

# Justice Comes to the Killing Fields

Friday 27 February 2009, by [CAIN Geoffrey](#) (Date first published: 19 February 2009).

Phnom Penh—Kaing Guek Eav, alias Duch, sat cold and haggard before a panel of judges, the teacher-turned-torturer etched with the frailty of a 10-year detention leading up to a hearing on Tuesday that laid the groundwork for a full trial in March. Some onlookers here said his eyes were watering. But others weren't ready to believe a mass murderer could cry. At least he's admitted his crimes against humanity, they say. Regardless, the crowd—genocide survivors, their families, activists—rejoiced outside as the man who once shackled, tormented and tortured some 15,000 Cambodians at S-21 prison may soon be imprisoned for life.

A symbolic event for most, Tuesday's hearing touched on court procedures rather than more important questions of guilt for the two million dead under the Maoist Khmer Rouge regime. But it's a start for a troubled tribunal. The hybrid United Nations and Cambodian government-backed court has long been embroiled in allegations of corruption and political compromise from international watchdog agencies, and even faced a United Nations audit in 2007 after allegations surfaced that court staff paid 30% of their salaries as kickbacks for employment.

Accusations gained intensity in the weeks leading up to Tuesday's hearing. Days before the hearing, the Open Society Justice Initiative lambasted the court for failing to uphold transparency standards, accusing co-prosecutor Chea Leang of lacking political independence after she refused to investigate six Khmer Rouge suspects in addition to the current five. In December, Ms. Chea and co-prosecutor Robert Petit publicly disagreed over whether to add more suspects, with Ms. Chea claiming further investigations could destabilize the country.

Fueling speculation about political sabotage, Human Rights Watch hit the court with a similar report on Monday, urging it to clean up its act or risk losing more face. *"Any hint of political manipulation at the tribunal will undermine its credibility with the Cambodian people,"* Sara Colm, a senior researcher in Human Rights Watch, said in a public statement. *"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 remain free."*

Yet the two damning reports and Ms. Chea's public statement are nothing new to a decade of political strife over the court, which keeps observers skeptical despite Duch's trial finally beginning to move forward. Ms. Chea's nervousness echoes the statements of Prime Minister Hun Sen who, himself a former Khmer Rouge cadre, has warned repeatedly that the hearings could start another civil war like in 1980s and '90s if they agitate too many former Khmer Rouge supporters. Yet Mr. Sen's government has provided solace for some of the regime's most high-ranking commanders, critics say, meaning the court will fail to deliver justice as long as the Ms. Chea and Mr. Sen consider political instability as a deterrent to prosecution. Mr. Sen's statements have also raised questions over whether political power is protecting certain ex-war criminals.

The defense has nonetheless jumped on the court's legal and political shortcomings, stalling attempts to move the trials forward more quickly. *"The defense's strategy has been to discredit the court,"* Ou Virak, head of the Cambodian Center for Human Rights, told me in an interview. *"They're using the corruption allegations to their advantage, since a court that can't even uphold international standards obviously can't try people on war crimes."* Duch's lawyer, Francois Roux,

likewise argued in Tuesday's hearing that Duch has been illegally detained for nearly 10 years, while Cambodian law only allows pretrial detention of three years.

After Duch, four more senior commanders are expected to face trial this year. Whether their trials will come to fruition is uncertain, since most defendants are aging and in ill health. Khieu Samphan, Pol Pot's right-hand man, suffered a stroke in 2007, and Ieng Sary, the Khmer Rouge's foreign minister, has repeatedly been hospitalized while in detention. Ta Mok, known as "The Butcher," died in 2006 before going to trial. Pol Pot, the mastermind behind the country's agrarian revolution-turned-famine, passed in 1998. And even if Duch gets life in prison, he's already 66.

Perhaps it's too little, too late. One lawyer at the hearing put it bluntly: "*Justice delayed is justice denied*," he said. Whether the court can clean up its image depends on the speed and efficiency with which it can implement its promises. Many Cambodians at the trial, including famed artist Vann Nath, one of the few survivors of S-21, were relieved that the proceedings are finally underway. Yet on the flip side, requesting donors triple the court's annual budget from \$56 million to \$170 million after allegations of mismanagement—as it did in 2008—is keeping observers skeptical.

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