

Searching for

THE TRUTH

- ◆ ASEAN should lead the EU on innovative genocide education
- ◆ Cambodia's political calculus rimes

"Security and economic cooperation in ASEAN will become meaning less if atrocities happen in a member state while other members act only as bystanders".

-- Kok-Thay Eng

Special
English Edition
Third Quarter 2014

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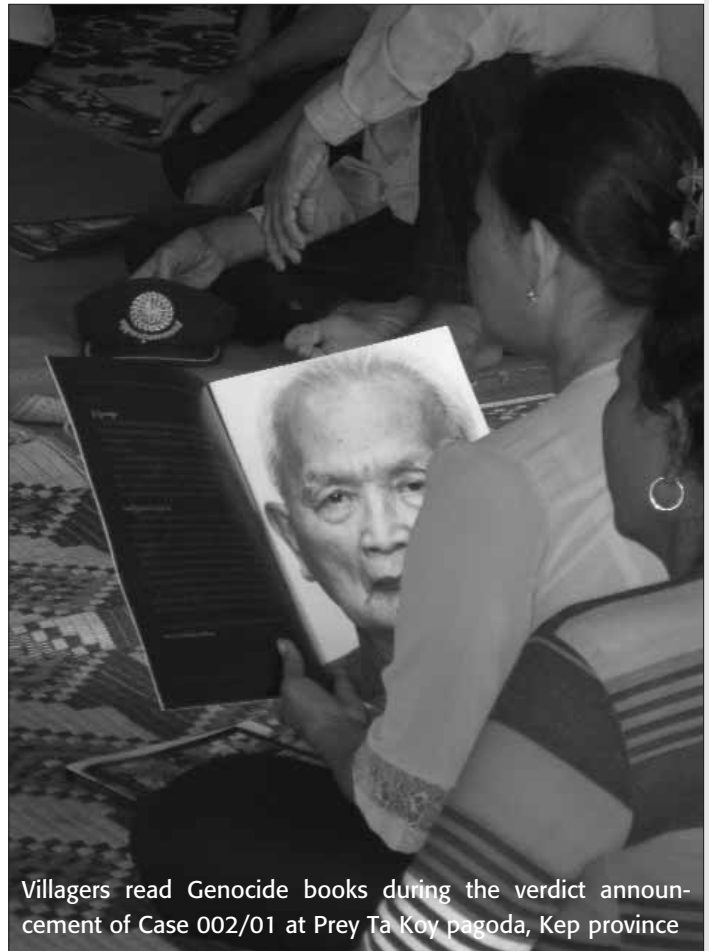
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Villagers read Genocide books during the verdict announcement of Case 002/01 at Prey Ta Koy pagoda, Kep province



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ISIL'S CLIP UNAUTHENTIC AND IRRELEVANT

Farina So

In the article “Cambodians Have Joined ISIL Militants in Iraq, Group Claims” (June 23, p 15) you quoted a statement made by the militants in a YouTube video clip. In the video, a fighter from the Sunni Muslim militant organization known as the Islamic State in Iraq and the Levant (ISIL) claims their membership includes Cambodians, as well as Bangladeshis, Australians, and Iraqis.

The clip can be seen as propaganda to appeal for collaboration from Cambodian Muslims. Given the claim, it is important that a thorough investigation into the authenticity of the clip be carried out to avoid maligning Cambodian Muslims.

A few questions should be seriously considered about the clip and its implications. Why did the militants just appeal to Cambodian Muslims and other Muslims in the respective countries? Do Cambodian Muslims have enough grievances and motives to join ISIL militants? What is ISIL's goal?

Since 1993, when liberal democracy was brought to Cambodia, the Cambodian Muslim community has been exposed to the world, especially to Muslim countries. The democratization and free market economy in Cambodia have made the community known to the outside world through its communication and exchange of ideas, information, and culture. Possibly, because of the exploitation of Cambodian Muslims in Cambodia, ISIL made its erratic appeal. To date, we haven't heard of any active Cham Muslim militants/extremists in Cambodia or elsewhere, apart from a statement made by Thai officials claiming that Cham Muslim fighters are involved in the restive Southern region. But this accusation, too, was strongly rejected by Muslim leaders due to the lack of evidence to support it.

The statement made by ISIL is even more obscure than that of the Thai officials. First, the date and place of the video was unknown. Second, it is most likely that the militant group simply included Cambodians and others as an appeal to Muslims around the world to join their group.

These militants assume all young Muslims will be drawn to their message: “Life without jihad would be difficult.” However, the use of the term jihad is problematic in many Islamic societies and is interpreted differently by different Muslims. Jihad is divided into two: greater and smaller jihad. While greater jihad refers to spiritual struggle against ego and one's sins to lead a disciplined and virtuous life, smaller jihad refers to physical struggle to fight against oppression and injustice and defend the religion from being attacked. The former is widely practiced by the Cambodian Muslim community. The latter has been used by a tiny proportion of Muslims in the Middle East and a few countries in Southeast Asia, mainly Southern Thailand, Indonesia, and the Philippines, who have deep and highly politicized grievances against the central government. As for the majority of Cambodian Muslims, they simply perceive it as the “struggle” to live a moral life.

According to Professor Saad Eddin Ibrahim, the founder of the Ibn Khaldun Center for Development Studies in Cairo and the Arab Organization for Human Rights, the goal of ISIL is to revive the Muslim Caliphate and create an Islamic state in Iraq and Syria or elsewhere. This group, which has similar goals with other active Islamic militant groups such as the Taliban and al-Qaida, still has a sense of pride in the Muslim golden era, the time when the Muslim Caliphate ruled over

some parts of the world from the Great Wall of China to Africa and Southern Europe.

This sense of pride has been intensified by grievances and motivated by opportunities. While an estimated 85 percent of the world's 1.2 billion Muslims are Sunni, primarily residing in the Gulf states, Africa, Europe, and Asia, the majority of Muslims in the Middle East are Shiite, living mainly in Iran, Iraq, Syria, Bahrain, and Lebanon, and making up approximately 100 million. Sunni Muslims who live as a minority in these countries perceive Shiites as a threat resulting from geographical divides, sectarian conflicts, and social injustices. Motivated and indoctrinated by a handful of religious and political leaders and supported by a number of non-state actors in the Gulf States, a small number of them decided to take up arms to fight in order to create an Islamic state. Very often,

a religious message such as "sahid" or "martyrdom," which means dying in the name of religion is blessed by God in the hereafter, is used to motivate the group to fight.

Nothing could convince us to believe that any young Cambodian Muslims have joined this group because there aren't any grievances against the government or others or real motives for them to carry out such an act. Currently scattered in communities across the country, Muslims in Cambodia had common suffering with fellow Cambodians under the Khmer Rouge and have contributed to rebuilding the nation after 1979. What is important for the community is to live in peace and harmony by not harming other people.

Farina So

www.cambodiatribunal.org

The Cambodia Tribunal Monitor (www.cambodiatribunal.org) provides extensive coverage throughout the trial of two former senior Khmer Rouge officials accused of atrocity crimes. The Monitor provides daily in-depth analysis from correspondents in Phnom Penh, as well as complete English-translated video of the proceedings, with Khmer-language video to follow. Additional commentary is provided by a range of Monitor-affiliated experts in human rights and international law. The Monitor has been the leading source of news and information on the Extraordinary Chambers in the Court of Cambodia (ECCC) since its inception in 2007. The website hosts an archive of footage from the tribunal and a regularly updated blog containing analysis from expert commentators and coverage by Phnom Penh-based correspondents.

An estimated 1.7 million Cambodian citizens died under the Khmer Rouge regime between 1975 and 1979. The former Khmer Rouge officials to be tried in the ECCC's "Case 002" are Nuon Chea, former Deputy Secretary of the Communist Party of Kampuchea's Central Committee and a member of its Standing Committee and Khieu Samphan, former Chairman of Democratic Kampuchea State Presidium.

The Cambodia Tribunal Monitor was developed by a consortium of academic, philanthropic and non-profit organizations committed to providing public access to the tribunal and ensuring open discussions throughout the judicial process. The site sponsors include Northwestern University School of Law's Center for International Human Rights, the Documentation Center of Cambodia, the J.B. and M.K. Pritzker Family Foundation and the Illinois Holocaust Museum and Education Center. The concept for the website was conceived by Illinois State Senator Jeff Schoenberg, a Chicago-area legislator who also advises the Pritzker family on its philanthropy.

ASEAN SHOULD LEAD THE EU ON INNOVATIVE GENOCIDE EDUCATION

Kok-Thay Eng

I agree with European Union Ambassador Jean-François Cautain that the EU and ASEAN should cooperate further to advance prosperity and security.

In my opinion, prosperity and security in ASEAN lie in moral education, an awareness of atrocities happening in the region and the education of younger generations across the region on genocide in Cambodia to create a model for the protection of people in the future. Because genocide in Cambodia was different from the Holocaust, ASEAN should lead the way in genocide education content and methodologies, as well as the regional standardization of genocide education programs.

Even with all the experience of genocide across Europe in the past century, most notably the Armenian death march, Stalin's mass famine in Ukraine and the Holocaust, the EU has not established a standardized genocide education methodology that serves the central concept that genocide is a crime against humanity.

ASEAN has the opportunity to lead the EU in this by being the first regional association to deliver moral lessons across member states. This program should be included in a new ASEAN world plan on education, recognizing the plight that Cambodian people faced from 1975 to 1979 and to some extent the suffering of the people of East Timor between 1975 and 1999.

Since ASEAN was created in 1967, the region has experienced civil war and genocide resulting in millions of deaths. The most notable war was in Indochina, and the genocide which happened was the Khmer Rouge's atrocities perpetrated against its

own people.

Even in this case of genocide, it is different from the Holocaust, the victims and perpetrators of which were clearly defined and which happened within a global conflict. In Cambodia, the genocide happened within a regional conflict in an atmosphere of noninterference by other members of ASEAN.

Security and economic cooperation in ASEAN will become meaningless if atrocities happen in a member state while other members act only as bystanders.

Kok-Thay Eng

SIGNIFICANCE OF GENOCIDE EDUCATION

- ♦ *Your questions empower and give meaning to those who have suffered. Asking your parents and grand-parents about the Khmer Rouge will further the conciliation of the Cambodian nation.*
- ♦ *Teaching children about the Khmer Rouge regime means teaching students the difference between good and evil and how to forgive. Broken societies must know their past in order to rebuild for their future.*
- ♦ *Teaching children about the history of the Khmer Rouge regime, as well as stimulating discussion between children and their parents and grandparents about what happened, are important to preventing genocide both in Cambodia and the world at-large.*

RECEIVING REFUGEES IS THE RIGHT THING TO DO

Kok-Thay Eng

In Cambodia there is saying that “you rather have a small house, not a small heart.” Cambodia is a small, poor and corrupt country but it is time for Cambodia to show gratefulness to the global community for helping with our refugees in the 1970s and 1980s. Up to 500,000 Cambodians fled the conflict during that period, many of whom were housed in camps along the Thai border. Today as many as 200,000 Cambodians are living in the Unites States, Australia, Canada, France and other European countries. I met a Cambodian man living in Norway who fled Cambodia to Vietnam and then escaped by boat as part of the boat people exodus. He drifted without food and water for weeks along with other refugees until his boat was found by an Australian patrol team. He was eventually received by Norway after staying in a temporary camp in Malaysia. On this note, Malaysia was a generous

country in this effort to receive both Khmer and Cham refugees for a short while before a third country could take them. The Documentation Center of Cambodia only recently received a large amount of photographs of Cambodian refugees in camps along the Thai border. The publication of these images through social media immediately received instant interest from many Cambodians, especially those living overseas who were reminded of lives, both hopeful and painful, in the refugee camps.

Of course Cambodia does not have a large capacity to receive many refugees but receiving a small number of refugees would allow us to design preliminary measures to provide shelter, food, clothing and training to those people who fled war, conflict and oppression from their home countries. Funding for these activities should be provided by



Refugees carry water for their family. These refugees escape from the Khmer Rouge and Civil War in Cambodia to live at Kao-I-Dang camp along the Cambodian-Thai border which was established by the United Nations High Commissioner for Refugees (UNHCR) in late 1979.

other countries. I do not believe that receiving approximately 1000 refugees would create political and social instability although it is still unclear how the government would deal with the issues of citizenship, naturalization, resettlement to home or third countries, vocational training and jobs. Civil society should actively take part in this process.

Cambodia is trying to refashion itself as a small country with a big heart. Since 1999 Cambodia has sent troops as part of the UN

peacekeeping and demining missions to Kosovo, Afghanistan, Sudan and other countries as part of humanitarian and peacekeeping forces to end conflicts and promote wellbeing in those countries. Through this Cambodia hopes to gain recognition and honor and through honor it is hoped that the Cambodian government would treat its own people fairly, justly and equally.

Kok-Thay Eng



Children at Kao-I-Dang camp. These children receive food, clothes, and educational support from the United Nations High Commissioner for Refugees (UNHCR)



Cambodian refugees at Kao-I-Dang camp receive rice from the United Nations High Commissioner for Refugees (UNHCR) to cook for their families.

