



Special Edition Case 001 Final Judgement

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The Court Report

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The Extraordinary Chambers in the Courts of Cambodia

Moving Forward Through Justice

Kaing Guek Eav sentenced to life imprisonment



Kaing Guek Eav stands after the pronouncement of the appeal judgment against him.

Over three decades after at least 1.7 million people perished under Khmer Rouge rule in Cambodia, the Extraordinary Chambers in the Courts of Cambodia concluded its first case on 3 February with a final judgment upholding the conviction of former security prison head Kaing Guek Eav alias Duch and lengthening his sentence to one of life imprisonment.

Duch received the maximum sentence available under the law for crimes against humanity and grave breaches of the 1949 Geneva Conventions. During the Khmer Rouge era, he headed the S-21 security prison in Phnom Penh, where numerous Cambodians were unlawfully detained, subjected to inhumane conditions and forced labour, tortured and executed in the late 1970s. At least 12,272 people died at S-21 over three years.

President Kong Srim of the ECCC's Supreme Court Chamber read out a summary of the judg-

ment while nearly 1,000 visitors watched the proceedings from the public gallery and on screens outside the courthouse.

"The crimes committed by Kaing Guek Eav were undoubtedly among the worst in recorded human history," he told the court. "They deserve the highest penalty available to provide a fair and adequate response to the outrage these crimes invoked in victims, their families and relatives, the Cambodian people, and all human beings."

In its judgement, the Supreme Court Chamber quashed the 35 year sentence imposed by the Trial Chamber by majority vote on 26 July 2010. It also reversed the Trial Chamber's decision to grant a remedy for Kaing Guek Eav's illegal detention by the Cambodian Military Court between 1999 and 2007, which violated his rights.

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Visitors' Reactions to the Case 001 Appeal Judgement

Nearly 1,000 people – Cambodian villagers, students, monks and nearby residents as well as diplomats, scholars, NGO representatives and tourists – visited the Extraordinary Chambers in the Courts of Cambodia on 3 February to witness the pronouncement of the verdict against Kaing Guek Eav alias Duch.

After the judgment, many Cambodians welcomed Kaing Guek Eav's life sentence, while some observers criticized the court's handling of reparations requests and its decision not to grant the convicted person a remedy for his illegal detention.

Here is a sampling of what visitors to the court had to say about the verdict.

Life sentence



I am very pleased with the Supreme Court's decision. This sentence is justice for the victims, justice for me. I can't ask for anything more from the court. Whatever else the court will do with Duch, I wouldn't mind. I won't be crying again. I'm satisfied; I am at peace now. The chapter is closed.

-CHUM Mey, 81, S-21 survivor, Civil Party in Case 001 from Phnom Penh



I feel so relieved now as everything has become clear. I believe that the soul of my brother who was killed at S-21 would be pleased too, and I think he will now be able to reincarnate to a new life; he must have suffered so much before he died.

Me and my three sisters can finally be at peace. I personally feel so good. I ate a lot at lunch today, and I had never consumed that much of food before as I did today.

-NHET Sok, 53, Civil Party in Case 001 from Takeo province



What he had done is not forgivable. In the Trial Chamber's decision in 2010, I questioned if the Trial Chamber thought their decision was reasonable; 35 years for a Duch who killed thousands of lives.

I spend my time and my own finances to come here to listen to the court, because I believe this court will bring justice to victims. I have come here every single day of hearings, except any day that I don't feel well. And this time, I believe that the court has made the right decision.

I want to emphasize that bringing Khmer Rouge leaders to trial is not revenge. But victims want to see accountability in front of the law. And this will set a good example for next generations.

-SUM Rithy, 60, survivor of a brutal prison in Siem Reap and Civil Party in Case 002.



The fact that the time Duch previously served has not been taken into account seems unlawful to me. Even for the most horrendous crimes, human rights have to be ensured. When human rights are violated, it is a very bad message to send, not only to the domestic courts but also to the entire international justice movement.

-Rupert Abbott, researcher at Amnesty International

I think the judges' comments add a great deal to jurisprudence around the issue of crimes against humanity and it is very helpful in terms of clarifying the definitions of what carries what convictions.

-Stephen Smith, director of the University of Southern California Shoah Foundation Institute, which collects testimony from Holocaust and genocide survivors

Today's verdict recognizes and confirms the gravity of the crimes committed. It is a great satisfaction to me for the memory of those of passed away and for the survivors, and their families.

-Antonya Tioulong-Noseda, Civil Party whose sister and brother-in-law were killed at S-21

"To me, it is not so much about the man rather than setting an example for mankind, that someone who commits such horrendous crimes should never walk free. We have just witnessed the completion of a very singular example of justice."

-Paul Everingham, researcher and close friend of Kerry Hamill and Stuart Glass, Khmer Rouge victims

This is a good decision. It based its decision on the precedents set by other international jurisdictions, such as the ICTY. It seems quite coherent to me, and I was hoping for this outcome, in accordance to international law and previous international law cases.

-Philippe Moriceau, president of Avocats sans Frontières France



I hope this will become a great lesson for every future leader who is willing to commit crimes, to be aware that they will not be spared from accountability for what they do. And I hope the young generations will learn from this and will not do what the Khmer Rouge leaders did.

