

## Asia &amp; Pacific

# Khmer Rouge ideologue cremated, appeal may be stopped

By Sopheng Cheang | AP

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PHNOM PENH, Cambodia — The death of the Khmer Rouge's top ideologue may end criminal proceedings against him even though his appeal against convictions for genocide and other crimes is still pending, a spokesman for Cambodia's U.N.-assisted tribunal trying leaders of the defunct communist group said Friday.

Nuon Chea, the second-highest official after Khmer Rouge leader Pol Pot when the group held power in the late 1970s, died Sunday at age 93. He was cremated Friday at a Buddhist temple in Pailin in northwestern Cambodia, which was a Khmer Rouge stronghold as it fought a guerrilla war after being ousted from power in 1979. Their movement collapsed entirely in 1998.

Spokesman Neth Pheaktra said under Cambodian law, judicial action is terminated on the death of the accused, and the tribunal's Supreme Court chamber would rule on its application.

It will not be clear until the court rules whether the convictions under appeal will stand or be vacated, leaving them legally undecided.

The death leaves a single former top Khmer Rouge leader to proceed with an appeal against his convictions for genocide and other crimes: Khieu Samphan, 88, who was the regime's head of state.

Nuon Chea and Khieu Samphan were also convicted in an earlier trial of crimes against humanity and other offenses, and their life sentences in that case were upheld after appeal.

The tribunal, which has cost hundreds of millions of dollars, has convicted only one other defendant, Kaing Guek Eav, alias Duch, who as head of the Khmer Rouge prison system ran the infamous Tuol Sleng torture center in Phnom Penh.

The tribunal, formally known as the Extraordinary Chambers in the Courts of Cambodia, or ECCC, was set up as a hybrid court, meaning every international prosecutor and judge was paired with a Cambodian counterpart. While the international prosecutors have worked to indict more suspects, the rules of the tribunal have allowed their Cambodian counterparts to block further action.

Australian Doreen Chen, who was the internationally appointed lawyer for Nuon Chea, said he believes that according to law, their late client “is presumed innocent until a final appeal judgment is delivered.”

“Since the Supreme Court Chamber hasn’t issued the appeal judgment, he is now considered innocent and that trial judgment against him is effectively vacated. We have asked the Supreme Court Chamber to confirm this view and let us know what should happen next,” she said in an interview over the internet.

She also said they are seeking to have his appeal continue despite his death “so that there can be a final judgment and confirmation of the truth, not only for Nuon Chea but for the Cambodian people.”

Chen said she understood that that the Supreme Court Chamber is currently considering the issue, but that on Friday, the tribunal administration informed her and her colleagues that their team have all been fired, even while awaiting a court ruling.

“Unfortunately, it appears that the budget may be more important than the law and the ECCC’s ultimate legacy,” she said.

Liv Sovanna, a Cambodian lawyer for Nuon Chea’s defense, said by telephone from the cremation site that about 200 people attended the ceremony, with 50 monks chanting as family members and friends paid their last respects.

Nuon Chea is survived by his 85-year-old wife and three daughters, he said. He and his wife lived in a small wooden house very close to the border with Thailand from his 1998 surrender until his 2007 arrest by the tribunal.

Many former Khmer Rouge also live in the area. By one estimate, almost 70% of the area’s older men were fighters for the communist group.

The government of Prime Minister Hun Sen has repeatedly insisted that the tribunal’s work would cease with the convictions of its last two surviving leaders.

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This story has been corrected to show that the Supreme Court chamber of the tribunal, rather than Cambodia’s Supreme Court, will rule on whether and how the appeal for Nuon Chea can continue.

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