PHOU SAM-ANG: ANGKAR'S PRISONER

EXTRACTED FROM THE CONFESSION D58662

Nary leng

Phou Sam-Ang, 23 years old, was born in Tuol Srangam Villag, Phnom Leav Commune, Kampong Trach District, Area 35, in the southwest zone. Before Angkar arrested him, Sam-Ang was a deputy chief of a platoon, i.e. platoon 321 of regiment 32 at division 703. The following is the confession of Phou Sam-Ang, consisting of 37

the commune chief and continued his role as a soldier. Because my father was aging, he asked me to replace him in his position. My father told me, "If you see any spies or liberation forces come to our village or our house, you have to report to Ta Vet, a monk at Prey Takoy Pagoda, in order to let him report to the commune chief and soldiers at Veal



pages, which described the background of his betrayal.

When I was 12 years old, I studied at Prey Takoy Pagoda School in Phnom Leav Commune. Up to grade 10, I quit studying to assist my parents' work. My parents were fishermen. Later, they served the enemy by being spies of Phnom Leave Commune chief. In 1970, I was 15 years old; I quit learning. My father advised me to serve as a spy of

Vong Fortress." My father told me about his networks; those were Nget, my father's former clique; Duch, a villager at Am Peng Village, Phnom Leav Commune; Nget, a villager at Angkaol Village, Phnom Leave Commune; and, Tuy, layman at Prey Takoy Pagoda. My father educated me to hate the revolution. He told me that joining the revolution, I would gain nothing and had to live a suffering life.

In 1972, my father told me that if I saw

anyone give food to the Khmer Rouge, I had to report to the soldiers via Vet. After approximately two months, Khmer Rouge came to ask for food from my family. My parents gave them food. Khmer Rouge asked us to help them keep it a secret, not to let the soldiers know about their presence, and they walked away. In the morning, my father asked Vet to report to the soldiers to let them ambush those Khmer Rouge members. Yet, the Khmer Rouge did not go through that location. Later, the soldiers announced on the loudspeaker that if anyone could catch Khmer Rouge, one would get 5,000 Riels and ten sacks of rice. Hearing that, the desperate individuals did their best to search for the Khmer Rouge, but no one found them. In the same year of 1972, three villagers, including Sem, Thou, and Tuy, caught a spy whose name was Kap; then, they took him to the Kep Fortress at Kampot District. After Angkar arrested Sem and Thou, Tuy, who also was among those catching the spy, was taken to be re-educated and was released. My father knew about these incidents. He and I, then, stopped taking any action for 4 or 5 months.

In December 1972, Angkar gathered all villagers in the district. At that time, Angkar evacuated my family to the upland, at Angkrong Ti 1 Village, Sre Yea Commune, Kampong Trach District. At that time, my father lost his networks. He and I did not take any action. In 1973, Angkar recruited me to serve as a soldier. At first, I served as a spy at Phnom Leav; I did not take any action as I had no networks. Three months later, Angkar sent me to work as a soldier at Kampong Trach District. I was not directly sent to serve as a soldier; I was sent to a district center for a while, with Ta Sien, the Kampong Trach District chief. Half a month later, Ta Sien asked me to join with his C.I.A. network. He called me and other two people, whose name were Phen and Sat, to have a bath together with him. The next day, he called three of us to ask about the process of revolution; he advised us to hate the

revolution by making the comparison to the previous society. Ta Sien kept persuading three of us to help his works. At that time, three of us believed in Ta Sien's words, and he assigned us to work as his secret agents. He asked the three of us whether we dared work with him. Three of us responded: "We dare do everything as long as we could live comfortably." Ta Sien asked us to stay at that center. He would contact his networks. Then, we could take action. There, we did not take any action, but, later, I was assigned to serve as a militiaman at Kampong Trach District. At that time, Ta Sien told me that serving as a militiaman, I should not be hopeless for not having our networks there. He had already assigned his networks there. After getting the instruction from Ta Sien, I went to serve as a militiaman at Kampong Trach District, but Sat did not come with me. He was in the assistant position at Kampong Trach District. When I arrived, Bang Sao, who Ta Sien had contacted, sent me to platoon number 1 at company number 2. Phen, alias Rin, went to platoon number 2 at company number 2. At that time, Phen and I kept in touch. Half a month later, Im, chief of my company, called Phen and me to meet with Sao. At that meeting, there was Im, Phen, Sao, Sang, Lanh, Suos and I. In the meeting, Bang Sao said that we had seven members in our network, currently. Ta Sien told me to call our network for a meeting to set a plan for each individual.

1st plan: We had to instill our political ideology on the militiamen who we believed in to strengthen our force.

2nd plan: Continue taking action inside our unit. **3rd plan:** Cause a chaotic situation in our unit.

At last, he told us to keep secret and sent Moeun to stay at the hospital. Later, Bang Im assigned me, Bang Suos, and Bang Lanh to check for the enemy along the border. He told us that when we went to work, if we saw the enemy, we

should not shoot them. After the instruction, we kept doing that until Angkar took me away to re-educate and released me. I was sent to the battle field front to cook for the militiamen. Bang Im told me that if I cooked, I had to overcook the rice. If I went to get rice from the senior rank, I had to put the listed number more than the exact number of people in my unit. I kept doing this until April, 1974. Later, I got sick and slept in Kampong Trach Hospital for one month. Staying in the hospital, I also took some actions. I wasted medicine, disobeyed the hospital regulations, and stole some medicine to throw away. At the end of May, 1974, Bang Im came to stay at the hospital, while I recovered and returned to my own unit. Bang Im asked me to rebuild our networks to continue our action. After I had left the hospital for seven days, Bang Im also left and returned to the unit. He called me to join a meeting with Bang Sao. Also present was Bang Im, Bang Suos, Bang Lanh, Phen and Moeun in the meeting. During the meeting, Bang Sao asked everyone how many members each of us had persuaded to engage with us. Bang Im answered that he got two more members, i.e. Touch and Han. Later, Bang Sao continued planning his destruction of the revolutionary plan. Bang Sao told us that our networks were not only in this location, but everywhere. Thus, we had to bravely take action. One week after the meeting, district soldiers prepared to fight the Svay Tran soldiers and Thiv soldiers along the border. At that time, I did not go. Staying in one place, I poured half a sack of rice into the water and put centipedes into the pig barn; as a result, a pig died. Angkar interrogated me about the dead pig. Since then, I became less brave in taking any action.

In July 1975, Angkar required the district soldiers from two platoons to go to another location; I had to go, too. Knowing that I went there, Bang Im called me to meet Bang Sao. He asked me to contact our networks in that area.

Bang Sao told me to contact Sarom, a militiaman in that area, as he had already told him. He told me that when I arrived at the place, I had to complete our plan and pretend to serve the revolution as usual to avoid being suspicious. Three days after his instruction, I went to serve as an area soldier. Bang Im took me there, but I did not meet Sarom. After I was trained for a month, I still did not contact anyone. But, I did take action. I bombed the fish pond, yet I was not called to be re-educated or blamed. After the training, I joined unit 35, and I was assigned to serve in company number 117. I was in charge of team 61, in platoon 57 of company 403 in the Kampot Area. After staying there for half a month, I contacted Sarom. He called me to meet and recognized me as his network. Sarom told me that we knew each other, but he did not tell me to take any action as Angkar was searching for the individuals who went against Angkar. Being told so, I did not take any action until December, 1974. Sarom called me to meet with eight other members in his network. Those were Peou, Chorn, Eng, Ven, Chhay, Kheng, Monh and An. Sarom did not assign us to do anything. We had to wait until Angkar was busy with defending against the enemy. We, then, could take action.

In January, 1975, Sarom called me and his networks that he had contacted for a meeting. We were told to take action as Angkar was busy with defending against the enemy. He told me to work with An. After I spent a month, Bang Sarom sent me to other unit to internally work on our plan. I boiled and took a sauce pan full of rice to throw away. Sarom told me that everything that benefitted Angkar should be destroyed. I worked in accordance with what Sarom had told me.

In February 1975, Bang Sarom, Bang Chorn and Bang Peou told me to take serious action. This was to scare the soldiers into fleeing. At first, I dared not do anything as I was afraid of being shot by the soldiers. Later, I did it. At that time, I was

injured. Bang Chhay and Ven, who were my networks, were also injured and sent to hospital. They were the ones who led me to do this action. After recovering, I came to rest at the unit for ten days; then, I went to meet with Bang Sarom and asked him where our networks were. He responded that one of our networks, Monh, passed away, while Chhay and Ven were injured. Sarom said that he had recruited one more network whose name was Ken. In April, Bang Sarom assigned me to fight against the enemy with other people. At that time, I kept in touch with Ken. Meeting with Ken, I invited him to flee. But I was injured and stayed at the hospital until July 1975. Then I recovered. Angkar assigned me to guard at home. Later, Bang Sarom was promoted to be a company member. He told me that when I was injured, our networks kept taking action. Bang Sarom told me about the new networks that he had built; those were Vuon and Bern. These two comrades were sent to stay with Comrade Chorn. Chorn was their leader. Next, Angkar sent my entire unit to defend at the west coast in Kampot. Bang Sarom told me that going there, I had to build more networks. He also told me that if I encountered any trouble, I had to report to him via his assistant. He would help us deal with it. At that place, there was Comrade Kheng who supervised the location. We had to contact him. After getting the instruction from Bang Sarom, Kheng and I kept taking action and advised two other militiamen, who dealt with food matters, to join us. Kheng took those two people to steal rice, potatoes and animal heart to eat. In September, 1975, An, Sarom's assistant, came to ask Kheng about the number of new network members. Kheng said that there were two. An told Kheng that Bang Sarom would come to take the new force to educate them. After the discussion, An returned to his place. The militiamen who Kheng led were Che, Khon, and Yoeun. In October, 1975, Angkar sent 30 members of my unit

to work in the field, but I did not go. I still remained in the same location. Day to day, our networks kept taking action. As this happened too frequently, my platoon called me to be re-educated and asked me not to do that again. The action was still taking place every day. Perhaps a month later, Angkar took another unit to work at a salt field. I was one among those people. At that place, I met with my networks, Bern and Bang Peou. We contacted and kept taking action. Bang Peou told me he had invited other members, i.e. female comrade Saret and female comrade Sorn. Working with Bern at the salt field, I met those two women. Later, Bang Sarom came to the salt field and called for a meeting with all of his networks. At the salt field, Saret and Sorn were the leaders of the action. Comrade Phen took action with Choeun. Bang Sarom told Phen, leader at the rice husking unit, to put in the gravel in order to take some rice to support our forces when we fought against them. Then, he was caught by Angkar and was sent back. He would tell us other plans. After I performed the ordinary tasks for 20 days, Bang Sarom came again and called for a meeting. He had persuaded four others to join; those were Ta Chhaom, Hok, Sim and Chhon. At the military zone, Bang Sat and Bang Chey contacted the Vietnamese, and they were building their forces to implement our plan in the next year. Then, he told me that those who work at the coastal border had to pull out a few fences each day to create a gap to let the Vietnamese enter. After listened to his instruction, Bern, Bang Peou and I implemented accordingly. We contacted Saret and Sorn. Bern asked them whether Bang Sarom had told them anything. They said that they were told about contacting our networks. Then, they told us about the networks at the salt field, including Rin and Pheap. Two days later, I contacted those two people to talk about our plan. Later, we together, broke down a water plumbing machine at the salt field. We also turned on the water gate and

damaged 10 fields of salt. Saret and Sorn were persuaded to join with us. I worked at the salt field for just two months; then, I returned to my unit. Upon my arrival, I went to confirm with Kheng whether Bang Sarom had told him about any plan. Kheng said yes. The plan he told was not different from the previous plans which I was told of at the salt field. Kheng, Khon, Yoeun and I kept communicating with one another to implement the plan until November, 1976. Chhon and Sim contacted the Vietnamese at Koh Tral. In the north, Chey and Chen contacted the Vietnamese through the Lork and Bracheav gates. We continued implementing our plan everywhere. We moved away fences along the coastal border. Then, Bang Sarom called four of us, including Kheng, Khon, Yoeun and I to inform us of the other plan for the end of the 1977. He said that I had to tell all networks about this new plan, led by Bang Chey and Bang Sat; they were from the Yuon(Vietnamese). He said that we had to organize the internal plan but did not need to think about the outside one as it had already been arranged. On the military side, there were Chey, Sat and Chen who were in charge of the land force. I was in charge of letting the enemies invade along the coastal area, while Phen was in charge of the economic section. Female comrade Saret and Sorn were responsible for weapons and took action at the salt field. Chhaom was in charge of urging the residents to go into the jungle and preparing food to supply. Chhon and Sim had to contact the Vietnamese's water forces. Ta Hok was responsible for medical supplies. Bang Sarom asked us to take away all fences in front of unit 117 and unit 118 and damage all of those fences. Chhon and I continued taking action. When Angkar realized this, we were called to be re-educated. Stop destroying the fences, so Kheng Yoeun and I destroyed a canoe.

