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Duch appeals verdict Cheang Sokha & Sebastian Strangio November 21, 2010

Lawyers for former Tuol Sleng prison chief Kaing Guek Eav have officially lodged an appeal against the verdict handed down by the Khmer Rouge tribunal in July, arguing that his case falls outside the court's jurisdiction.

Kang Ritheary, one of two Cambodian lawyers representing the infamous jailor, better known as Duch, said the defence team filed its appeal to the KRT's Supreme Court chamber on Friday.

"We have asked the court to acquit Duch, since [his case] is outside of its jurisdiction," he said yesterday.

"We did not consider the crimes he committed at Tuol Sleng [to fall into this jurisdiction], because the agreement between the government and the UN is that low-ranking officials like Duch are not those most responsible."

Kang Ritheary also called for Duch to be released, adding that he could act as a valuable witness in the tribunal's upcoming second case against four former regime figures.

The full text of the appeal had not been made public as of press time last night.

The agreement between Cambodia and the United Nations that established the tribunal limits prosecutions to "senior leaders of Democratic Kampuchea" and those deemed "most responsible" for crimes committed under the regime.

In its July 26 verdict, the court found Duch guilty of crimes against humanity and grave breaches of the Geneva Conventions, sentencing him to 30 years in prison.

Duch's legal team made little mention of the jurisdictional issue during hearings last year before closing arguments, when defence lawyer Kar Savuth abandoned his team's strategy of pushing for a lenient sentence and instead argued that the court had no right to try Duch in the first place.

Long Panhavuth, a project officer at the Cambodia Justice Initiative, said the jurisdictional issue had already been settled by the court's Pre-Trial Chamber and that the appeal had little chance of success.

He said that Duch, who oversaw the deaths of as many as 16,000 people at S-21, was undoubtedly one of those most responsible for the crimes of the Khmer Rouge.

"I would say the whole [trial] process has been credible," he said. "This is an attempt to prolong the case."

Last month, prosecutors also filed an appeal against the sentence, seeking a 45-year prison term without parole for Duch and claiming that the 30-year sentence he received, which amounted to just 19 years after the deduction of time already served, was "plainly unjust".

In their 66-page appeal, the prosecutors asked that Duch receive a life sentence that would then be commuted to 45 years due to his unlawful pretrial detention.

In an earlier statement, they said the sentence handed down on July 26 was "arbitrary and manifestly inadequate" and gave undue weight to mitigating circumstances, such as Duch's expressions of remorse during the trial and his cooperation with the court.

Court spokesman Lars Olsen said that the court's Supreme Court chamber had not yet scheduled a hearing for either appeal.

According to the court's rules, Olsen said, appeal hearings are generally public, though there are cases in which the Supreme Court can rule otherwise.

Four other ageing senior leaders of the Khmer Rouge – Brother Number 2 Nuon Chea, former head of state Khieu Samphan, former foreign minister Ieng Sary and his wife, former social affairs minister Ieng Thirith – are in detention at the hybrid court.