes therefore a highly sensitive and important issue. So far the NEC had been composed exclusively of close affiliates of the ruling party.

After the CNRP made clear that its law-makers elect would only take up their seats if a 9th member was found⁶, both parties publicly stated that they favored Pung Cchiv Kek, foundress and chairwoman of the Cambodian League for Promotion and the Defense of Human Rights (LICADHO)⁷. In a letter to both parties Pung Cchiv Kek laid out the following conditions for accepting the post:

- Financial independence (including the permission to receive money from other (foreign) organizations)
- Independence of decision-making and staff recruitment
- Immunity from prosecution for its members⁸

Those conditions were accepted immediately by CNRP officials. The CPP however commented that questions of immunity had not been part of the agreement between Hun Sen and Sam Rainsy. Furthermore immunity would - nationally as well as internationally - only be granted to members of parliament and ambassadors. Therefore, granting it to members of a national election committee would not resemble international standards.⁹ Instead immunity as it is granted to members of the constitutional council and the supreme council of the magistracy is currently under discussion. This would involve immunity from prosecution regarding decisions taken while fulfilling office-related duties. Yet, members would lose their position if convicted of any misdemeanor or felony. Also the CPP refused to negotiate more detailed elements such as if members of the committee should be granted a certain duration of terms at this point in time.



The Wallstreet Journal, 05. August 2014

Finally the parties agreed that detailed regulations like these should be specified in a law regarding the internal structure and procedures of the NEC¹⁰.

On August the 5th 2014 King Norodom Sihamoni was finally able to swear in the 55 opposition law makers elect to the national assembly. Hun Sen kept his word and arranged for the dismantling of barricades surrounding Freedom Park.

Due to various demonstrations, of different origin, which had turned violent during the last year the government had restricted freedom of assembly by decree and had barred Freedom Park from public access in January.¹¹ This move can be seen as a symbolic step to re-establish freedom of assembly, but nevertheless would have to be legally confirmed.

⁵ Radio Free Asia, 23. Juli 2014

⁶ The Cambodia Daily, 26.-27. Juli 2014

⁷ The Phnom Penh Post, 28. Juli 2014

⁸ Radio Free Asia, 28. Juli 2014

⁹ The Cambodia Daily, 2.-3. August 2014

¹⁰ The Cambodia Daily, 05. August 2014

¹¹ The Phnom Penh Post, 07. August 2014



SPECIAL NEWSLETTER

4. SPECIAL EDITION

AUGUST 2014

DENIS SCHREY

HELEN LUDWIG

LENA WILMS

www.kas.de

www.kas.de/kambodscha

For Further Information

CNRP, CPP (23. Juli 2014). *Agreement to End the Political Deadlock between CPP and CNRP*. Abgerufen am: 07. August 2014 von http://www.opendevdevelopmentcambodia.net/pdf-viewer/?pdf=wp-content%2Ffiles_mf%2F1406175926Agreement_to_end_the_political_deadlock_between_CPP_and_CNRP_khm.pdf

Radio Free Asia (23. Juli 2014). *Sam Rainsy Defends Opposition Deal with Cambodia's Ruling Party*. Abgerufen am 24. Juli 2014 von <http://www.rfa.org/english/news/cambodia/deal-07232014180806.html>

Radio Free Asia (24. Juli 2014). *Cambodian Opposition Leader Set to Join Parliament*. Abgerufen am 07. August 2014 von <http://www.rfa.org/english/news/cambodia/leader-07242014164325.html?searchterm:utf8:usttring=cambodia>

Radio Free Asia (28. Juli 2014). *Are Cambodian Leaders Serious about Implementing Reform?* Abgerufen am 07. August 2014 von <http://www.rfa.org/english/commentaries/east-asia-beat/agreement-07282014013633.html?searchterm:utf8:usttring=cambodia>

Schrey, D., Tran-Sam, A. & Hartwig, S. (2013). *Parliamentary Elections 2013 and the development of the political parties in Cambodia*. Abgerufen am 28. Mai 2014 von Konrad Adenauer Stiftung: <http://www.kas.de/kambodscha/en/publications/36022/>

The Cambodia Daily (23. Juli 2014). *Hun Sen, Rainsy Strike Deal: CNRP To Take Seats*.