In February, 1977, Chey went to contact with

the Vietnamese. When he returned, Angkar knew about this and removed him from the unit. However, Chey did not stop implementing the plan as he still kept in touch with them. He also contacted Phen. Phai prepared rice and bullets which Phen provided. He could secretly prepare two warehouses of rice and bullets. Choeun led his force to liberate the prisoners at Kampot; he also equipped them with weapon to fight against the revolution forces. He robbed medicine from the hospital and killed those who went up against him. We did these actions, taking rice and other materials, and ran into the jungle to struggle against the politicians in power. My group just focused on taking away the fences. In June, 1977, Angkar caught my team members; Chey, Sat and Chen, one after another. Only Bang Sarom remained; he instructed me to put off the action for now. In December, 1977, Angkar arrested some betrayers. Angkar sent Bang Sarom to regiment 236. Bang Sarom called me, Bang Chorn, Kheng and Eng to give instructions. It was the time when the enemy, the Yuon, invaded. Two of my networks, whose name were Lav and Phal, implemented the plan at the battlefield by destroying the revolutionary forces. Eng and Bang Chorn went to meet with Lav and Phal to discuss the betrayal networks. After telling everything to both of them, Lav said that he also got the information about the betrayal plan from Bang Sarom. Bang Sarom told Chorn, Phan and Eng to urge our internal forces to instill our ideology in the cadres and militiamen who were at the battlefield. In February, 1978, Bang Chorn assigned me to do some activity, including break the rifle, throw away the bullets, and flee the battlefield. After being instructed, Khon, Yoeun and I took a case of M79 bullets and 5 bombs to throw into the water. When I was fighting with enemy, I shot at everywhere to waste the bullets. After I shot, Kheng took me and three others to run back. One half of the militiamen followed us. Later, Angkar re-

arranged its forces. I was sent to regiment 238 with Eng and Phal who were the company militiamen. Two militiamen there were in my network; those were Sern and Nauy. Angkar trained me about the political situation at that time for a week and about military strategy for half a month. When I was trained, Angkar took Bang Lav to that unit. During the training, I exploded a bomb as Bang Lav asked me to test it. The bomb hit three of our members; luckily, they did not die. After this incident, Bang Lav

helped me, and I managed to be free. Besides that, I also shot a cow, and its leg was broken. Later, Angkar had to fight with the Vietnamese, and I also needed to join. When I was meeting with Bang Lav, a food supplier told Bang Lav that the enemy had severely invaded. Bang Lav took action and stopped the militiamen from fighting against the enemy. He assigned only some militiamen to defend, and, as a result, some were killed. Then, Bang Srom called for a meeting with our leaders. As soon as Bang Lav



Detained prisoner of S21 Security Center. The victims were photographed, interrogated, and tortured before they were executed.

returned from the meeting, he called me and another to meet again. Bang Lav told us that we did not have the ability to fight against the revolution, but we must keep implementing the plan in order to destroy the revolution. After getting the plan, Bang Phal assigned me, Khon and the other member to take the grenades to set along the way where militiamen walked. Bang Phal assigned three of us to dig out all potatoes planted by the female unit at Angkaol Mountain and throw them away. In March, 1978, Angkar arrested Sarom. Later, Angkar prepared forces to go to the battlefield. At the battlefield, my members took action, too. Fighting against the enemy for just four days, I was sent to be trained for three days. Then, we rested five days. At last, we had another three-day training. When the training was completed, Angkar prepared forces to fight at Kirivong District, Takeo Province. My team members were separated at that time. Lav, Phal, Yoeun, Khon and I had to go to Takeo Province, while others went to the Kampot Area. After arriving at Takeo Province for three days, we were prepared to fight against the enemy and studied about the revolutionary politics and enemy's situation for three days. At that time, Bang Lav asked me to instruct comrade Rin, who was in Bang Sarom's network. During the meeting, Bang Lav set up an action plan for everyone. I had to leave them for the battlefield. During the fighting, the Vietnamese shot rapidly, but I did nothing. I rescued myself. Then, the second forces arrived and fought with them. At the same time, the village unit on my right hand side kept firing the gun. I, then, shot the rifle 41, and it injured one person. I continued shooting another four bullets from the rifle M79. The situation turned silent. After the silence, I found out that two people were killed, and one was injured. When others climbed the mountain, I went backward. Some militiamen followed me. On the next day, all the militiamen who went backward were called to be re-educated. After relaxing for a

night, I was sent to the battlefield at Tonle Basacc Village. At the battlefield, I did not provide food to my colleagues for three days and made the boat sink. Some food was lost. After the battlefield at Tonle Basacc Village ended, Angkar had one more training. After a one-night journey, we rested at Sa-Ang District for a night. Then, a truck came to pick us up. At that time, Bang Lav met with me and Khon. He told us that beside the three of us, other members were separated. We would continue our plan as long as we still survived. Upon our arrival in the eastern zone, Angkar let us rest for two days in order to prepare the forces to fight at the battlefield. We rested at Samrong District, Svay Rieng Province. When I arrived there, I got malaria and was sent to stay at B-17 Hospital in Phnom Penh for more or less a month. In my unit, I was in charge of cooking for the members. A week later, I went to fight against the enemy with others. Then, I met with Bang Lav; he told me that Phal got injured, but we still had to continue our plan. Entering the battlefield, I was assigned by Bang San to protect our members at Tracheak. I continued our plan and shot one comrade to death and injured two others. Angkar called me to be interrogated. I told them that I shot them by mistake. Later, I pretended to be sick and urged some militiamen to pretend to remain sick in order not to enter the battlefield. I scared them by talking about death.

Later, in June, 1978, Angkar transferred me from the battlefield at Samrong District to Romeas Hek. However, the patients were not transferred. Bang Lav and I were assigned by Angkar to join the fight twice. There, I did not implement our plan. At that time, I was injured and stayed at the B-17 Hospital in Phnom Penh. Ten days later, I recovered. Next, Bang Lav called me to meet with Bang Phal and Bang Rin to instruct us about the plan. Phal, Rin and I had to continue our destroying of the revolution. At that time, Bang Rin contacted his networks, whose names were Nan, Khen, and

Berng. After contacting them, Bang Lav and Rin called all of us for a meeting. He assigned us to work on each assigned target. One had to do whatever possible to destroy the revolution. In July, 1978, after being assigned by Angkar, I went to the battlefield. Bang Phal instructed me to destroy the revolutionary forces. I followed his instruction. I injured three comrades; two were injured, and one died. Later, Bang Phal was hit by a bomb and died. Angkar changed their direction and sent unit 230 to Samrong District, instead. At that time, Angkar dissolved unit 230 and inserted it into division 703 in August, 1978. After the dissolution, I was in the same unit with Bang Rin and comrade Khen. I asked them about the remaining networks. They told me that we still had some members. Rin introduced new members to us; they were Rang, Mer and Soeun. We got to know each other and kept in touch. We continued our plan at each location. Later, Rin called me to meet with Mer and Soeun who were at the back of the line. Rin instructed us to bury landmines, as many as possible, during the dry season. This was to destroy the revolutionary force. We buried landmines along the road whenever Dy and Pin came to visit. Then, Mer and Soeun appointed Nan, Khen and Berng to check the battlefield. To implement our plan, they were instructed to say that they did not see any Vietnamese though they had seen them. Two days later, Soeun took a regiment to the battlefield. Many were injured, while some died. Then, Bang Soeun told me to bury the landmines; I had to be careful in order not to be caught. In September, 1978, I and Khen worked according to the instructions of Rin and Soeun. We continued our plan at Pramaoy. We reported that the enemy had dug a rescue hole at the front area: This was to let the revolutionary forces bomb those locations and waste their bombs. Then, Soeun instructed them to shoot AT bullets, yet they did not hit the enemy. Later, I started burning houses. The enemy

bombarded, and four revolutionary members were injured.

In the mid of September, 1978, Soeun and Mer called Rin, Kheng, Berng and me for a meeting and set up another plan to implement. We had to lead the forces to the landmine area. Six days after the meeting, the forces asked us to take them to visit the battlefield. At that time, I did not know that Khen, Berng and Rang led the team. Four days later, they returned, and we did not succeed with our plan. Then, it was Nan's turn, and I went along with him. Our plan still could not succeed, however. Angkar added three days for those forces to prepare. After the preparation, Soeun called me, Rin, Khen, Nan and Berng to meet as it was nearly time to fight the enemy. Then, Rin added two more members; they were female comrade Lav and female comrade Hen. After informing us about this, Rin introduced Lav and Hen to me and Khen. On October 30, 1978, it was the 18th anniversary of the party. At around 9 pm, Soeun told me that I had to implement according to our plan. As soon as he left, the landmines exploded. We ran to the back canal and saw the revolutionary forces run in panic along the field. At that time our network from the north came to check with me whether everything here was fine as his side was absolutely fine. When we were talking, the forces yelled that Yuon came from behind. Hearing that, I led the revolutionary soldiers backward. The next morning, a senior man in my regiment asked me who allowed me to lead the soldiers backward. I answered that no one did. He warned me that even the senior ranking member of a regiment and battalion dared not decide; why I dared to do that? He, then, sent me to deal with this with Angkar. Eventually, I was sent here and was arrested by Angkar on October 2, 1978.

Nary leng

The Public Forum on the History of district, Kampong Thom



Democratic Kampuchea at Sandann n province on July 2014



THEIR TURN NOW

Pheana Sopheak

August 7, 2014 is the date when the pain of many of the Khmer Rouge survivors were provided with justice. It is the date when the senior KR leaders, Noun Chea and Khieu Samphan, were sentenced to life. This date means a lot to those survivors. Oum Yik, a La-ang Prison survivor, is feeling satisfied with the result that those leaders have been given.

Oum Yik, 66, is a farmer who lives in Chamkar Bey Village, Pong Tik Commune, Damnak Chang-eu District, Kep Province. He is native to Damnak Trayoeng Village. Since his childhood, he could read and write. In 1970, he settled down and had four children. Besides being a farmer, he also dug the rock to sell at Touk Meas Market. His ordinary life went on. On April 17, 1975, eight of the 17th of April people were evacuated to live with him. Because he was assigned to be a Khmer Rouge cadre, he was ordered to take away two 17th of April people to the cow stable at Kbal Tinh Mountain. However, he refused, for he knew that if he took them away, they would be taken to be killed. This made him have his name in the Khmer Rouge's list.

In mid-1977, he was assigned to be the head of the cattle unit whose unit chief's name was On. His task was to look after 50-60 cattle. There were also three old and two young members in his unit. One day, there was a baby cow which did not want to go back to the stable. It was stubborn. Not being able to think of any means of persuading it, he left it there. Unfortunately, the village chief took it to eat. Two or three days later, Yik was taken away. He was sent to join the army and fight in the battle field at Prek Chik which was near the border of Vietnam. One day, someone came to him and told him that his children were sick and allowed him to

return home for one month. He was happy to be back reunited with his family. But instead of taking him home, they sent him to Touk Meas Prison. He was accused of releasing two 17th of April prisoners and killing that baby cow. They decided to send him to Kampot. It took him one night to reach there. To transport him there, they tied him and put shackles on his legs and threw him into the truck.

Upon arriving at Kampot, he was shackled and tied. In the first three days, he was taken to be interrogated, and he was interrogated and beaten three times per day. During the interrogation, he was asked what he did wrong. He kept replying that he did nothing wrong. The Khmer Rouge did not listen. They believed that he must have done something wrong. They said, "If you did nothing wrong, Angkar would not arrest you. Angkar never arrests one without reason." They asked his background, and he told them that he was just a farmer. Moreover, they kept asking the reason he was sent there. Because of giving an unsatisfactory response, i.e. he did nothing wrong, he was hit with the window bar. Not able to endure the pain, he fainted. Lastly, he was put in shackles. Two meals, which included rice and gruel, were given to him. There was also a bullet container reserved for him to urinate in. There were 10 prisoners in one cell, and they were put on a long iron bar and shackled together. Some died. The smell was odorous because for one day and one night, both the corpse and the container were left in the room before being taken out. He spent his nights with the corpses around him. He could not have any bath at all. He was there for three months and 20 days. After that, he was sent by truck, which contained 10 prisoners, to the new area, La-ang.

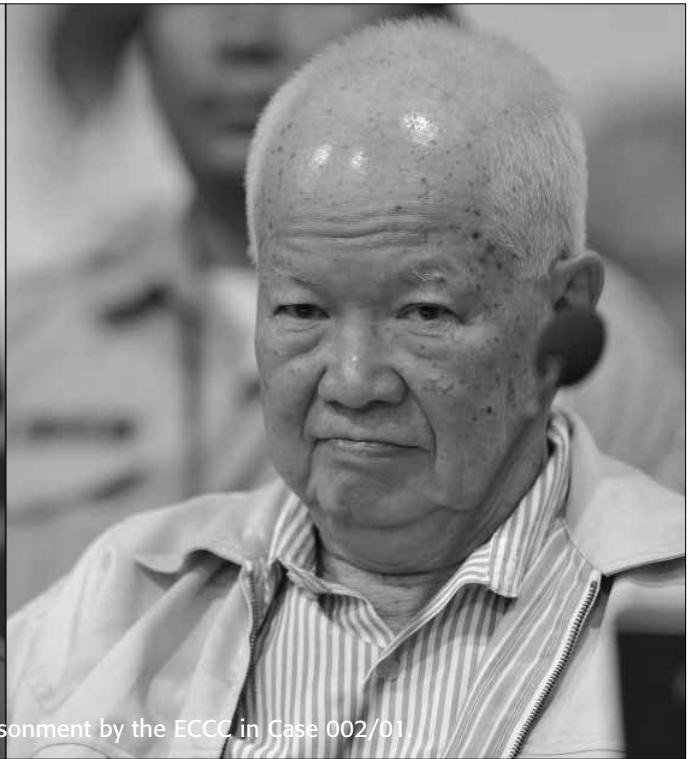
At La-ang, he was assigned to do farm work,

carry earth, and log in the jungle to clear land for growing crops. There were 600 people, included both males and females, in total. What they were given for meals was rice mixed with cassava. There were also some women who defected and were arrested. After being arrested, they were tied for two days and two nights. Then, the Khmer Rouge arranged a meeting, in which all the prisoners were asked to line up, and those who were arrested were allowed to ask for a guarantor who guaranteed that they would never defect again. There was no one who dared to be the guarantor.



prisoners and started killing them. To survive, Yik decided to defect. He managed to escape. It took him 12 days and 12 nights to reach Kbal Romeas, and he could run only at nighttime because he was afraid of being seen. It took him 15 days more to build a house there. Then, his father drove a horse cart to take him away.

