

First Khmer Rouge defendant convicted in Cambodia

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Former Khmer Rouge prison commandant, 67-year-old Kaing Guek Eav, also known as “Duch”, was convicted by the UN-backed Extraordinary Chambers in the Courts of Cambodia (ECCC) on July 26 and sentenced to 35 years imprisonment.

Survivors and relatives of the hundreds of thousands who perished during the bloody rule of the Khmer Rouge between 1975 and 1979 expressed outrage over the length of the sentence. The court effectively reduced the sentence to 19 years for time already served and due to infringements of Duch’s rights while in the custody of the Cambodian government.

Duch’s trial began on March 30, 2009 and the taking of evidence ended last November. Duch was charged with crimes against humanity, war crimes, torture and premeditated murder for his role in the deaths of at least 12,272 people. The victims were interned in the notorious Tuol Sleng prison in Phnom Penh, a former high school, designated by the Khmer Rouge as S-21.

The prison was one of 200 such centres throughout Cambodia. In what was one of the great crimes of the 20th century, the Khmer Rouge regime executed approximately one million people during its four-year reign of terror, according to the Documentation Centre of Cambodia. Another one million died of starvation, overwork and disease as a result of forced labour in what has become known as the “Killing Fields”. In all, 20 percent of the country’s population perished.

These terrible crimes flowed from the Khmer Rouge’s political perspective, which was not “socialist” or “communist”, but was based on Maoist peasant guerrillaism. After taking power following the collapse of the US-backed Lon Nol government, the Khmer Rouge regime reflected in extreme form the suspicion and hostility of backward layers of the peasantry to urban culture, education and the cities.

Many of those executed or condemned to forced labour were “intellectuals”—anyone with more than rudimentary schooling.

Duch, a relatively low-ranking Khmer Rouge official, is the only person so far to face trial. The conviction was a foregone conclusion. In testifying, Duch admitted his crimes, expressed remorse and based his defence on his relatively junior rank and the fact that he was obeying orders.

The ECCC is now preparing for trials next year of four senior Khmer Rouge leaders: Nuon Chea, who was second only to Khmer Rouge leader Pol Pot, who died in 1998; Cambodian head of state Khieu Samphan, foreign minister Ieng Sary; and Sary’s wife, social affairs minister Ieng Thirith. The trials are expected to be lengthy and may last until 2015.

The ECCC only began its work in 2006, after protracted wrangling involving the UN, the Cambodian government of Premier Hen Sen and various foreign governments, particularly the US. All were intent on controlling the judicial proceedings to protect their interests and to cover up their own roles in the crimes of the Khmer Rouge regime.

In the end, Duch was tried under a complex hybrid of laws and procedures that were the outcome of these behind-the-scenes manoeuvres. The ECCC includes a majority of Cambodian judges, sitting with judges from the US, Europe, Australia and Sri Lanka. A complex set of rules effectively ensure that international judges have a veto over the ECCC’s decisions.

Those behind the trials have a lot to hide.

Hun Sen, like many members of his Cambodian Peoples Party and of the new Cambodian elite, was a Khmer Rouge official. He fled to Vietnam when he was placed on Pol Pot’s hit list as part of a purge. He returned with an invading Vietnamese army in January

1979 to head a Vietnamese-backed government.

The United States helped to create the conditions for the Khmer Rouge to come to power through its imperialist war in Indo-China. From 1969 to 1973 the Nixon administration, without Congressional approval, extended the war in Vietnam to Cambodia with heavy bombing raids and military incursions into the border regions. In 1970 a CIA-led coup toppled the neutral government of King Norodom Sihanouk and installed General Lon Nol, beginning a civil war that opened the door for the Khmer Rouge.

Following the fall of Saigon in 1975, Washington tacitly backed the Khmer Rouge regime in Cambodia as a means of undermining Vietnamese influence in the region. After the overthrow of the Khmer Rouge in 1979, the US, China and European countries continued to recognise it as the legitimate Cambodian government. The UN blocked any international assistance to the new, Vietnamese-backed regime and opposed all calls for the arrest and trial of Khmer Rouge leaders.

The attitude of the United States toward the Khmer Rouge was dictated by its Cold War conflict against the Soviet Union and Vietnam. Successive American administrations worked with China and Thailand to supply arms and finances to Pol Pot, allowing his movement to sustain guerrilla operations against the Hun Sen regime.

It was not until 1991, with the collapse of the Soviet Union, that the policy changed. Seeing the opportunity to open up Cambodia as a cheap labour platform, the US organised a UN intervention. Nevertheless, the international protection of the Khmer Rouge continued into the 1990s under the banner of “national reconciliation”. For the two years that UN troops occupied the country, no steps were even taken against the most prominent leaders such as Pol Pot.

It was not until April 1997, 18 years after the demise of the Khmer Rouge regime, that the UN formally took steps to investigate “past serious violations of Cambodian and international law”. More than a decade later, the first conviction has taken place, but none of the conflicting interests that stalled the process have been resolved.

The US media has raised questions about, or criticised, the Hun Sen government’s alleged

interference in the work of the ECCC, its refusal to allow any more prosecutions other than those announced and the failure of government officials to testify, despite an obligation to do so under the ECCC rules.

A great deal is at stake for all sides in suppressing any serious examination of the crimes of the Khmer Rouge and their broader international context. Tensions will almost certainly escalate once the scheduled trials of the senior Khmer Rouge political figures begin next year.

Unlike Duch who admitted his guilt, the former Khmer Rouge leaders are preparing to mount a legal defence. Moreover, Ieng Sary, Khieu Samphan, Nuon Chea and Ieng Thirith are not accused of personally killing anyone but of issuing the orders and orchestrating events nationwide.

These former leaders also have intimate knowledge of the role of all the major powers in backing the Khmer Rouge regime. The possibility emerges that one of more of them will use the opportunity to expose the hypocritical stance of the US and other countries in prosecuting them—as former Serbian leader Slobodan Milosevic did during his trial over alleged war crimes in the Balkans.

The ECCC has been structured to prevent the possibility that any of the defendants could mount what has now become known as “an aggressive defence”. The real purpose of the trials is not to ensure justice is done, but to prosecute a handful of scapegoats to prevent any close examination of these terrible crimes.



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