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Cambodia: Khmer Rouge judgment welcome, but raises human rights concerns

The UN-backed Khmer Rouge tribunal's final judgment against a former Khmer Rouge prison chief in Cambodia today is an important step towards accountability but raises human rights concerns, Amnesty International said.

The tribunal's Supreme Court Chamber upheld an earlier conviction of Khmer Rouge jailer Kaing Guek Eav, alias Duch, for crimes against humanity and war crimes described as "amongst the worst in human history", and increased his sentence from 35 years to life in prison.

Duch was held responsible for killing at least 12,272 men, women, and children from 1975 to 1979 while he was in charge of "S21", a secret prison run by the Khmer Rouge in a former school in Phnom Penh.

The judgment included additional convictions against Duch, but also raised human rights concerns by overturning a legal remedy he was granted after a Cambodian military court illegally detained him, without investigation or trial, from May 1999 until July 2007.

"The closure of this first case represents an important step towards achieving accountability for the mass crimes of the Khmer Rouge, and helping the Cambodian people draw a line under this tragic chapter of their country's history," said Rupert Abbott, Amnesty International's researcher on Cambodia, who attended today's judgment.

"But the decision to overturn the legal remedy for Duch's unlawful detention and to provide no alternative may be perceived as a case of public opinion trumping human rights."

Amnesty International considers that the July 2010 decision of the tribunal's Trial Chamber to grant this legal remedy – a five-year reduction in Duch's sentence as a result of the illegal detention – sent a positive message to the Cambodian justice system that human rights should be universally enjoyed and that violations must be remedied.

Another concern with the judgment is the apparent decision to leave the issue of Duch's eligibility for parole to the Cambodian justice system, which has been criticized for its lack of independence.

Additionally, confusing findings relating to the Tribunal's personal jurisdiction over former Khmer Rouge may have implications for other cases.

The Supreme Court Chamber's judgment highlighted the suffering of Duch's victims, their families and the Cambodian people, admitting several additional Civil Parties – victims who join as parties in the proceedings – whose applications had been rejected in the original verdict.

Amnesty International called on the Cambodian government to provide support for 'moral and collective'

reparations for victims of the Khmer Rouge regime.

“Today’s judgment emphasized the important role of victims in proceedings before the Khmer Rouge Tribunal. We had hoped, however, for a more creative decision on ‘moral and collective’ reparations and urge the Cambodian government to work with victims’ groups to meet their needs in this regard,” said Rupert Abbott.

The Supreme Court Chamber issued only a summary appeal judgment today, with a full decision to be issued in due course. The judgment is final and cannot be appealed.