After learning that Khieu Samphan and Noun Chea are convicted and given life imprisonment, Yik is very satisfied and pleased. The verdict could heal his pain to some degree. Still, he is quite disappointed that even though Khieu Samphan and



Noun Chea and Khieu Samphan were sentenced to life imprisonment by the ECCC in Case 002/01.

Consequently, those females were killed. Yik witnessed the incident three times. Two females were killed with a hoe, and a male was killed in front of him and all other prisoners.

In 1978, there were only 300 prisoners left; the number was reduced by half. In that year, since the Khmer Rouge had to fight against the Vietnamese soldiers at Koh Sla, all the prisoners were sent to help. They were assigned to carry rice and salt for the Khmer Rouge soldiers. At one point, he saw a prisoner was killed, and thought that they might kill him, too. Then, they came to check the

Noun chea are imprisoned, they receive enough food and sleep in a nice place. He said: "It is never equal." He eagerly wants to harm them, yet he understands the country has law, and that all citizens have to follow it.

Though Khieu Samphan and Noun Chea will live or be detained in a sufficient facility which is far different from his notorious jail term of the Khmer Rouge era, Yik thinks that to live the rest of their lives as criminals serve them right. It is their turn now!

Pheana Sopheak

THE POAR MINORITY GROUP DURING KHMER ROUGE REGIME

Sivneath Vong

Poar is an ethnicity whose origin is at Tbeng Mountain in Preah Vihear Province. During the Khmer Rouge regime, this ethnicity fled to live in another area of Cambodia. Currently, the Poar minority come to live in Preah Vihear Province and Battambang Province. The identity of this ethnicity was lost after the Khmer Rouge came to power from 1975 to 1979.

Sep, 71 years old, is one of the Poar minority members. Nowadays, she lives in Ov Loek Village, Romdoh Commune, Roveang District, Preah Vihear Province. She said that, during the ancient time, the Poar minority did farming, logged forest to get land for farming, and went hunting. The Poar minority believed in Buddhism and Hinduism. They paid respect to “Neak Ta” (ancestral spirit). The ceremony for “Neak Ta” was held from January to February every year. In the ceremony, they offered rice and soup to Neak Ta. They believed that by doing this, Neak Ta would be satisfied, protect them and chase away the evil from their house. Particularly, before they went hunting, one would make some sort of offering to Neak Ta, such as wine and food, and play the drum. Poar is an ethnicity that has the culture of sharing. Whenever one hunted a wild animal, one would share it among the neighbors, in equal amount. Moreover, if there was a pregnant woman, her family would get an additional share. This minority has only the spoken language but not the written one. Originally, its language was created as people of this ethnicity loved to communicate with their members about important things. However, later, the Poar language was used during the story telling in the family. Sep stated that the Poar’s wedding

was celebrated in the same way as the Khmer’s. The groom would wear a Sarong and shirt, while the bride would wear a silk skirt made by the Poar minority. The Poar’s houses consisted of Kachang tree walls, bamboo floor and thatch roof. Even in current times, the Poar minority who live in Ov Loek Village still continue living in such ancient style houses.

Sep raised the issue of her life experience during the Khmer Rouge regime. She said that she was not evacuated to any other area, but the food ration at her location was extremely insufficient. She had to perform heavy labor, yet she could get just the watery gruel and salt for food. Angkar assigned her to work at the farm during the rainy season. Every day, at 4 am, she had to swiftly go to the field to spread fertilizer onto the field and to do transplantation. Angkar never let her rest when the rainy season came. During the dry season, Angkar assigned her to dig out potatoes in the forest with other people. Sep continued that there were a lot of tasks to complete, yet there was always a lack of food. Whenever she got sick, there was no medicine to cure her; only rabbit dung medicine, made from tree root, was available. Sometimes, she took it and recovered, while some other times, it made her illness become even worse. Sep continued that though numbers of people were killed during the Khmer Rouge regime, she never witnessed any killing. Still, she saw the Khmer Rouge cadres take people away to be killed. Fortunately, she lost none of her family members during this brutal regime.

Sivneath Vong

A HISTORY CLASSROOM AT FORMER KHMER ROUGE S-21 PRISON

The Khmer Rouge regime turned public schools and pagodas into prisons, stables and warehouses. Tuol Sleng prison, also known by its code name of "S-21," was created on the former grounds of Chao Ponhea Yat high school, originally constructed in 1962. The Khmer Rouge converted the school into the most secret of the country's 196 prisons.

Experts estimate that somewhere between 14,000 and 20,000 people were held at Tuol Sleng and executed. Only seven known prisoners survived after the Khmer Rouge regime collapsed. The Extraordinary Chambers in the Courts of Cambodia (ECCC) held that at least 12,273 prisoners passed through Tuol Sleng in its trial judgment against former Tuol Sleng commander Kaing Guek Eav alias Duch. As the number of survivors has received less attention, most Western media repeated the figure of seven survivors and this

has been repeated for over 30 years. However, after several years of research, the Documentation Center of Cambodia estimates that at least 179 prisoners were released from Tuol Sleng from 1975 to 1978 and approximately 23 additional prisoners survived when the Vietnamese ousted the Khmer Rouge regime on January 7, 1979.

Today the four buildings in the compound of the prison form the Tuol Sleng Genocide Museum, which was opened to the public in 1980. People from all over the world visited the museum and currently, approximately 250 people

visit on an average day. Many Cambodian visitors travel to Tuol Sleng seeking information about their relatives who disappeared under the Khmer Rouge.

While the museum has been a success in generally raising awareness of the atrocities of the Khmer Rouge, it still lacks a thorough educational dimension, which could make the experience of visiting more dynamic, educational and memorable. Since its conversion from a place of learning to a place of horror and degradation, Tuol Sleng has never reclaimed its original status. However, in the future, in order to reclaim the positive, educational heritage of Tuol Sleng and add an educational element to the museum, a classroom has been created to provide free lectures and discussions on the history of the Khmer Rouge regime and related issues, such as the ECCC. The classroom will also serve as a public platform for visitors and survivors to share information and preserve an important period of Cambodian history for future generations to learn from.

- ♦ **LECTURERS:** Staff members from the Documentation Center of Cambodia and Tuol Sleng Genocide Museum.
- ♦ **GUEST SPEAKERS:** National and International Scholars on Cambodia and S-21 Survivors
- ♦ **TOPICS COVERED:** Who were the Khmer Rouge? u How did the Khmer Rouge gain power? u The Khmer Rouge Hierarchy u Khmer Rouge Domestic Policies u The Khmer Rouge Security System u Office S-21 (Tuol Sleng Prison) u Khmer Rouge Foreign Policies u The Fall of the Khmer Rouge u The Verdicts of the ECCC.
- ♦ **SCHEDULE:** Monday 2pm-3pm u Wednesday 9am-10am u Friday 2pm-3pm.
- ♦ **VENUE:** Building A, top floor, 3rd room.



EDUCATION DURING AND AFTER THE KHMER ROUGE REGIME

Dalin Lon

After taking over the country in April, 1975, the Khmer Rouge leaders employed Communism to lead their own country. They intended to alter this country to be a pure socialistic country, i.e. the society which had no class and did not depend on any other country. The Khmer Rouge started to evacuate people from the cities and some rural areas to the countryside to farm. They were divided into units, groups and cooperatives. The Khmer Rouge leaders were ambitious to succeed in their plan, which was a four year plan to transform the nation into a communist country as developed as Vietnam and China. At the same time, the Khmer Rouge did not care about the risks or shortcomings which caused obstacles to the process of

implementing the Communist policy. The Khmer Rouge leaders' ambitions caused an awful historical tragedy. The loss included the loss of millions of lives, infrastructure across the country, customs and culture, religious beliefs and education. Consequently, the country fell deeply into the darkness.

If we look closely, we can see that the Khmer Rouge leaders had instilled their powerful ideology upon their people and cadres. This ideology had deep roots and powerful impacts on people's consciousness. Most people even suffer from mental disease, called "Bak Sbat". Using slogans was one, among the many other ways, that Khmer Rouge leaders used to instill their ideology and scare people, in order to force them to follow their great and wonderful pathway. In particular, there was a Khmer Rouge's slogan which stated: "To Angkar, there are no diplomas, but diplomas gained by practical experience. If you want to hold the degrees, you had to go to get it at dams and canals." This slogan clearly reflected that the Khmer Rouge did not pay attention to education. However, the Khmer Rouge considered work sites were the only places where people could learn and train themselves. Because of this slogan, all schools nationwide were closed. Some learning buildings were demolished, transformed into prisons or transformed into warehouses to store agricultural products. The young who were of school age were sent to work at the work sites. "Diploma gained by practical experience" of the Khmer Rouge referred to the productivities, including irrigation systems and agricultural products, which were obtained from millions of Cambodian peoples' harsh labor;



The Khmer Rouge military

they had to work day and night to accomplish the great and wonderful plan, and, in exchange, they could get only one or two ladles of watery gruel to save their fragile lives. During the Khmer Rouge regime, children did not receive any proper education. Rifles, hoes and soil baskets were used to replace pens and books.

After the collapse of the Khmer Rouge regime, Cambodia first restarted classes on September 24, 1979. To date, it has been approximately 35 years. The restoration and development process of education encountered a lot of obstacles, including lack of human resources and learning and teaching materials. To restart the classes, the government recruited teachers from those who returned to Phnom Penh and those who could read and write. Besides the broken buildings remaining from the Khmer Rouge regime, learning and teaching were conducted at pagodas and at residential houses.

Having a nationalistic spirit, some knowledgeable individuals who survived the Khmer Rouge era volunteered to work cooperatively with the government to establish the curriculum and text books. This became the foundation for restoring Cambodia's educational system. Having insufficient human resources and learning materials, the volunteers worked very hard, both day and night, to write one page after another of the textbook, in order to let the teachers and students have a textbook from which to learn. At that time, there was almost nothing. They even used coal to write instead of chalk. During these first classes, there were only 900,000 students and 20,000 teachers throughout Cambodia. Hence, it was a long journey for Cambodia to reform and restore its education system.

Due to the effort of the royal government and the participation of the national and international communities, to date, the Cambodian educational system has developed dramatically in both quality

and quantity. Educational quality has been promoted at the learning institutions through curriculum and textbook reform. Increased teacher qualifications, better management and governance, building schools and learning institutions, equipping learning materials and technical tools have been the great solution to ensure the educational quality and to guarantee that the graduates have the qualifications necessary to enter the current job market. In the last several years, every field and level of education have been paid close attention to. As a result, in the academic year 2013-2014, the numbers of students, teachers, and schools has significantly grown. Cambodia has built schools nationwide, up to a total of 11,865, including 3,184 preschools, 6,993 primary schools, 1,244 secondary schools, and 444 high schools. In addition, schools were built in almost every commune to increase chances for every child to learn at least until grade 9. This has been stated in the Cambodian Constitution.

The 3 years 8 months and 20 day regime was such a long period for Cambodians. However, taking 35 years to restore the Cambodian educational system was not too long as Cambodia had to start from zero. Also, education is a life-long process; it continues from one generation to another. As a Cambodian, I would like to request other Cambodians, as well as the politicians, to look back to our past and make use of the past to develop themselves and our society. The Cambodian education system still can not be compared with other developed countries educational systems. Still, based on our current rate of development, the Cambodian educational system has reached a greater level of development and will be recognized by the international community in the near future. Education is the key to resolving social and economic problems.

Dalin Lon

Victims attend the hearing of Case 002/ Court of Cambodia



01 at the Extraordinary Chamber in the a on July 30, 2014



THONG DEN, A WORKER OF STATE WAREHOUSE, DURING THE KHMER ROUGE REGIME

Lakana Ry

Thong Den, male, 57 years old, lives in Malay Commune, Malay District, Banteay Meanchey Province. Den was a worker at a state warehouse in Phnom Penh during the Khmer Rouge regime. Den described his life experience, saying that his hometown is at Pralay Commune, Stong District, Kampong Thom Province. Den's father's name is Thong Him and his mother's name is Chap Eng, and he has 7 siblings. Den continued that he could learn up to grade 7 "old society" and quit school in 1969. After quitting school for a while, he became involved with the revolution. At that time, he was at the northern zone (region 304), led by Koy Thuon.

