



## **Khmer Rouge jailer appeals war crimes conviction** **March 28, 2011**

Lawyers for former Khmer Rouge prison chief Duch called for his release on Monday, arguing at an appeal that he was only following orders when he oversaw the deaths of some 15,000 people.

Duch, whose real name is Kaing Guek Eav, was convicted at Cambodia's UN-backed war crimes court in July of war crimes and crimes against humanity for his role at the notorious torture prison Tuol Sleng in the late 1970s.

The first Khmer Rouge cadre to face an international tribunal, he was sentenced to 30 years in prison, and both defence and prosecution are appealing against the punishment in a three-day hearing at the court.

During his trial, the jailer repeatedly apologised for overseeing mass murder at the detention centre -- also known as S-21 -- but shocked the court by finally asking to be acquitted in November 2009.

Duch's Cambodian counsel Kar Savuth told the Supreme Court Chamber that his client had only the "very lowest rank" in the communist party and was simply following orders from above.

"Duch was just a minor secretary who had no real authority to make decisions or to do anything contradictory to the direction or the order from the upper echelons," he said.

The "superior orders" defence was most notably used at the Nuremberg trials after World War II, when it was ruled that it did not absolve Nazi war criminals of responsibility for their actions.

The defence team argued that the tribunal had no right to try their client because he was not one of the regime's senior leaders, nor one of those most responsible for the crimes committed.

"Duch was just a tool used by those people and he should fall outside the jurisdiction of the (court) for this reason," Savuth said. "If there is any doubt (about jurisdiction) then the accused should be acquitted and not found guilty."

Duch himself only briefly addressed the court. Wearing a white jacket and a powder-blue shirt, he said the main point of his appeal was the court's jurisdiction to try him, rather than questions of fact.

"So this is purely a legal matter. I give authority to my legal representatives to act on my behalf," he said, before returning to his seat.

At his trial the 68-year-old was initially given 35 years in jail but the court reduced the sentence on the grounds that he had been detained illegally for years.

Taking into account time already served, Duch could walk free in less than 19 years, to the dismay of many victims of the 1975-1979 hardline communist movement.

Prosecutors, whose appeal is due to be heard on Tuesday, are hoping to have Duch's sentence increased to life, to be commuted to 45 years for time served in unlawful detention.

They say in their appeal brief that the verdict did "not adequately reflect the seriousness of the crimes or the respondent's role in those crimes".

They also want enslavement, imprisonment, torture, rape, extermination and other inhumane acts to be added to Duch's list of convictions.

The tribunal's Supreme Court Chamber is expected to announce its ruling on the appeals in late June.

Bou Meng, one of the few survivors of S-21, wants to see Duch receive a harsher punishment.

"The sentence against Duch is so lenient that I cannot accept it. I want him to stay in jail for life," the 70-year-old told AFP.

Led by "Brother Number One" Pol Pot, who died in 1998, the Khmer Rouge wiped out nearly a quarter of Cambodia's population through starvation, overwork and execution.

S-21 in Phnom Penh was at the centre of the regime's security apparatus and thousands of inmates were taken from there for execution in a nearby orchard.

Duch has been detained since 1999, when he was found working as a Christian aid worker in the jungle. He was formally arrested by the tribunal in July 2007.

Four more of the regime's former members -- including "Brother Number Two" Nuon Chea -- are due to go to trial later this year and Duch is expected to appear as a witness in the case.