The Cambodia Daily (26. -27. Juli 2014). *CNRP Wants Details Before Taking Seats*.

The Cambodia Daily (02. – 03. August 2014). *Immunity a Sticking Point in CPP-CNRP Agreement*.

The Cambodia Daily (05. August 2014). *King to Swear CNRP into Assembly today: Parties Agree on Details of Constitutional Chapter Enshrining Elections Body*.

The Phnom Penh Post (23. Juli 2014). *One Year in the Making: CNRP, CPP strike deal to end political stalemate*.

The Phnom Penh Post (28. Juli 2014). *A Ninth Candidate is Eyed: Final Member of the NEC may be Named Today*.

The Phnom Penh Post (07. August 2014). *Opening Marks A Return to Freedom*.

SPECIAL NEWSLETTER

4. SPECIAL EDITION

AUGUST 2014

DENIS SCHREY

HELEN LUDWIG

LENA WILMS

www.kas.de

www.kas.de/kambodscha

II. Khmer Rouge Tribunal Finds Khieu Samphan & Nuon Chea Guilty

VERDICT IN CASE 002/01: LIFE IMPRISONMENT FOR THE LAST REMAINING
MOST SENIOR POLITICANS OF THE DEMOCRATIC KAMPUCHEA

Almost three years after the beginning of the prosecution in case 002/01, the Khmer Rouge Tribunal on August the 7th 2014 handed down guilty verdicts for crimes against humanity to Nuon Chea and Khieu Samphan.

The Extraordinary Chambers in the Courts of Cambodia (ECCC), commonly referred to as the Khmer Rouge Tribunal started its work with the swearing-in ceremony of the judges and prosecutors in July 2006. The ECCC was established as a Hybrid-Court by the Government of Cambodia and the United Nations, to legally clarify the crimes committed by the Khmer Rouge Regime. Now, 8-years later, Khieu Samphan & Nuon Chea were sentenced to life imprisonment.

Since the initiation of the work of the Tribunal, five different people have been accused in two different cases. Kang Kek Iew, better known as “Comrade Duch” one of the leaders of Khmer Rouge and head of the Toul-Sleng (S-21) prison, was the first to be brought before the Tribunal (in case 001). He was found guilty of crimes against humanity and grave breaches of the Geneva Conventions and sentenced to 30-years imprisonment. Later the sentence was extended to life imprisonment on appeal. In the second case (case 002) the last remaining most senior politicians were accused. The charges against Ieng Sary, Ieng Trithit, Nuon Chea and Khieu Samphan included crimes against humanity, war crimes and genocide. But after the initial hearings in November 2011 the Chamber decided to split case 002 into two separate cases, case 002/01 & 002/02.¹²

Case 002/01 primarily focused on crimes against humanity as committed through the forced relocation of the population of Phnom Penh and other urban regions and the execution of Khmer Republic Soldiers directly after the Khmer Rouge takeover.¹³

In Case 002/02 the ECCC will approach charges related to genocide, forced marriage and rape, internal purges and crimes committed in four security centers (S-21, Kraing Ta Chan, Au Kanseng & Phnom Kraol – Security Centres), three worksites (1st January Dam, Kampong Chhnang, Trapeang Thma Dam) and the Tram Kok-cooperative.¹⁴

After Ieng Sary died in March 2013 and his wife Ieng Trithit was found to be unfit to stand the trial in August 2013, the proceedings against them were terminated. Only Nuon Chea, the right hand man of Pol Pot and Khieu Samphan Democratic Kampuchea’s Head of State remained defendants.