After the Khmer Rouge soldiers had liberated Phnom Penh for 10 days, Den entered Phnom Penh and was assigned to work at a state warehouse. His work at that time was to guard the warehouse and carry some goods to Chroy Changva and Kilo meter 6. Besides these works, Den collected materials in houses in Phnom Penh and took them to the warehouse. He supplied materials whenever the factory requested them. The chief of that warehouse was Roeung alias Rithy. In the warehouse, there were clothes, Cotton and Kapok, which were taken from the local factories. Also, some clothes were imported from a foreign country. Rice was also stored there, too. It was reserved for distributing to district, province or cooperative whenever they were requested. Den's team was in charge of loading it on the truck or ship and sending it to them.

The state warehouse where Den was working had 7 groups, from group 71 to group 77, working together. Whenever there was an annual meeting, he saw Noun Chea and Khieu Samphan, talking

about the annual work productivity. Between 1977 and 1978, Den knew that there were executions taking place because his chief was arrested.

In 1977, Angkar sent Den to file his biography and to serve the military at Kampong Thom Province and Siem Reap Province. At that time, he experienced the hardship which most people encountered. He received insufficient food. Before serving in this position, Den was trained for three days. When he returned, he had to report about what he had witnessed. However, he had no idea about the plan which the senior ranks had set.

Later, Angkar arranged a marriage for Den. At that time, there were only two pairs. When Vietnamese soldiers entered Phnom Penh, Den separated from his wife as she was sent to Oral Mountain by Angkar prior to this event. Den went to Oral, and, later, fled to Trang in 1980.

When the Vietnamese entered, Den went to Phnom Prik with division 320 which was under the control of Ta Kan. In 1982, Den came to live in Malay and became a village chief. He still worked in the transporting unit which supplied food and weapons to the soldiers at the battlefield front. Den lived with Saur Hong who monitored division 450 and 519. One year before the integration, Son Sen fled to live at Anlong Veng with Ta Mok. Then, the Khmer Rouge at Malay and Pailen agreed to integrate with the royal government. Den and his wife came to their home village to look for their family.

Lakana Ry

CASES 003 AND 004 AT THE KHMER ROUGE TRIBUNAL: THE DEFINITION OF “MOST RESPONSIBLE” INDIVIDUALS ACCORDING TO INTERNATIONAL CRIMINAL LAW

Randle C. DeFalco

Introduction Randle C. DeFalco

The commission of genocide and other international crimes are typically large-scale group undertakings. As a result, the selection of whom to prosecute has presented a recurring challenge for international criminal law (“ICL”) practitioners in post-atrocity situations. Within ICL practice to date, prosecutors have primarily targeted individuals who held positions of significant power or were implicated in especially grave crimes. Meanwhile, lower-profile national or military courts have been sometimes utilized to prosecute less notorious perpetrators.

The difficulty of selecting the proper scope of prosecutions following mass atrocity crimes is

exemplified by the long-simmering controversy concerning how many suspects will ultimately be prosecuted at the Extraordinary Chambers in the Courts of Cambodia (“ECCC”), a special hybrid wing of the Cambodian judiciary created in collaboration with the United Nations (“UN”), commonly referred to as the Khmer Rouge Tribunal.⁴ The Khmer Rouge held power in Cambodia from 17 April 1975 to 6 January 1979. During this time, when the country was officially renamed Democratic Kampuchea (“DK”), extremely grave international crimes were undoubtedly committed against millions of victims by thousands of individual perpetrators. In designing the ECCC, the Cambodian government and UN agreed, following



Im Chem in front her house at Trapeang Tav commune, Anlong Veng district, Oddar Meanchey province

protracted negotiations, that the Court would have “personal jurisdiction over senior leaders of Democratic Kampuchea and those who were most responsible” for specified international and domestic crimes committed in Cambodia during the Khmer Rouge’s reign.

This paper considers the meaning of the phrase “most responsible” at the ECCC in relation to highly controversial Cases 003 and 004 at the Court, which have languished in their pre-trial investigatory phases for years. More specifically, this paper argues that the term should be interpreted in accordance with prevailing ICL jurisprudence and suggests that all suspects in the two cases fall well within the purview of any reasonable legal interpretation of the term “most responsible.” As such, it is concluded that there is no legitimate legal mechanism – other than trials – available to bring Cases 003/004 to proper conclusions and thus, any effort to shutter the cases must be viewed as a product of considerations extraneous to the legal principles applicable to the ECCC.

To make this argument, a brief overview of the convoluted and controversial histories of Cases 003/004 is provided, followed by an explanation of why resort to ICL jurisprudence for the ECCC to properly interpret the term “most responsible” is warranted by both law and simple necessity. Next, an overview of relevant ICL jurisprudence concerning personal jurisdiction and relative culpability assessments, drawn from the Special Court for Sierra Leone (“SCSL”), International Criminal Tribunal for the former Yugoslavia (“ICTY”) and to a more limited extent, International Criminal Court (“ICC”) is provided. This jurisprudence is then compared to the known facts concerning the suspects in ECCC Cases 003/004. Through this analysis it is argued that due to the extreme gravity of the criminal allegations against all suspects in both cases, combined with the apparent high degree of responsibility therein of each respective

suspect, all four presumed suspects in the two cases fall squarely within the class of persons properly considered “most responsible” for the crimes committed during the DK period in Cambodia. While this conclusion may be politically and/or financially inconvenient for certain stakeholders and interested parties, from a legal standpoint this paper asserts it is essentially unavoidable and thus, should the cases be dismissed ostensibly on personal jurisdictional grounds, such action would deeply compromise the already fragile integrity of the ECCC as a legal institution. Thus, it is further concluded that should Case 003 or 004 be shuttered prior to trial, a better course would be for the ECCC, UN, Cambodian government, donors and other stakeholders to simply admit that a lack of resources and/or willpower to proceed with the cases are the cause in order to protect the overall legal integrity of the Court and by extension, any judgements reached in Cases 001 and 002.

The Case 003/004 Controversy in Cambodia

The ECCC utilizes a civil law process involving an investigation instigated by the Court’s Co-Prosecutors, but largely carried out by two Co-Investigating Judges (“CIJs”). The ECCC Co-Prosecutors are duty-bound to submit an “Introductory Submission” to the Office of the Co-Investigating Judges (“OCIJ”), triggering an official investigation of a suspect, when they develop “reason to believe” that the suspect(s) in question is implicated in crimes within the ECCC’s jurisdiction. Once seized by an Introductory Submission, the CIJs have a “compulsory” duty to investigate the allegations contained in the submission, seeking both inculpatory and exculpatory evidence, and thereafter to issue a “Closing Order” that either commits the suspect(s) to trial and specifies which charge(s) will be adjudicated or alternatively, dismisses all charges effectively ending the case. It is within this

investigative phase that Cases 003/004 have languished amidst considerable controversy since being initiated by then-International Co-Prosecutor Robert Petit on 7 September 2009.

There is widespread speculation that the Cambodian government is working to prevent both cases from proceeding to trial. National ECCC Co-Prosecutor Chea Leang opposed the initiation of Cases 003/004,¹⁴ leading to Petit proceeding alone with the filing of Introductory Submissions in both cases. One widely cited example of the government's apparent opposition to Cases 003/004 occurred in 2010, when Cambodian Prime Minister Hun Sen reportedly "clearly affirmed that case three is not allowed" during a meeting with UN Secretary-General Ban Ki-moon. Although since such time, Cambodian government officials have been more equivocal when commenting on the two cases, the perception that the government monolithically opposes the two cases remains largely in place and is routinely repeated by international media outlets when discussing the cases. Such a perception undoubtedly sends powerful signals to Cambodians with some stake in either case and public perception of the wishes of elite political figures in Cambodia often strongly influences local decision-making processes. In regards to Cases 003/004, the perception that Prime Minister Hun Sen's ruling Cambodian People's Party continues to oppose trials is both reflected and further reinforced by the fact that Cambodian lawyers, judges and staff at the ECCC have consistently opposed efforts by their international colleagues to move either case along towards trial.

Throughout 2011, the OCIJ was subjected to a steady stream of criticism from rights groups and jurists, who accused National Co-Investigation Judge You Bunleng and then-International Co-Investigating Judge Siegfried Blunk of colluding to scuttle Cases 003/004 at the behest of the

Cambodian government. These criticisms grew louder when the still-confidential Introductory Submissions in both cases were leaked by an online New Zealand news organization, as the two documents detailed allegations of extremely grave crimes. In April 2011, the Co-Investigating Judges closed the investigation into Case 003, but refrained from issuing the official Closing Order necessary to end the case or commit it for trial, leaving it in a state of legal limbo. Next, in August of 2011, Co-Investigating Judges You and Blunk released a list of crime sites relevant to Case 004 in a document in which both judges expressed "serious doubts whether the suspects [in Case 004] are 'most responsible'." This disclosure also confirmed that the Case 004 investigation focused on crime sites widely believed to be locations where hundreds of thousands of victims were killed during the DK period.

Eventually, amidst mounting criticism and allegations of investigatory misconduct, Judge Blunk resigned in October 2011, citing the appearance of political interference as his motivation. Blunk's replacement, Reserve International Co-Investigating Judge Laurent Kasper-Ansermet, publicly vowed to aggressively investigate Cases 003/004, but was in turn, blocked from officially removing the "reserve" tag from his title by the Cambodian Supreme Council of Magistracy, which withheld its perfunctory acknowledgment of Kasper-Ansermet's succession. Judge You (who incidentally, sits on the Supreme Council of Magistracy along with ECCC National Co-Prosecutor Chea Leang) also refused to work with Judge Kasper-Ansermet in any capacity, stating in a press release that Judge Kasper-Ansermet "lack[ed] legal authority" to perform any duties as an investigating judge. Nonetheless, Judge Kasper-Ansermet began to investigate both cases and attempted to officially reopen the Case 003 investigation. Eventually, after being stonewalled in

his efforts to investigate for months, Judge Kasper-Ansermet, clearly frustrated by the efforts to block his attempts to investigate Cases 003/004, stated that he was unable to continue fulfilling his duties due to the “dysfunctional” climate within the OCIJ and tendered his own resignation. His resignation was followed in short order by Judge Kasper-Ansermet releasing a series of decisions revealing the steps taken by national ECCC staff members to stymie his attempts to investigate Cases 003/004. Judge Kasper-Ansermet also released two further decisions in which he opined that both suspects in

Harmon unilaterally released a document detailing fourteen additional crime sites he was investigating for Case 004 without any comment from his counterpart, Judge You.³² Next, on 28 February 2013, Judges Harmon and You issued a joint press release that contained separate and diametrically opposed statements concerning Case 003 and whether the investigation was ongoing or completed. Since Judge Harmon’s appointment he has proceeded with his investigatory duties, while Judge You has indicated that he will not investigate either case any further. Meanwhile, the pressing



Chum Mey hears the verdict announcement of Case 002/01 at the Khmer Rouge Tribunal on August 7, 2014.

Case 003 qualify as “most responsible” under ECCC Law and therefore the Case 003 investigation should continue.

The UN appealed for cooperation from the Cambodian government in appointing a new International Co-Investigating Judge and Judge Mark Harmon was approved as the new Co-Investigating Judge on 26 October 2012. The rift between the national and international officers at the ECCC over pursuing these cases appears to remain however. On 19 December 2012 Judge

need to move forward in a timely manner was underscored in March 2013 with the death of ECCC Case 002 accused Ieng Sary and again in June 2013 with the death of presumed Case 003 suspect Sou Met. Nevertheless, even as the ECCC’s flagship Case 002 nears a trial judgment the first of a planned series of discrete trials, Cases 003/004 continue to languish amidst considerable uncertainty and subject to a fundamental divide between the Court’s national and international judges and staff.

While the fate of Cases 003/004 remains

tenuously uncertain, this paper argues that as the ECCC was created to provide a measure of justice for the millions of Cambodians who suffered under the Khmer Rouge regime and to also help improve the rule of law in Cambodia by serving as a model judicial institution, the only legitimate course of action at this juncture is for the Court to pursue each existing case to its proper legal conclusion, based upon a thorough review of all available evidence. As pointed out by Robert Petit's successor, now-departed ECCC International Co-Prosecutor Andrew Cayley, "the importance of [Cases 003/004] more than anything, whatever happens at the end, is that the Cambodian people see a proper legal process taking place." This statement underscores the importance of seeing Case 003/004 through for the overall integrity of the ECCC as a legal institution, to both protect the legacy of the Court's other cases and to ensure that the Court cannot be seen as condoning the political interference and corruption that currently runs rampant throughout Cambodia's national judicial system. Thus, whether Cases 003/004 reach their proper legal conclusions will serve to either stand against, or reinforce the current rampant subversion of the rule of law in the service of the interests of Cambodia's political elite.

