

Cambodia: First Trial to Test Tribunal's Credibility

Wednesday 18 February 2009, by [Human Rights Watch \(HRW\)](#) (Date first published: 14 February 2009).

Court's Independence Remains a Concern as Khmer Rouge Trials Begin

(New York) - Cambodia's Khmer Rouge tribunal, about to begin its first trial, should resist political interference and meet international fair trial standards, Human Rights Watch said today. The tribunal is prosecuting Khmer Rouge leaders for crimes against humanity in the deaths of up to 2 million people in the late 1970s.

The UN-backed Extraordinary Chambers in the Courts of Cambodia (ECCC), a hybrid tribunal in operation for three years that includes both Cambodian and international judges, faces serious allegations of corruption and political interference. On February 17, 2009, the tribunal will conduct the first procedural hearing in the trial of Kaing Guek Eav (Duch), the chief of the notorious Tuol Sleng prison and torture center. Duch is the first of five former Khmer Rouge leaders currently facing trial before the tribunal.

"Any hint of political manipulation at the tribunal will undermine its credibility with the Cambodian people," said Sara Colm, Cambodia-based senior researcher at Human Rights Watch. *"Until allegations of corruption and improper interference by the government are investigated and resolved, the tribunal's integrity as a legitimate and independent court will remain in question."*

The Khmer Rouge tribunal consists of a majority of Cambodian judges sitting alongside international judges, with Cambodian and international co-prosecutors. The UN initially opposed the arrangement, given that Cambodia's judiciary is widely known for its lack of independence, corruption, and low professional standards.

Although the tribunal's mandate is to try "senior leaders" and "others most responsible" for atrocities committed by the Khmer Rouge from 1975 to 1979, in December 2008 the Cambodian co-prosecutor opposed an effort by the international co-prosecutor to add six more suspects to the tribunal's caseload. The Cambodian co-prosecutor cited Cambodia's "past instability" and the "need for national reconciliation" as reasons for rejecting bringing charges against additional suspects.

"By allowing political considerations to block additional indictments, the Khmer Rouge tribunal is failing the most basic test of its independence and its credibility," said Colm. *"The tribunal cannot bring justice to the millions of the Khmer Rouge's victims if it tries only a handful of the most notorious individuals, while scores of former Khmer Rouge officials and commanders remain free."*

Human Rights Watch said that the United Nations and the international community, which is shouldering most of the US\$50 million expended by the tribunal to date, should not bestow legitimacy to a process that does not meet international fair trial standards. Rather than pledging more funds to a flawed process with no strings attached, influential donors such as Japan, the United States, France, and Australia should insist that allegations about corruption and government interference are first resolved, Human Rights Watch said.

In a January 14 statement, the Cambodian Human Rights Action Committee, a coalition of 21 Cambodian human rights organizations, called for the Khmer Rouge tribunal not to arbitrarily limit itself to five prosecutions, saying:

“Without further prosecutions, the ECCC will fail to deliver justice to the people of Cambodia and damage efforts to create genuine reconciliation. We fear that the efforts and achievement of the Cambodian government and people, and the international community in creating the ECCC will be squandered if the court is seen to only partially fulfill its mission. ... We urge all stakeholders in the ECCC process, including the Royal Cambodian Government and the international community, to ensure that the court is able to act independently and free of political interference or consideration, and give it full support as it acts to fulfill its mission.”