

Khmer Rouge crimes in legal limbo

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CHIANG MAI // During the Khmer Rouge years, Im Chaem had the dubious honour of receiving visits from the movement's supreme leader and chief architect of its genocidal policies.

Pol Pot would meet with her at a construction site where she oversaw work on the regime's largest irrigation project, built by the forced labour of thousands of diseased and starving workers. Her other duties included heading a security centre in which 40,000 people died.

Those are some allegations contained in a confidential court document obtained by The National, which describes charges against Ms Im and two other suspects, Ta An and Ta Tith.

None of the suspects are likely to see the inside of a courtroom, let alone a jail cell. The case appears too politically sensitive for a UN-backed tribunal, which was set up to try leaders of the regime that presided over the deaths of about two million people between 1975 and 1979.

The case is one of two that Cambodian officials have repeatedly stated they will not permit to go forward. Referred to as cases 003 and 004, they are at the centre of a controversy that has cast doubt on the ability of the court to act independently of political interference.

Some court observers accuse the investigating judges - a Cambodian and his German counterpart - of caving to political pressure by failing to properly investigate allegations against suspects in the cases.

Victims were outraged when judges announced on April 29 the conclusion of the investigation into 003, even though they had ordered no field visits to potential mass graves. They also neglected to interview witnesses, or even the suspects themselves. In June, it was revealed that UN-employed members of the judges' legal team had resigned in protest.

Many claim the judges failed to adequately investigate 003 because they were reluctant to turn up evidence that would support the prosecution's allegations and force them to recommend the case go to trial. The judges have strongly denied that.

Yet, many observers fear that court officials will use similar tactics to shut down the

investigation into 004.

A confidential submission provided to The National lays out the prosecution's argument in that case. The confidential document contains previously unreported information.

Ms Im Chaem is now a commune chief in the former Khmer Rouge stronghold of Anlong Veng District.

"Im Chaem herself acknowledges that as many as 10,000 individuals died from executions, starvation and disease during her tenure as district secretary in Preah Net Preah and that there was lack of food and adequate medical care during this period," prosecutors claim in their submission.

Ta An and Ta Tith were deputy secretaries, or second in command to Khmer Rouge officers who controlled geographical zones. Both men allegedly oversaw massacres.

Mr Ta Tith is now "a wealthy businessman in Phnom Penh", according to the document, which alleges that he "had knowledge of, ordered and possibly directly participated in the torture and mutilation of prisoners".

Mr Ta An was deeply involved in purges and the mass killing of Cham Muslims, prosecutors claim.

Cambodian officials have claimed that expanding the scope of prosecution to include mid-ranking Khmer Rouge cadres, such as suspects in case 004, could incite violence led by other former mid-ranking officials who might fear arrest.

Analysts, human-rights groups and historians dismiss such a scenario as unrealistic. Instead, many suggest that testimony in such trials could reveal embarrassing information about officials in the current government, which includes many former Khmer Rouge members.

Cambodia's prime minister, Hun Sen, was a midlevel Khmer Rouge officer before defecting to Vietnam during the purges. He has never been accused of involvement in Khmer Rouge crimes.

During an October 2010 visit to Phnom Penh by the UN Secretary General Ban Ki-moon, Mr Hun Sen told Mr Ban that he would not allow any more cases to go to trial.

Many suspected the investigative judges' handling of 003 was evidence that the UN had decided not to bring the case to trial at the tribunal. The UN denied such allegations in a June 14 statement issued by Mr Ban.

But a diplomatic cable from the US embassy in Phnom Penh, released by WikiLeaks, indicates that UN officials did discuss removing 003 from the tribunal's caseload.

During a January 2010 meeting of donors to the tribunal, Knut Rosandhaug, a UN court administrator, cited concerns about the cost of the investigation and possible trial. And he

"broached the subject of transferring case 003 to the domestic court to further reduce the total amount required to the tribunal," the cable records.

Such a move would effectively kill the case. Cambodia's court system is infamously corrupt and controlled by the government that opposes cases 003 and 004.

Alex Bates, a former prosecutor at the tribunal, said UN officials must have foreseen difficulties arising with the politically sensitive cases and made contingency plans.

The implications of any strategy to transfer 003 and 004 to domestic courts would have been obvious. "The judges and the prosecutors are completely in the hands of their political masters," Mr Bates said of Cambodia's legal system.

The Open Society Justice Initiative called on the UN to conduct an inquiry into the conduct of the investigating judges, saying such an investigation could salvage the tribunal's reputation. The UN has refused to do so and Mr Ban said in his June statement that closing the investigation into 003 was only "an interim procedural step".

Lead prosecutor Andrew Cayley has asked the Pre-Trial Chamber to order the investigating judges to reopen the investigation, a request the Chamber is now considering.