

## **Cambodia: Khmer Rouge tribunal 101**

**Simon Montlake**

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*The Khmer Rouge ruled Cambodia from 1975 until 1979 and is blamed for the deaths of 1.7 million people. The Maoist group tried to build an agrarian society purged of foreign influences. Until now, none of its senior cadre has gone on trial, and Pol Pot, its paramount leader, died in 1998 in a jungle camp after losing power to Vietnamese occupiers.*

*The Khmer Rouge tribunal, a joint effort between Cambodia's judiciary and the United Nations, opened in 2006 and has so far spent more than \$100 million on investigating and trying surviving members of the senior leadership. Only one has been prosecuted and found guilty. Here are five frequently asked questions answered:*

### **1. What is the tribunal and why is it significant?**

The Khmer Rouge tribunal was established in the 1990s as a way to set the historical record straight and bring a measure of justice and accountability for survivors of the genocide.

Cambodia's prime minister, Hun Sen, a former Khmer Rouge soldier who isn't accused of any war crimes, was reluctant to allow an international tribunal. He has repeatedly warned that a wide-ranging inquiry could imperil the country's political stability.

As a compromise, the United Nations agreed to a jointly run tribunal known officially as the Extraordinary Chambers in the Courts of Cambodia (ECCC). The bench consists of Cambodian and international judges and prosecutors. It's unusual for a UN genocide tribunal to be held in the country where the genocide occurred.

### **2. What have been its main achievements so far?**

In July 2010, Kaing Guak Eav, known as Duch (pronounced "Duke"), who ran a secret detention camp in Phnom Penh, was found guilty of war crimes and crimes against humanity and sentenced to 35 years in prison. Up to 16,000 people died in the camp, a former school and now a museum. Many were brutally tortured to extract confessions of plotting against the regime.

Duch confessed to his crimes and apologized to victims during the lengthy trial. Judges cut his sentence to 19 years to take into account his decade in captivity. This move drew

criticism from some of the victims' families, who said the sentence was too lenient given the heinous crimes.

Duch has since appealed his sentence and backpedaled on some of his confessions.

### **3. What happens next?**

The next four defendants are senior cadre, including Nuon Chea, known as "Brother Number 2" in the regime. The others are Ieng Sary, a deputy leader, and his wife, Ieng Thirith, and former head of state Khieu Samphan. Most are elderly and in poor health and may not survive a lengthy and complex trial. All are expected to plead not guilty. Pretrial hearings start June 27.

The tribunal has two other outstanding cases, known as 003 and 004, that could lead to further indictments. But in a surprise move, the bench ruled in April that Case 003 should be dropped. An international prosecutor complained later that the investigating judges hadn't even questioned the suspects or investigated the crime scene. Critics say the ECCC appears to be bowing to political pressure to limit the tribunal's scope. Several staff quit recently in protest at the judges' decisions.

"It appears that they decided to drop the case and didn't do the investigation. That's the really problematic part," says Anne Heindel, a legal adviser to the Documentation Center of Cambodia in Phnom Penh.

Under Cambodian law, which is modeled on French civil law, judges investigate and decide whether or not to follow the recommendations of prosecutors. Judges aren't obliged to state their reasons publicly until they issue a final closing order, which is subject to consultation with prosecutors and court officials.

### **4. What is the role of the international community?**

Foreign donors have provided most of the funding, which is forecast to reach \$140 million by the end of this year.

The US government hasn't contributed directly due to congressional restrictions on assistance to Mr. Hun's government, though US funding has supported research and nonprofit groups working on the tribunal.

The largest donor is Japan, which has covered nearly half of the tribunal's costs, including contributions in kind, according to the ECCC's website.

### **5. Why is there so much controversy about opening more cases?**

The tribunal is supposed to investigate suspects with direct responsibility for serious crimes during the Khmer Rouge era. Critics say this mandate has been undermined by Hun's repeated demands for the tribunal to limit its work to the current suspects. Case

003 involves two military commanders accused of mass killings, according to leaked court documents.

Human rights groups have singled out a German investigating judge, Siegfried Blunk, and his Cambodian counterpart, You Bunleng, for failing to follow proper procedures. The judges have rejected the allegations and issued a statement last month that said they were "resolved to defend their independence against outside inference, wherever it may come from."

The Open Society Justice Initiative, a United States-based organization, has called on the UN to investigate alleged ECCC misconduct. In a statement, its executive director, James Goldston, said the tribunal was designed to bring accountability for past crimes and help Cambodia to establish the rule of law.

"In apparently bowing to political pressure, the court undermines both goals. An independent investigation is urgently needed," he said.

A spokesman for UN Secretary-General Ban Ki-moon has denied that the UN had interfered in the process. In a June 14 statement, the spokesman insisted that the ECCC judges must be allowed to work independently.