

មជ្ឈមណ្ឌលឯកសារកម្ពុជា

DC-CAM LEGAL TRAINING, FALL 2010 THE DUCH CASE AND INTERNATIONAL CRIMINAL LAW

The first case before the Extraordinary Chambers in the Courts of Cambodia (ECCC) reached its final judgment on 26 July 2010. It was the case against Kaing Guek Eav *alias* Duch, who ran the central secret prison at Tuol Sleng called “Office S-21” between 1975 and 1979, overseeing the arrest, interrogation, torture and killing of over 14,000 people.

In the judgment read aloud on July 26 by President of the ECCC trial Chamber, Judge Nil Nonn, the court found Duch guilty of crimes against humanity and war crimes. To convict Duch and hold him individually responsible, the court applied a legal theory called Joint Criminal Enterprise (JCE). The doctrine of JCE is a form of accountability allowing a court to hold an individual person responsible for crimes committed by others that were engaged in furthering a common criminal purpose. The court sentenced Duch to 30 years in prison, beginning with a figure of 35 years but reducing 5 years because Duch was illegally detained for several years before his trial began. Since Duch has already spent 11 years in detention, which count toward his period of incarceration, he faces only 19 years more in prison.

Immediately, many people expressed their dissatisfaction with the decision, arguing that the sentence was too light in view of the cruelty of Duch’s crimes and the number of victims who died at S-21 under his watch. Cambodian survivors are asking many questions about why the court decided as such.

In response to such questions, the Documentation Center of Cambodia (DC-Cam) will conduct a one-week legal training workshop in the Fall 2010. The course will focus on the Duch case and international criminal law. DC-Cam plans to invite 20 to 30 dedicated local law students to apply to participate. Our goal is to teach them as much as possible about the justice process and the principles of local and international law that were used in arriving at the Duch verdict. Some law professors from the U.S University or legal experts on international criminal law will be invited to speak to the law students and explain principles of international criminal law relevant to the Duch case, including JCE theory and issues of defendant’s rights and prosecutorial strategy. Participants will use materials on the Cambodia Tribunal Monitor website and from the ECCC.

The Duch case is beyond the ability of many ordinary Cambodian people, including many victims of the Khmer Rouge regime, to understand. Hearing the judgment alone is inadequate, and they need a better explanation from people with good legal backgrounds. Law students can help fill this need. If victims better understand the process used to arrive at the Duch verdict, they will benefit more from the ECCC process and will probably gain trust the court as it approaches case 002. Finally, the workshop will promote the development of the rule of law in Cambodia. That is the main concern voiced by many Cambodian people, civil society organizations, and donor countries in connection with the ECCC process.

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