



## **Historic Khmer Rouge tribunal has lessons for the world December 14, 2009**

Phnom Penh - The crimes committed by the Khmer Rouge in the late 1970s finally came to court in 2009 when Comrade Duch, the former head of the regime's torture and execution centre, went on trial in Phnom Penh for crimes against humanity and war crimes. The trial is significant as Duch, whose real name is Kaing Guek Eav, is the first Khmer Rouge member to be prosecuted in an internationally recognized court. The verdict is due in early 2010. Moreover, his case and that of four other surviving Khmer Rouge leaders will likely have implications that reverberate beyond Cambodia's borders.

Nobody knows how many people died under the Khmer Rouge. Most estimates range between 1.5 and 2 million people from a population of perhaps 8 million. For many people Cambodia remains defined by its Killing Fields moniker.

Despite the level of killing, the tribunal has gone largely unnoticed in the international media. However, trial observers said it marks a key component in a shift in international criminal justice away from impunity and towards some sort of accountability for those who commit the worst crimes.

Genocide Watch president Gregory Stanton, who has been involved in research into Khmer Rouge crimes since the early 1980s, said trials such as Duch's are the first steps towards changing global rules.

"Impunity because of state sovereignty has been the story up till now - rulers could basically get away with crimes against humanity committed against their own people. There was total impunity," he said. "I think we are creating a new world order in which rulers cannot expect that any more."

Stanton said another reason this tribunal and that of former Liberian president Charles Taylor in The Hague are of historic importance is because of the way they were established.

"Both of these trials were created by an agreement between national governments and the United Nations," he said. "The international community is working hand in hand with national governments to put on trial people who have committed crimes in their own nations."

David J Scheffer, the former US war crimes ambassador involved in negotiations to establish the Khmer Rouge tribunal, said he is encouraged that the Duch trial has shown international standards of due process can be met with a mix of domestic and foreign staff.

"The great aim of international criminal justice today is to build domestic courts that can render justice comparable to the international courts," Scheffer wrote in an email. "The Duch trial is an important first step in that direction for Cambodia."

Last month's final arguments in the Duch trial were broadcast live on all Cambodian television stations. Heather Ryan, a trial monitor for the George-Soros-funded Open Society Justice Initiative, pointed out one way in which the Khmer Rouge tribunal is arguably superior to the Taylor trial: Duch is being tried in the country in which he committed his crimes.

"That has generated a kind of discussion about justice in this country that has not existed before," Ryan said. "And you would never have had that if this tribunal were taking place in The Hague."

Another unique feature is the participation of civil claimants - some of them survivors of Duch's S-21 prison, but most of them relatives of people murdered there on his orders.

Their testimony brought a daily reminder of the damage done by the Khmer Rouge, and Stanton applauds their participation.

"It's like a constant presence that the judges always have to keep in mind," he said.

There was criticism that victim participation slowed down Duch's trial. However, Scheffer said that is an acceptable price, since it broadens the reach of international justice in cases where there are so many victims.

"The issue really is not whether victims have a role in the trial proceedings," Scheffer said. "Rather the debate is over how extensive that role should be and how large victims' groups should be represented in the courtroom."

Ryan said trials such as Duch's help to create an understanding worldwide that there is "a level of atrocity that is not acceptable."

She added that the crimes of the Khmer Rouge were unique in international tribunals in that they were not by and large motivated by an ethnic divide. Cambodia, a highly homogenous society, saw Cambodians killing Cambodians.

"The broader the range of situations in which there are trials, the more universal the concepts become," she said. "In large part it was a politically-motivated situation,

and so that broadens the kinds of situations to which international criminal justice has been applied."