



Duch trial may be first and last

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When the Extraordinary Chambers of the Courts of Cambodia (ECCC) hands down its first verdict in the coming weeks, it will be a landmark for a tribunal mired in allegations of political interference. It will also be a judgment on a man who admitted responsibility for torture and killings at a Khmer Rouge prison he ran, but simultaneously argued that he was following orders he could not reject.

That bipolar dynamic emerged the first day that Kaing Guek Eav, better known as “Duch”, addressed the court. “I would like to apologize to all surviving victims and their families who were mercilessly killed at S-21,” he said. “It is my hope, however, that you would at least leave the door open for forgiveness.”

But as he carried on, his appeal grew murkier. He said he asked for another job when he was first ordered to take over the prison, but his request was rejected. “I was forced to accept the position, and so I agreed,” said Duch, explaining that he and his family would have faced the same fate as his victims if he continued to protest.

Between 13,000 and 17,000 people were tortured at S-21 before being killed. The numbers spiked during the last years of the regime, when its leaders became paranoid about infiltration by foreign agents and began purging the party. It was Duch’s job to make sure that prisoners confessed to their roles in elaborate, imagined conspiracies.

“Even though I knew these orders were criminal, I dared not think this way at the time. It was a life and death problem for me and my family,” Duch said.

Watching from the chambers that day was Nic Dunlop. A British photojournalist, Dunlop discovered Duch living under an assumed name and working for a Christian aid agency on the frontier with Thailand. Their meeting ten years earlier led to Duch’s arrest.

Dunlop said Duch’s speech was “entirely consistent” with what he told him a decade before. “I think that what he was saying was that ‘I was in an impossible position.’ And I think it’s up to the court to decide whether he was in an impossible position,” Dunlop said.

He had been searching for Duch, carrying his photo around with him, but he didn’t expect to run into him while on assignment documenting a land-mine clearing project.

Dunlop recognized him immediately, but did not confront him right away. When he returned, Duch, a born again Christian, took it as a sign. “One of the things he said was, ‘My confession is rather like Saint Paul’s. I’m the chief of sinners,’” Dunlop recalled.

During nine months of testimony, Duch continued to confess his role in the Khmer Rouge. But on the last day of the trial, he asked the court to release him. Asked to clarify these remarks, his Cambodian lawyer, Kar Savuth, told judges that Duch was asking for an acquittal. That came days after an equally surprising request by Kar for his client’s release, arguing that the court did not have the jurisdiction to prosecute Duch, because he was not a senior leader in the regime.

It seemed to undermine consistent efforts by the defense to get the most lenient sentence possible for their client by having him cooperate with the court and admit his crimes. Duch’s international lawyer, Francois Roux initially said that he suspected political pressure was behind his counterpart’s sudden turnaround.

It wasn’t the first such suggestion. In fact, Cambodia’s prime minister, Hun Sen, has said publicly that he would rather see the court fall apart than have it pursue charges against further suspects, as the prosecution intends. Observers have pointed to this and other incidents as evidence that the government is attempting to undermine the court in the hopes of preventing more trials, which could make public embarrassing information about former Khmer Rouge members who hold political office today.

If the critics are right, the upcoming verdict in the Duch trial may end up being the first and the last handed down by the ECCC.