As a granddaughter of victims, I believe that my grandparents and my parents will be very pleased when I tell them about the Supreme Court's decision, and I am so eager to go home and tell them.

-LENG Laen, 20, 2nd year student at Media and Communication Department of Royal University Phnom Penh



Reparations

I am very disappointed in the reparations. The Supreme Court Chamber has had a very limited analysis of the notion of reparation. So my expectations in this field for the Case 002 are quite low, and I think we should now focus more on the non-judicial measures.

-Ignaz Stegmiller, Cambodian Human Rights Action Committee.

There are obvious ways people wish the court might have done more, ordered things that could be done. But that would have been beyond the law.

-United States Ambassador at Large for War Crimes Stephen Rapp

The court did not make any recommendations on how 'real' or moral reparations should take place. I think what the court did do is recognize the distinction between financial and moral reparations .

I think there is a restorative justice element to this, and I hope in future cases that is be addressed more fully—it's almost like saying, 'we recognize that you're damaged by this, but it's not within our scope or our competency to deal with that'. [But] I think the court can and should have made some actual suggestions."

-Steven Smith, director of the University of Southern California Shoah Foundation Institute, which collects testimony on the Holocaust and on genocide survivors



SCC issues final judgement in Case 001 (continued from front)

The Supreme Court Chamber held that the Trial Chamber attached undue weight to mitigating circumstances and insufficient weight to the gravity of crimes and aggravating circumstances. The Chamber also dismissed Duch's appeal, in which he requested an acquittal and said the court did not have personal jurisdiction over him.

In addition to the crime against humanity of persecution, the Supreme Court Chamber entered separate convictions for the crimes against humanity of extermination (encompassing murder), enslavement, imprisonment, torture, and other inhumane acts, granting in part the Co-Prosecutors' appeal.

Ten individuals whose Civil Party applications had been rejected in the Trial Judgment were admitted as Civil Parties in the Appeal Judgment.

The Supreme Court Chamber upheld the Trial Chamber's order to post on the ECCC website all apologies and acknowledgements of responsibility by Duch from the trial proceedings. The Supreme Court Chamber reject-

ed all other claims for reparation – because they would be unenforceable, or because implementing them would require payment by the accused, who is indigent, or an order against the Cambodian state.

Duch was first detained by the Cambodian Military Court in May 1999, prior to the establishment of the tribunal, and was transferred to the ECCC detention centre in July 2007.

His trial ran from February to November 2009, during which 55 witnesses, including 22 Civil Parties, were heard. He was convicted by the Trial Chamber on 26 July 2010, and sentenced to 35 years in prison. This sentence was reduced by 5 years as a remedy for his illegal detention, and he was also entitled to credit for the time he had already served.

The accused appeared before the Supreme Court Chamber for appeal hearings in March 2011.

The Supreme Court Chamber judgment was final and cannot be appealed.

Many visitors who observed the historic moment at court expressed satisfaction at the

longer sentence.

"This sentence is justice for the victims, justice for me," said Chum Mey, a survivor of S-21. "I am at peace now. The chapter is closed."

Paul Everingham, researcher and close friend of Kerry Hamill and Stuart Glass – two alleged victims of the Khmer Rouge – said for him, the verdict's importance lay not just in the particular sentence for Kaing Guek Eav, but in its broader value.

"To me, it is not so much about the man rather than setting an example for mankind, that someone who commits such horrendous crimes should never walk free," Mr. Everingham said.

The ECCC is a hybrid court set up within the Cambodian court system to try those responsible for the worst crimes committed during the Khmer Rouge regime, between 1975 and 1979. The first trial in the second case, concerning three other leaders of the regime – Nuon Chea, Khieu Samphan and Ieng Sary – is currently underway.

Closing of Case 001: Officials speak



"Today is a historic day for our country and for all humanity. We have never lost sight of the need to seek justice for the crimes committed during those 3 years, 8 months and 20 days; for remembrance of the victims; and to make sure such a tragedy will never recur.

The ECCC has followed due process, and conducted a fair trial in Case 001 of the director of the notorious S-21 prison for crimes against humanity and war crimes.

...Today the people of Cambodia and all the world remember those who died, and hope that this trial and the delivery of the final judgment bring some relief for your pain and suffering."

-His Excellency SOK An, Deputy Prime Minister and Chairperson of the Royal Government Task Force on the Khmer Rouge Trials

"I think this is an important step towards justice and reconciliation for the people of Cambodia. It was an extremely grave series of crimes for which this individual was convicted. A judgment of life doesn't bring back the victims, it doesn't restore all that was destroyed, but I think it makes a statement to those victims and to all of history that horrible crimes were committed here. I think it was appropriate that there be a life sentence."



-United States Ambassador-at-Large for War Crimes Issues Stephen Rapp

"The donors welcome the historic closure of the first trial of a Khmer Rouge official in the ECCC....This long-awaited judicial decision is important recognition of the suffering of the Cambodian people and all the victims of the Khmer Rouge regime during the years 1975-79. It is a significant step on the road towards justice and national reconciliation for all Cambodians."

-Co-Chairs of the Friends of the ECCC: Dominique MAS, Chargé d'affaires, and Masafumi KUROKI, Ambassador of Japan in Cambodia

The Court Report

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