



Shock Khmer Rouge plea highlights political battle

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PHNOM PENH — A last-minute bid for release by Khmer Rouge jail chief Duch has underscored deep rifts between foreign and Cambodian staff that threaten the UN-backed court, officials and diplomats said.

Duch's defence strategy imploded on the final day of his trial Friday, when he suddenly demanded his release after months of admitting responsibility. Then his international and local lawyers put forward opposing arguments.

French counsel Francois Roux asked judges to consider Duch's remorse in a bid to reduce a possible 40-year sentence. But his Cambodian colleague Kar Savuth said the court was not competent to hold the trial.

"There are, in Cambodia, a number of people who do not want this court," Roux told AFP, hinting that the strategy of his colleague, the lawyer of Cambodian Prime Minister Hun Sen, was motivated by political objectives.

The same criticism has been heard from prosecutors, judges and diplomats since the tribunal was created in 2006 as a final chance for justice for victims of the communist regime that killed up to two million people in the late 1970s.

Cambodian and international prosecutors have openly disagreed whether the court should pursue more suspects, while the Cambodian investigating judge has refused to summon high-ranking government officials as witnesses.

Hun Sen himself said in March that he would "prefer for this court to fail" than see further prosecutions that could stoke civil strife.

Asked recently about the possibility of opening further cases, a senior government official told AFP: "These are decisions taken by people who understand nothing about Cambodia."

The disharmony predated the court's creation, recalls David Scheffer, a former US ambassador who took part in the lengthy negotiations to set up the tribunal.

"This is what's unique about it. But that does not mean it is not workable. We just need to accept that there is a certain amount of discord," Scheffer said.¹

The issues run deep. How many former Khmer Rouge cadres should be brought to trial? Who should the witnesses be?

And how to attribute blame when several senior regime members are back in positions of influence -- not least Hun Sen, who defected in 1977 to join Vietnamese-backed anti-Khmer Rouge forces?

"The former Khmer Rouge people are not only in the jungle. They are in power now," said Thun Saray, the head of ADHOC, a Cambodian human rights organisation.

Unlike other international tribunals, the Extraordinary Chambers in the Courts of Cambodia functions under local laws, with the United Nations playing only a supporting role.

"The UN are invited here, we have a very weak mandate," said Knut Rosandhaug, the court's deputy director for administration.

"We have a parallel structure with a dual management. There are two bosses in each and every office," the Norwegian said.

"This is OK if the two brains think the same but if they don't, it can get sometimes complicated to make it work."

The 67-year-old Duch -- a former mathematics teacher whose real name is Kaing Guek Eav -- is accused of overseeing the deaths of 15,000 people at a notorious torture centre. He is set to be sentenced by March 2010.

In its second case, the court is due to deal with four detained senior Khmer Rouge leaders including the regime's "Brother Number Two", Nuon Chea. All protest their innocence and their lawyers are gearing up to fight hard.

More than ever, said Scheffer, it is the Cambodians who are in control.

"It's up to the Cambodian society to decide who to reach beyond these (five) people," he said, referring to Duch and the other four facing trial.

Further cases involving five other suspects who are under preliminary investigation have barely begun.

Kar Savuth told the court last week that "only the senior leaders of the Khmer Rouge regime and those most responsible would be brought to trial".

¹ See page three for clarification from David Scheffer

He then reeled off a list of 14 people, 11 of whom are dead.

Clarification from Cambodia Tribunal Monitor Co-Managing Editor David Scheffer:

AFP's interview with me may have left an erroneous impression of my views when it published out of context my comment about additional suspects. I strongly support the Court's independent determination of additional individuals to charge, and certainly never intended to suggest it necessarily should stop at the five individuals covered by trials 001 and 002. In the interview, I spoke about the possibility, as determined by the Cambodians, of further domestic trials of individuals beyond those ultimately charged and tried by the Extraordinary Chambers in the Courts of Cambodia. I think that is where the confusion arose in transcribing my comments. See my commentary of January 8, 2009 ('How many are too many defendants at the KRT?') on Cambodia Tribunal Monitor:

[http://www.cambodiatribunal.org/images/CTM/how many are too many 1-08-09.pdf](http://www.cambodiatribunal.org/images/CTM/how%20many%20are%20too%20many%201-08-09.pdf)