An Exercise in Discretion: Interpreting the Term "Most Responsible"

a. The Duch Appeal Judgment: A "Policy Guide"

While the controversy concerning the future of Cases 003/004 has endured, key jurisprudence concerning the meaning of the jurisdictional language covering those "most responsible" and "senior leaders" in the Agreement and ECCC Law has emerged. On 3 February 2012, the ECCC's highest body, the Supreme Court Chamber ("SCC"), handed down its first judgment, in Case 001, concluding the case against accused former Khmer Rouge prison chief Kaing Guek Eav alias Duch. In its

judgment, the Chamber dismissed the defence's argument that Duch falls outside of the personal jurisdiction of the ECCC and increased his sentence from 35 years to a life term. On the issue of personal jurisdiction, the Chamber held that the jurisdiction of the ECCC is limited to "senior leaders of the Khmer Rouge who are among the most responsible [and] non-senior leaders of the Khmer Rouge who are [also] among the most responsible." The Chamber therefore held any Khmer Rouge official considered "most responsible" is a proper prosecutorial target at the ECCC.

The Chamber retreated however, from interpreting the qualifiers "senior leaders" and "most responsible" as true justiciable jurisdictional requirements later in its judgment, holding further that:

The terms 'senior leaders' and 'most responsible' are not jurisdictional requirements [...], but operate exclusively as investigatorial and prosecutorial policy to guide the independent discretion of the [CIJs] and Co-Prosecutors as to how best to target their finite resources [...]

Concerning the phrase "most responsible", the Chamber reasoned that the term must be interpreted as a guide to discretion rather than true jurisdictional requirement for three main reasons: (1) "[t]here is no objective method for the Trial Chamber to decide on, compare, and then rank the criminal responsibility of all Khmer Rouge officials"; (2) "the notion of comparative criminal responsibility is inconsistent" with the ban on "the defence of superior orders"; and (3) "the determination of whether an accused is 'most responsible' requires a large amount of discretion." The import of the SCC's holding is that "an accused before the ECCC cannot object to the Trial Chamber's jurisdiction on the basis that the [CIJs] did not limit the indictment to 'senior leaders' or the 'most responsible', absent a showing that the

[CIJs] abused their discretion.” The Chamber further noted that the “power of review by the Trial Chamber [regarding personal jurisdiction decisions] is extremely narrow in scope” and requires demonstrating “bad faith, or a showing of unsound professional judgment.” The Chamber also importantly noted that in the likely scenario that the two CIJs disagree and where the “reason for disagreement on the execution of an action, decision, or order is whether “ responsible” then, absent a super-majority decision to the contrary by the appellate ECCC Pre-Trial Chamber, ‘the investigation shall proceed.’ The Case 001 Appeal Judgment thus renders determinations of who qualifies as “most responsible” a policy guidance tool, rather than true jurisdiction element, bounded solely by the outer limits of good-faith and sound professional decision-making.

While the Case 001 Appeal Judgment answered some of the most pressing questions concerning the meaning of the terms “senior leader” and “most responsible”, the SCC failed to indicate what factors are properly considered in making such inherently subjective determinations. As it currently stands, whether Cases 003/004 can be shuttered prior to trial without violating the ECCC’s foundational legal documents turns on the issues of the proper bounds of judicial discretion and sound professional judgment in interpreting the phrases “senior leader” and “most responsible” within the Agreement and ECCC Law. This paper argues that because the meaning of the term “most responsible” is not readily apparent, defined in the travaux préparatoires relevant to the ECCC or in any other source of law or interpretation directly applicable to the Court, guidance must be sought from international law in determining the proper factors that must be considered in order for relevant ECCC authorities to exercise sound professional judgment in determining whether a suspect before the ECCC qualifies as a “most responsible.”

Furthermore, such jurisprudence dictates that to make such an assessment, the gravity of the alleged crime(s) and level of contribution thereto by the suspect in question must be considered and compared relative to other cases before the same court or tribunal. According to this process of analysis, because each of the presumed suspects in Cases 003/004 are implicated as key players in the perpetration of extremely grave crimes, involving the systematic abuse and killing of many thousands of victims, each suspect should be presumptively considered amongst those “most responsible.” Any other conclusion would be contrary to basic logic and therefore presumptively the product of bad faith and/or unsound professional judgment.

b. Interpreting ECCC Law

The Agreement establishing the ECCC is a bilateral treaty to which the UN and Cambodia are parties. The ECCC Law is legislation passed to effectuate the terms of the Agreement. As such, both documents are to be interpreted according to the Vienna Convention on the Law of Treaties, which states: “A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.”

In his departing decisions regarding personal jurisdiction and the suspects in Case 003, Judge Laurent Kasper-Ansermet noted the holdings of the SCC in Case 001 and acknowledged that the gravity of the alleged crimes and the suspect’s relative degree of responsibility therein are the two main factors to consider regarding assessing whether a suspect qualifies as “most responsible.” The decisions also conform with ICL practice, as is demonstrated *infra* in this paper. Scholar Steve Heder and former United States Ambassador-at-Large for War Crimes Issues and current UN Special Expert on the ECCC David Scheffer have both provided detailed overviews of the negotiations and associated travaux préparatoires leading to the

Agreement and ultimate formation of the ECCC. While both scholars offer important insights into the protracted negotiations that culminated in the Court's creation, they both only go so far as to reach the general conclusion that at no point was there any agreement – tacit or otherwise – between the UN and Cambodia that the ECCC would prosecute a specific, limited number of individuals or that the precise identities of whom would be prosecuted were decided prior to the formation of the Court. Heder further concludes that while the Cambodian government may have not been pleased with the necessity of ceding power to ECCC investigators, prosecutors and judges to decide who would be investigated and tried, such a concession is inherent in Cambodia's signature, as UN officials were unequivocal that suspects could not be pre-selected. Scheffer similarly concludes that determinations of which suspects qualify as "most responsible" must be made pursuant to a reasonable interpretation of the term and questions whether under any such reasonable formulation, the likely suspects in Cases 003 and 004 could properly be considered to not qualify as "most responsible."

The conclusions of both Heder and Scheffer thus both beg the question of how ECCC lawyers and judges are to arrive at a reasonable interpretation of the term "most responsible", especially given that the term is not explicitly defined anywhere in the Agreement or ECCC Law. The Agreement itself provides for the procedure to be utilized in precisely such an instance of interpretive lack of clarity. Article 12(1) states:

The procedure shall be in accordance with Cambodian law. Where Cambodian law does not deal with a particular matter, or where there is uncertainty regarding the interpretation or application of a relevant rule of Cambodian law, or where there is a question regarding the consistency of such a rule with international standards,

guidance may also be sought in procedural rules established at the international level.

This process of interpretive guidance is echoed in the ECCC Law Articles 20 new, 23 new and 33 new, which direct the Co-Prosecutors, Co-Investigating Judges and Trial Chamber Judges respectively, to remedy uncertainty regarding interpretation or application of the procedures applicable to the ECCC by seeking guidance in procedural rules established at the international level.

c. The Bounds of Discretion and Sound Professional Judgment

Given that resort to the ordinary meaning of the term "most responsible" provides little guidance in the context of personal jurisdiction for international crimes and (as demonstrated by Heder and Scheffer) the negotiating history and travaux préparatoires simply establish that the precise number of suspects was never agreed upon, Article 12(1) of the Agreement clearly dictates that Cambodian law should next be canvassed for potential guidance. Personal jurisdictional regimes predicated on relative degrees of culpability, however, are inimical to the very foundation of typical domestic criminal legal regimes, as in most domestic criminal prosecutions it is assumed that any person suspected of a serious crime will be investigated and, if the evidence warrants, committed to trial. There is no space in such systems for prosecutors or judges to determine that an individual may be responsible for a very serious crime, yet is not a proper suspect to commit to trial because he or she does not fall amongst those "most responsible" for the crime in question. Instead, domestic penal codes presuppose that if there is sufficient evidence implicating an individual in a crime, they will be prosecuted without any further inquiry necessary.

In light of this general assumption that serious crimes will be prosecuted according to the

evidence, unsurprisingly there are no provisions within Cambodian penal law that provide guidance in interpreting what individuals are properly considered “most responsible” for international crimes. Instead, the Criminal Procedure Code of the Kingdom of Cambodia, adopted and entered into force in 2007 by the Cambodian Ministry of Justice, only provides limited guidance concerning the conduct of pre-trial investigatory procedures and duties and the basic boundaries of discretion in regard to these procedures. On this topic, the Code is similar in many ways to the investigatory procedures in place at the ECCC itself. The Code dictates that in domestic prosecutions, a prosecutor instigates an investigation. And via a “requisition”, the prosecutor confers mandatory jurisdiction on an investigating judge to complete an investigation. In regards to investigatory discretion, Article 122 of the Code dictates that investigations are “mandatory” for felonies and “optional” for misdemeanors. This limited discretion takes place when an investigating judge receives a requisition from the prosecutor and once an investigation commences, Article 127 of the Code dictates that the presiding investigating judge “shall perform all investigations that are useful to ascertaining the facts” and further, “shall have the obligation to investigate for charging or acquitting.” These mandatory duties mirror those which appear in the ECCC’s Internal Rules, which dictate that the Co-Prosecutors “shall” open an investigation when they have reason to believe a crime within the ECCC’s jurisdiction has been committed and that judicial investigations are “compulsory for crimes within the jurisdiction of the ECCC.”

In order to conclude a domestic criminal investigation, an investigating Cambodian judge must issue a “settlement warrant” which is similar to the mandatory “Closing Order” at the ECCC. The domestic settlement warrant forwards a case for trial or dismissal, the latter in the form of a “non-

suit” order. Article 247 of the Cambodian Criminal Procedure Code further states that the “investigating judge shall issue a non-suit order in the following circumstances: (1) The act committed was not a felony, misdemeanor or petty offense; (2) The perpetrators who committed acts are still not known; [or] (3) There is not enough evidence to charge the accused person.

There is no indication of other discretionary grounds upon which an investigating judge can issue a non-suit order or otherwise decline to forward a case for trial, but each settlement warrant



Victims attend trial hearing of Case 002/01 in which Nuon Chea a

“shall always bear reasons” and is appealable to the appellate Investigation Chamber of the Cambodian judiciary. The settlement warrant procedure utilized in ordinary Cambodian criminal courts can be contrasted with Rule 67(3) of the ECCC’s Internal Rules, which states that the “Co-Investigating

Judges shall issue a Dismissal Order in the following circumstances: (1) The acts in question do not amount to crimes within the jurisdiction of the ECCC; (2) The perpetrators of the acts have not been identified; or (3) There is not sufficient evidence against the Charged Person or persons of the charges.”

As with the Cambodian Criminal Procedure Code, nowhere in any law directly applicable to the ECCC, is it suggested that additional, discretionary grounds exist upon which the Co-Investigating Judges can choose to issue a Dismissal Order.



and Ieu Samphan are the accused at the Khmer Rouge Tribunal

Article 261 of the Cambodian Criminal Code also dictates that when receiving a complaint concerning an investigation, the appellate Investigation Chamber “shall examine the regularity of the procedures and the good conduct of the proceedings [and if] a reason for annulling is found,

the Investigation Chamber may discretionarily nullify the whole or parts of such proceedings.” The Investigation Chamber may order further investigation if it deems such an act “useful” and can appoint one of its sitting judges to assume the authority of an investigating judge in order to do so. If the Investigation Chamber takes over an investigation, the judge appointed by the Chamber conducts further investigation and the Chamber concludes the investigation in the same manner as the original investigating judge, by issuing a settlement warrant either committing a suspect to trial or directing issuance of a non-suit.

Consequently, Cambodian law provides scant guidance in sketching the boundaries of the discretion ECCC Co-Investigating Judges enjoy in assessing which suspects are properly considered either “senior leaders” or “most responsible” for the crimes committed during the DK period in Cambodia. For the most part, Cambodian criminal procedural law mirrors the provisions in place at the ECCC, found in the ECCC Law and ECCC Rules, which dictate that investigations are mandatory for crimes within the ECCC’s jurisdiction, all of which are clearly serious and that for such serious crimes, dismissal prior to trial is only a proper outcome when the evidence against a suspect is deficient in some way critical to a successful prosecution. Thus, if anything, a comparative analysis of Cambodian and ECCC procedural law governing investigatory powers suggests that discretion to dismiss charges against individuals who could likely be successfully prosecuted for serious crimes should be construed extremely narrowly, as such a power is not explicitly provided for in either body of law.

d. The Need for International Legal Guidance

In sum, there was no clear consensus amongst the drafters of the Agreement concerning the definition of the term “most responsible” within the Agreement and ECCC Law. Similarly, nowhere in law directly applicable to the ECCC or

Cambodian penal law is there any mention of concept of discretionary investigatory trial committal powers predicated on assessments of the relative culpability amongst criminal suspects or suggesting a definition of the term “most responsible.” Indeed, this outcome is wholly unsurprising, as limited personal jurisdictional regimes over serious crimes based on relative assessments of individual culpability are solely and distinctly features of ICL.

Furthermore, resorting to the “object and purpose” of the Agreement to seek insight into the proper definition of the term, as dictated by the Vienna Convention, results in problems of circularity, as the stated object and purpose of the Agreement itself is to bring to justice “senior leaders” and others “most responsible” for the crimes of the Khmer Rouge period. There is no apparent plain meaning of the term that would make any sense within criminal proceedings and because Cambodian law is predictably provides little help in defining this jurisdictional concept, both the Agreement and ECCC Law dictate that international law should be turned to for assistance in arriving at this critical determination.