¹² ECCC, press release (18.02.2011), <http://www.eccc.gov.kh/en/media-center/press-releases>

¹³ <http://www.eccc.gov.kh/en/case/topic/1294>

¹⁴ ECCC, <http://www.eccc.gov.kh/en/case/topic/1299>

SPECIAL NEWSLETTER

4. SPECIAL EDITION
AUGUST 2014

DENIS SCHREY

HELEN LUDWIG

LENA WILMS

www.kas.de

[www.kas.de / kambodscha](http://www.kas.de/kambodscha)

Although Nuon Chea and Khieu Samphan denied being responsible for the death of over 1,7 million people¹⁵, the trial found them guilty for crimes against humanity.

The verdict is based on their involvement in a joint criminal enterprise, whose mission was to implement a “rapid socialist revolution through a great leap forward by any means necessary”.¹⁶ This common purpose was implemented by policies to forcibly evacuate people from cities and towns. The Trial Chamber found, that due to the evacuation of Phnom Penh, two million people were forced to leave the city „under terrifying and violent circumstances”.¹⁷ Also The Court rejected “any



Cambodia Daily

suggestion that it was necessary or proportionate under these circumstances to empty virtually the entire city”. In addition it assessed that the circumstances of the second phase of the forced resettlement were “miserable”.¹⁸ Also the chamber found, that the execution of Khmer Republic soldiers at Toul Po Chrey was implemented by Nuon Chea and Khieu Samphan as a means to the end of eradicating potential resistance by eliminating eventual enemies.

The court considered it proven that only Nuon Chea is accountable as a superior for all crimes in context of the deportation of the population and the happenings at Toul Po Chrey. In contrast to that the conviction of Khieu Samphan was based on his participation in a joint criminal enterprise only. But nevertheless both were, because of the gravity of the crimes, including the vast number of victims and the inhuman conditions of the forced transfer, sentenced to life in prison.

The two appeared impassive during the pronouncement of the verdict. 1.7 million people are believed to have lost their life's under the Khmer Rouge Regime through executions, starvation, overwork and diseases.

¹⁵ ECCC, NUON CHEA'S CLOSING SUBMISSIONS IN CASE 002/01,

http://www.eccc.gov.kh/sites/default/files/documents/courtdoc/2013-12-06%2010:23/E295_6_3_Redacted_EN.PDF

¹⁶ ECCC, SUMMARY OF THE JUDGEMENT IN CASE 002/01,

<http://www.eccc.gov.kh/sites/default/files/articles/20140807%20FINAL%20Summary%20of%20Judgement%20ENG.pdf>

¹⁷ ECCC, SUMMARY OF THE JUDGEMENT IN CASE 002/01,

<http://www.eccc.gov.kh/sites/default/files/articles/20140807%20FINAL%20Summary%20of%20Judgement%20ENG.pdf>

¹⁸ Phnom Penh Post (08.08.2013), <http://www.phnompenhpost.com/national/tribunal-finds-khieu-samphan-nuon-chea-guilty>



SPECIAL NEWSLETTER

4. SPECIAL EDITION
AUGUST 2014

DENIS SCHREY

HELEN LUDWIG

LENA WILMS

www.kas.de

www.kas.de / kambodscha

For Further Information

ECCC, press release 18.02.2011, <http://www.eccc.gov.kh/en/media-center/press-releases>

ECCC, <http://www.eccc.gov.kh/en/case/topic/1294>

ECCC, <http://www.eccc.gov.kh/en/case/topic/1299>

ECCC, NUON CHEA'S CLOSING SUBMISSIONS IN CASE 002/01,
http://www.eccc.gov.kh/sites/default/files/documents/courtdoc/2013-12-06%2010:23/E295_6_3_Redacted_EN.PDF

ECCC, SUMMARY OF THE JUDGEMENT IN CASE 002/01,
<http://www.eccc.gov.kh/sites/default/files/articles/20140807%20FINAL%20Summary%20of%20Judgement%20ENG.pdf>

Phnom Penh Post, (08.08.2013), <http://www.phnompenhpost.com/national/tribunal-finds-khieu-samphan-nuon-chea-guilty>