



## **‘Contemptible’ Dutch Lawyer Angers Cambodia**

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Michiel Pestman’s knowledge of Pol Pot and the Khmer Rouge atrocities were, by his own admission, confined to the 1984 film, *The Killing Fields*. In 2007 that began to change when he was offered the chance to defend Nuon Chea, otherwise known as Brother Number Two, at the Extraordinary Chambers in the Courts of Cambodia. This joint Cambodian-UN tribunal was set up nearly a decade ago, to prosecute those responsible for the deaths of almost two million Cambodians in the 1970s.

It took till 2011 for trial 002 to get underway, and Pestman moved to the capital Phnom Penh with his family to take up the challenge. But it’s only upon his return to Amsterdam that he feels free to speak about the experience.

### **Hybrid court**

The Cambodian regime is able to interfere with and sabotage proceedings to an exasperating degree, precisely because the tribunal is a hybrid court comprised of Cambodian and international staff and rules of procedure.

‘Within two weeks of being there I realised the trial was never going to be over within the six to nine months I’d been promised. All these trials are the same’, he says wearily. ‘They always last longer than everyone thinks and they are never as efficient as everyone promises.’

### **Judicial snake-pit**

Since the beginning, the court has been plagued by a series of high-profile resignations, political set-backs and myriad controversies, including questions about who exactly should be prosecuted. An issue not helped by the fact that the leaders of today are barely discernible from the Khmer Rouge leaders of that time. Current leader, Prime Minister Hun Sen is a case in point. He’s dominated the political scene in Cambodia for the past three decades and his leadership has often been shrouded by controversy.

Notwithstanding, Pestman insists he went with an open mind. But almost immediately, he was hit with the realisation he’d landed in a snake-pit.

He says his client was constantly prevented from speaking, witnesses were threatened and not allowed to appear in court and the clients are now so old and frail that it’s unlikely they’ll ever see the end of the trial.

‘I had no idea before I got there that it was such a repressive regime’, he says. ‘I have always lived in democracies and I have to say that even when I worked at the Special Court for Sierra Leone, it was a haven of free speech compared to what I encountered in Cambodia.’

### **Veiled threats**

The level of government interference had a direct impact on Pestman’s ability to do his job.

‘I was so frustrated at the lack of progress in my case that I decided to speak out. I filed a criminal complaint at the local court in Phnom Penh against people in the court and in the government. But I very quickly received a letter warning me to back off. A judge in the court came up to me and told me I shouldn’t cycle to work anymore, because if I got hit by a car, how would they know it was an accident?’.

This was a worrying turn of events, as his family was living there with him during this time. But he says that as a foreigner, he felt protected.

‘Hun Sen restrained himself where I was concerned, but he has made public statements about me personally, and I’m known as ‘the contemptible Mr Beard’. Pestman explains this could be considered a very threatening use of the word contemptible as that’s how the Khmer Rouge referred to their enemies at the time.

### **Infectious atmosphere**

In the wake of events, Pestman has decided to quit. He says he’s struggled right from the start. And although he agrees that the idea of trying people is a positive move to establish accountability and to help the victims, he says the Cambodian regime has too much influence.

‘There’s this one-party state and this towering figure of Hun Sen who’s been in power since the Khmer Rouge regime ended in 1979. Everyone is terrified of him. He has not shied away from killing members of the opposition in the past, so it’s not a pleasant atmosphere. I’m not sure if the court infects Cambodian society or whether society infects the court - either way, it’s not a shining example for the Cambodian people and it’s unlikely to have a positive legacy’.