As demonstrated below, while international law intentionally refrains from providing an explicit universal definition of relative levels of culpability, ICL jurisprudence does suggest what types of individuals presumptively qualify as amongst those “most responsible” and clearly dictates that any proper decision concerning the relative culpability of an individual must be based on an appraisal of the gravity of the alleged crime(s) and the suspect’s degree of responsibility therein. This assessment process must also use other suspects/accused tried by the same authority as comparative benchmarks in order to avoid inconsistent or conflicting results.

e. The Concept of “Most Responsible” According to International Criminal Law

Once one determines that it is necessary to

look to international law for guidance in interpreting the term “most responsible” at the ECCC, one must next consider where to look for useful legal principles. Given that limited jurisdictional regimes based on relative culpability assessments are wholly unique to ICL, jurisprudence from this discipline appears to be good place to start. Indeed, a robust jurisprudence from the SCSL, ICTY and to a lesser extent, ICC on issues of relative culpability, personal jurisdiction and the selection of suspects, combine to offer some helpful guiding principles on the key issue of the proper process and considerations in assessing issues of relative culpability. Practice at these courts and tribunals clearly demonstrate that the two main considerations in determining culpability are the gravity of the alleged crimes and the degree of responsibility therein of the individual in question. Moreover, within existing ICL jurisprudence, gravity and responsibility are to be considered within the context of the overall historical narrative at issue and in comparison to other cases, though not in an overly formal or mathematical fashion.

The Special Court for Sierra Leone: The “Greatest Responsibility”

In 2000, the UN Security Council requested the formation of a court with “personal jurisdiction over persons who bear the greatest responsibility” for the commission of international crimes within Sierra Leone. The result was the SCSL, a hybrid court created pursuant to a treaty between the UN and the government of Sierra Leone with the mandate “to prosecute persons who bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law committed in the territory of Sierra Leone since 30 November 1996.” Article 1 of the SCSL Statute confers “the power to prosecute persons who bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law.”

The phrase “greatest responsibility” was a topic of much debate prior to the creation of the SCSL. Then UN Secretary-General Kofi Annan stated that this language should be “understood as an indication of a limitation on the number of accused by reference to their command authority and the gravity and scale of the crimes [and] propose[d] that the more general term ‘persons most responsible’ should be used” and observed:

While those ‘most responsible’ obviously include the political or military leadership, others in command authority down the chain of command may also be regarded ‘most responsible’ judging by the severity of the crime or its massive scale. ‘Most responsible’, therefore, denotes both a leadership or authority position of the Accused, and a sense of the gravity, seriousness or massive scale of the crime.

Ultimately, the SCSL employed the narrower term “greatest responsibility” in its Statute and this phrase was held to operate solely as a guide to prosecutorial discretion. The Court’s Appeals Chamber held the SCSL Statute, which makes the Prosecutor responsible “for the investigation and prosecution of persons who bear the greatest responsibility,” renders determinations of which individuals are suitable for prosecution a matter of prosecutorial discretion unsuitable for judicial review. The Chamber emphasized the need for the Prosecutor to “act independently [and] not seek or receive instructions from any Government or from any other source” and concluded in the Prosecutor v. Brima et al. judgment that it would be:

inconceivable that after a long and expensive trial the Trial Chamber could conclude that although the commission of serious crimes has been established beyond reasonable doubt against the Accused, the indictment ought to be struck out on the ground that it has not been proved that the Accused was not one of those who bore the greatest responsibility.

The Chamber did note however, that a “good-faith” standard applies to the exercise of discretion by the Prosecutor.

The SCSL Prosecutor ultimately brought charges against a total of twelve individuals, resulting nine convictions and the deaths of three accused prior to judgment. These twelve accused held various positions in the three main parties to the Sierra Leonean conflict the SCSL was created to account for: the Revolutionary United Front (“RUF”), Civil Defence Forces (“CDF”) and Armed Forces Revolutionary Council (“AFRC”). The accused ranged from overall commanders to others who held significant positions, but were clearly subordinated to the highest echelons of power. For example, in *Prosecutor v Sesay et al.*, The SCSL Trial Chamber found that accused Augustine Gbao “was not a member of the AFRC/RUF Supreme Council [responsible for decision-making]” and remained in a single district during the period the AFRC/RUF held power. Nonetheless, the “Chamber found that Gbao was an ideology instructor and that ideology played a significant role in the RUF movement [and within] RUF controlled territory, [Gbao’s unit] was responsible for the enforcement of discipline and law and order.” In *Prosecutor v Fofana & Kondewa*, accused Allieu Kondewa was the “High Priest” of the CDF responsible for recruitment of new members and holding ceremonies that supposedly immunized combatants from bullets prior to battles. The Appeals Chamber upheld Kondewa’s convictions, finding that as High Priest, Kondewa “had authority and power to issue oral and written directives; that he could order investigations for misconduct and hold court hearings; and that he had the legal and material ability to issue orders.” There was no intimation by the Chamber that the SCSL Prosecutor did not act well within the bounds of good-faith in determining that Gbao and Kondewa qualified as bearing the “greatest responsibility” for crimes committed in Sierra

Leone.

a. ICTY Rule 11 bis and Referral Decisions

Neither the International Criminal Tribunal for Rwanda ("ICTR"), nor the ICTY included specific provisions in their founding documents limiting personal jurisdiction to select classes of individuals. Instead, both Tribunals were conferred the "power to prosecute persons responsible" for crimes under their respective subject matter and temporal jurisdictions. As a result, the ICTR and ICTY have indicted well over two hundred suspects in total. In response to the ballooning case loads of the two Tribunals, the UN Security Council passed Resolution 1503 in August of 2003, which instructed both Tribunals to "transfer[] cases involving those who may not [qualify as most senior leaders who are most responsible] to competent national jurisdictions." The procedure for effectuating such transfers, through "Referral Benches" of judges, was then outlined in Rule 11 bis in the Rules of Procedure and Evidence ("RPE") for both Tribunals. Rule 11 bis(C) of the ICTY RPE states that the "Referral Bench shall, in accordance with Security Council resolution 1534 (2004), consider the gravity of the crimes charged and the level of responsibility of the Accused" when determining whether transfer is appropriate. The ICTR on the other hand, has no similar jurisdictional language in its version of Rule 11 bis and consequently, referral decisions have instead focused on other considerations, such as fair trial and security concerns.

The ICTY eventually referred thirteen accused to national jurisdictions, denied motions for referral concerning four accused and the prosecution withdrew its referral requests concerning five accused. ICTY Rule 11 bis referral decisions principally turned on determinations of whether the accused in each case were considered "most senior leaders . . . most responsible" for crimes under the Tribunal's jurisdiction. Moreover, the decision of an

ICTY Referral Bench whether to refer each case proposed by the prosecutor has been interpreted as a "discretionary one."

In general terms, the more grave the charged crimes and the more directly an ICTY accused is implicated therein, the more likely such accused will be found ineligible for referral. However, ICTY Referral Benches struggled to determine the precise line to draw between cases of a seriousness necessitating adjudication at the Tribunal and those suitable for referral. Relevant factors considered by ICTY Referral Benches include: the number of alleged victims; the duration of the alleged criminal activity; the geographic scope of alleged criminal activity; and the accused's alleged level of authority at the time(s) relevant to the indictment, when deciding whether referral is appropriate. If the alleged crimes in the indictment "do not cover a wide area and are limited in duration" then referral becomes "likely." The process of assessing the relative gravity of charges in varying cases has not proved an easy task for ICTY judges. As noted by the Referral Bench in *Prosecutor v Ademi & Norac*, it is "impossible to measure the gravity of any crime in isolation" necessitating that each referral application "must also be viewed in the context of other cases tried by [the] Tribunal." The Bench however, not explicitly compare the relevant factual allegations to any specific previous ICTY case, leaving the degree of comparison utilized unclear.

a. The Referrals of Ljubić and Trbić

The two most serious ICTY cases referred to national jurisdictions were *Prosecutor v Ljubić* and *Prosecutor v Trbić*. Paško Ljubić held several roles within the Croatian military and at the time relevant to the indictment was allegedly a Military Police Battalion Commander in Central Bosnia. The indictment further alleged that a special "'Anti-Terrorist Group', also known as the 'Jokers'" was created by Ljubić, which, along with other personnel under Ljubić's command, were

responsible for:

a series of attacks on Bosnian Muslim towns and villages...which were carried out in January and April 1993 and resulted in the death of more than 100 civilians, detention and cruel treatment of a high number of men, destruction of villages, and religious institutions, plunder and forcible transfer of the population.

Ljubić was charged with 15 total counts of

The Trbić case meanwhile, stands out as the only ICTY Rule 11 bis case involving genocide charges. The indictment alleged that Milorad Trbić was “a duty officer in the [Serbian Army], holding the rank of captain” but that “[d]espite his nominal rank, it is alleged that in fact Trbić was subordinated to Lieutenant Drago Nikolić, and that he was responsible, inter alia, for helping manage the Military Police of the Zvornik Brigade.” Trbić was



A man is reading Case 002 factsheet

crimes against humanity and war crimes based on these facts. The Referral Bench found that, while Ljubić “was a military commander and had a position of authority, in the context of other cases being tried before [the ICTY], it is not apparent that he was one of the most senior leaders who were the most responsible for the crimes within the [ICTY’s] jurisdiction” and referred his case to Bosnia and Herzegovina (“BiH”).

charged with being a member of two separate Joint Criminal Enterprises (JCEs), the objectives of which were “the summary execution and burial of thousands of Bosnian Muslim men and boys captured from the Srebrenica enclave from 12 July 1995 until about 19 July 1995” and “the forcible removal of the Bosnian Muslim population from the Srebrenica and Zepa enclaves to areas outside the control of Republika Srpska.” The Indictment

alleged that Trbi :

assisted [...] in organising, coordinating and facilitating the detention, transportation, summary execution and burial of [] Muslim victims[and] acting individually or in concert with other members of the Joint Criminal Enterprise and Conspiracy[,] summarily execute[d] and burf[ied] the able-bodied Muslim men from Srebrenica.

Specifically, the Referral Bench found that Trbi 's most significant involvement [was] alleged to have been at the Grbavci School in Orahovac on 14 July 1995, where it is claimed that he and Drago Nikoli personally supervised the Military Police in guarding Muslim prisoners and transporting them to a nearby field to be summarily executed; the Indictment further avers that the [Trbi] executed several of these prisoners himself. Trbi was charged with genocide, conspiracy to commit genocide, crimes against humanity and war crimes.

The Referral Bench first noted that there is no official hierarchy of crimes under the ICTY's jurisdiction, and therefore genocide charges do not necessarily render a case non-referable. Instead, the Bench opined that it "must instead look to the underlying conduct allegedly constituting a given crime, as well as the surrounding circumstances, to determine that crime's gravity." The Bench then noted that the crimes charged in the Trbi indictment were the "most serious" it had examined in the context of a referral request and were "among the gravest ever charged at [the ICTY]." The Bench however, still referred the case to BiH, finding that among the "literally hundreds of persons involved" in the Srebrenica genocide, Trbi 's "level of responsibility was relatively low" because Trbi had no significant role in "formulating the objectives of the [two] JCEs or in planning or orchestrating how they would be brought to fruition."

b. The Denial of Referral for Miloševi , Deli and Luki

The ICTY denied referral requests made by the prosecution in regards to only four accused: Dragomir Miloševi , Rasim Deli , Sredoje Luki and Milan Luki . In 2005, the ICTY Referral Bench denied the Prosecutor's request to refer Dragomir Miloševi 's case to BiH, holding "that the gravity of the crimes charged and the level of responsibility of the Accused, particularly when they are considered in combination, requires that the present case be tried at the [ICTY]." Miloševi had been charged with fourteen counts of crimes against humanity and war crimes, all in relation to the shelling and sniping campaign in Sarajevo from 1994 to 1995. The indictment alleged that troops under Miloševi 's command had "shelled and sniped at civilians as they conducted their civilian activities such as tending vegetable plots, queuing for bread, collecting water, attending funerals, shopping in markets, riding on trams, riding bicycles, gathering wood, or simply walking with their children or friends." The campaign was intended to spread terror among the civilian population and also included indiscriminate aerial bombardments with modified explosives not designed for use against civilian targets.

Overall, the campaign directed by Miloševi was of such a scale that "[i]n addition to the death and injuries that the shelling and sniping caused, the constant threat of death and injury caused extensive trauma and psychological damage to the inhabitants of Sarajevo." The Referral Bench noted that the original indictment had only charged "a small representative number of individual incidents for specificity of pleading."

Miloševi was alleged to have been the Chief of Staff of a wing of the Bosnian-Serb Army, the "Sarajevo Romanija Corps ('SRK') ... from around March 1993 and [became overall Commander of the] SRK on or about 10 August 1994." Miloševi commanded over 18,000 military personnel and also "negotiated, signed and implemented an anti-

sniping agreement, local cease-fire agreements, and participated in negotiations relating to heavy weapons and access ... to territory around Sarajevo." The Bench found that, although Milošević was subordinate to the supreme military and civilian commanders of the Bosnian-Serb forces, "the phrase 'most senior leaders' used by the Security Council is [not] restricted to individuals who are 'architects' of an 'overall policy' which forms the basis of alleged crimes." Such an extreme restriction would, in the opinion of the Bench, "diminish the true level of responsibility of many commanders in the field and those at staff level, [who] de jure and de facto, are alleged to have exercised such a degree of authority that it is appropriate to describe them as among the 'most senior', rather than 'intermediate'."

The Bench also found that the crimes Milošević was charged with were of a gravity that "stand[s] out when compared with other cases before the [ICTY]" based on the extreme carnage wrought during the besieging of Sarajevo, which "'killed and wounded thousands of civilians of both sexes and all ages' and caused extensive material destruction," over a period of fifteen months. The Bench noted that the violence against civilians also escalated once Milošević assumed local command. Finally, the fact that the specific crimes and underlying factual allegations contained in the indictment may have been already "fully addressed" by the ICTY in a previous case was dismissed by the Bench as "irrelevant." Based on these findings, the Bench held that Milošević fell into the category of individuals Rule 11 bis "requires" be tried at the ICTY.

In 2007, the ICTY Referral Bench denied the Prosecutor's request to refer the case against Rasim Deli to the authorities of BiH. According to the indictment, Deli was "commander of the Main Staff of the Army of [BiH] from 8 June 1993 until his retirement on 1 September 2000." In this position,

Deli was "subordinate only to the President of [BiH]" and "exercised military command and control over all regular [Army] forces [of BiH]." In 1993, Deli also allegedly created "the 'El Mujahed Detachment', comprised of foreign volunteers who were prepared to conduct 'Holy War' against the enemies of Bosnian Muslims" and which subsequently "committed killings, maltreatment and rape of civilians and/or enemy soldiers who were captured or had surrendered."

Deli was charged with four counts of war crimes. The allegations in the indictment "involve[d] around 100 victims of murder, cruel treatment and rape [...] committed in four locations in Central Bosnia and over a time-span not exceeding three months in 1993 and 1995." Unlike the Milošević case, the Bench held that Deli's status as a "most senior leader" independently precluded referral, despite the fact that the charged crimes were of a similar gravity to those in previously referred cases.

The third case in which the ICTY denied a prosecution referral request involved cousins Milan and Sredoje Lukić, and initially ordered to be referred to BiH by the Referral Bench. Milan Lukić sought to keep his case at the Tribunal and successfully appealed the Bench's decision to the ICTY Appeals Chamber. Milan Lukić allegedly formed a paramilitary group known alternatively as the "White Eagles" or "Avengers" and Sredoje Lukić was alleged to have been a member of this group. Both men were alleged to have, along with others, "brutally killed some 140 persons and [] severely injured others in two incidents by barricading them in houses and setting the homes on fire. Milan Lukić [was] additionally charged with having killed another 13 persons in three incidents." The Referral Bench found these crimes "very serious" but ultimately concluded that neither accused was a "most senior leader", and ordered referral.

The Appeals Chamber agreed with the Referral Bench's appraisal of gravity, but found the

Bench's "conclusory" summation of Milan Luki 's degree of authority had improperly presupposed that "local" paramilitary leaders could never be considered "most senior leaders." The Appeals Chamber found that "within his own sphere, [Milan Luki] was a dominant presence" and that the Referral Bench had placed "undue emphasis on [the] geographic scope" of the alleged crimes. The Chamber then noted that the White Eagles had acted with impunity and answered to no higher authority for over two years, making Milan Luki "perhaps the most important paramilitary leader indicted at the [ICTY]." The Appeals Chamber

"serve the interests of justice" while "taking into account the gravity of the crime and the interests of victims." In 2003, the ICC Office of the Prosecutor released a Policy Paper defining its "general strategy" of evaluating potential cases for investigation, stating:

Although any crime falling within the jurisdiction of the Court is a serious matter, the [Rome] Statute clearly foresees and requires an additional consideration of 'gravity' whereby the Office must determine that a case is of sufficient gravity to justify further action by the Court. In the view of the Office, factors relevant in assessing



Citizens attend the hearing at the Extraordinary Chamber in the Courts of Cambodia (Photo: ECCC)

concluded consequently held that the case against Milan Luki was "too significant to be appropriate for referral" and reversed the Referral Bench's decision.

c. Prosecutorial Discretion at the ICC

The ICC has "jurisdiction over persons for the most serious crimes of international concern." The Rome Statute instructs the ICC Prosecutor to determine whether there are "substantial reasons to believe" that beginning an investigation would

gravity include: the scale of the crimes; the nature of the crimes; the manner of commission of the crimes; and the impact of the crimes.

In a subsequent publication, the Office further stated that it will "investigate and prosecute those who bear the greatest responsibility for the most serious crimes ... [encompassing] those situated at the highest echelons of responsibility, including those who ordered, financed, or otherwise organized the alleged crimes." These two

publications further confirm the general focus of scarce prosecutorial resources within ICL practice on pursuing prosecutions of individuals who are key players in the perpetration of relatively serious crimes and fall in line with personal jurisdiction jurisprudence from the SCSL and ICTY.

Themes of International Personal Jurisdictional Jurisprudence

From an overview of practice at the SCSL, ICTY and to a lesser extent, ICC, a set of qualitative legal factors to be considered in determining whether an individual is properly considered “most responsible” can be gleaned. Generally, it is clear that individuals qualify as “most responsible” when implicated in especially serious crimes. To evaluate the conduct of an individual suspect, the two most important factors to consider are the relative gravity of the crimes the suspect is implicated in and the relative importance of the suspect’s alleged role in contributing to their commission. Gravity has been assessed in terms of the number of victims affected, the impact of the crimes on victims, the duration and geographic scope of the criminal conduct and nature and manner of perpetration.

While thus far, judges have avoided engaging in grim mathematical accounting by simply comparing death tolls or the overall number of victims affected, these assessments must be made using other ICL cases as reference points, especially those prosecuted by the same court or tribunal. A suspect’s role is evaluated by considering his degree of authority over others involved in the underlying criminal conduct and whether the suspect played a part in the decision-making process that ultimately led to the perpetration of the alleged crimes. Furthermore, these two factors of gravity and responsibility have been viewed holistically, rather than cumulatively. Aside from these qualitative assessments, a clear preference for prosecution is also evident, as only the ICTY has declined to prosecute a suspect based

on finding him not amongst those “most responsible” and this finding merely resulted in the suspect’s prosecution in domestic courts. This is a major distinction between the ICTY’s Rule 11 bis decisions and the fate of Cases 003/004 at the ECCC, as there is a fundamental difference between a change from an international to national prosecutorial venue and the functional cessation of criminal proceedings against a person implicated in international crimes. There has never been any suggestion that if some or all Case 003/004 suspects are not committed to trial, they may nonetheless be prosecuted by an ordinary Cambodian criminal court. Instead, should the cases be ended prior to trial at the ECCC, the suspects would escape potential criminal liability altogether. This would be a major departure from the core principle of individual responsibility that defines ICL, as to date no case at one of the major international courts or tribunals has ever been dismissed prior based on a relative assessment of culpability despite the existence of sufficient evidence to otherwise warrant a trial.

The Presumed Suspects in Cases 003 and 004

Although Cases 003/004 both continue to languish in the investigative phase and therefore the identities of the suspects in the two cases remain technically confidential, the names of all five suspects in Cases 003 and 004 have been publicly reported in numerous news articles and some reported suspects have even granted interviews to journalists. Indeed, this public knowledge goes well beyond mere speculation, as the Initial Submissions of the Office of the Co-Prosecutor initiating each case was leaked to New Zealand-based news website Scoop, which subsequently posted the documents for open public download on its website on 27 June 2011. In light of this publically available and widespread knowledge, this paper will discuss the roles of the currently

presumed suspects. Originally Case 003 concerned two suspects: Meas Muth and Sou Met and Case 004 concerned three suspects: Ta An, Im Chaem and Ta Tith. Sou Met died from complications related to diabetes sometime in June 2013. The following is an overview of the identities and roles within the Khmer Rouge of the four surviving probable suspects drawn from the leaked documents and other publicly available information.

Case 003: Meas Muth and Sou Met

On 16 February 2012, Case 002 accused Nuon Chea's defense counsel named Meas Muth as one of the two suspects in Case 003 during oral argument, apparently confirming the accuracy of the leaked Case 003 Initial Submission. Meas Muth has also long been considered a potential suspect at the ECCC candidate, as the case against him was previewed in a book on accountability for the crimes of the Khmer Rouge authored by researcher Steve Heder and lawyer Brian Titemore.

Heder and Titemore allege that Meas Muth, along with his deceased co-suspect Sou Met, rose through the ranks of the Khmer Rouge's Southwest Zone hierarchy and "held predominantly military ranks ... just below the senior level, which positioned them to implement [Khmer Rouge] policies and influence the conduct of lower-level cadre." Meas Muth became "Secretary of Central Committee Division 164, which incorporated the [Khmer Rouge] navy" and was also the son of a prominent Khmer Rouge official named Pang, who died in 1968. According to a report published by Human Rights Watch, Meas Muth commanded "8,000 to 10,000" troops.

Case 004: Ta An, Im Chaem and Ta Tith

Ta An, Im Chaem and Ta Tith are all named as suspects in the Third Introductory Submission of the International Co-Prosecutor leaked by Scoop. On 30 January 2012, the Nuon Chea defense also named Ta An and Im Chaem as suspects in Case

004 during questioning of Case 002 witness Prak Yut. The names of these individuals have also repeatedly been published in news articles; along with the name of reported third Case 004 suspect Ta Tith.

Ta An is alleged to have risen to the post of Deputy Secretary of the Central Zone in 1977, where approximately 150,000 people, including large numbers of Cham Muslims, were massacred in a series of executions. Im Chaem is alleged to have become the Secretary of Preah Net Preah district in Banteay Meanchey province during the 1977 Khmer Rouge purge of the Northwest Zone, where she is reported to have "overs[een] five labor camps and prisons where nearly 50,000 people died." Finally, according to Khmer Rouge researcher Ben Kiernan, Ta Tith was the brother-in-law of infamous Khmer Rouge Standing Committee member and Southwest Zone Secretary Ta Mok and initially held the position of Secretary of Kirivong (District 109) in the Southwest Zone. Later, Ta Tith reportedly became Deputy Secretary of the Northwest Zone, where he "had knowledge of, ordered and possibly directly participated in the torture and mutilation of prisoners."

Gravity of Crimes Implicated in Cases 003 and 004

Just as the names of the suspects in Cases 003 and 004 have been widely reported, the factual bases underlying the cases are also largely matters of public knowledge. Regarding Case 003, then-acting ECCC International Co-Prosecutor William Smith issued a press release on 8 September 2009 stating that the prosecution had "request[ed] judicial investigation of eight (8) distinct factual situations of murder, torture, unlawful detention, forced labour and persecution, [which] if proved, would constitute crimes against humanity, grave breaches of the Geneva Conventions and violations of the 1956 Cambodian Penal Code." Former International Co-Prosecutor Andrew Cayley

subsequently issued a press release providing further information relevant to Case 003 on 9 May 2011. Then-Co-Investigating Judges You and Blunk quickly admonished Cayley for releasing this information, but confirmed that the Case 003 investigation includes:

S-21 Security Centre, Kampong Chhang Airport Construction Site, purges of the East, Central and New North Zones, and incursions into Vietnam [which were also implicated in Cases 001 and 002], as well as the following new crime sites and criminal episodes: (1) S-22 Security Centre in the Phnom Penh area; (2) Wat Eng Tea Ngnien Security Centre in Kampong Som Province; (3) Stung Hav Rock Quarry forced labour site in Kampong Som Province; (4) Capture of foreign nationals off the coast of Cambodia and their unlawful imprisonment transfer to S-21 or murder; and (5) Security Centres operated in Rattanakiri Province.

Cayley's press release also discussed Case 004, stating that the prosecution had requested "investigation of thirty-two (32) distinct factual situations of murder, torture, unlawful detention, forced labour, and persecution [which] if proved, would constitute crimes against humanity, violations of the 1956 Cambodian Penal Code and genocide." The two judges also published a list of crime sites and topics of investigation for Case 004, which includes eighteen security centres, two prisons, six execution sites and four dam construction/ forced labour sites. The CIJs also indicated that the Case 004 investigation involves allegations of genocide perpetrated against Cham Muslims in Kampong Cham province and crimes committed during the Khmer Rouge purges of the Central and Northwest Zones.

Security Centres, Prisons and Execution Sites

Security centres were created throughout Cambodia by the Khmer Rouge and were in reality, prisons and work camps used to detain, torture and execute perceived enemies. Typically, execution

sites were located near detention centres and consisted of a series of mass graves containing anywhere from several dozen to tens of thousands of victims in each. For example, the Documentation Center of Cambodia ("DC-Cam") has estimated that at Tuol Ta Phuon Prison and Execution Site, which is among the Case 004 investigation sites, there are 250 to 500 mass graves containing between 50,000 and 150,000 victims executed by the Khmer Rouge. Other prison sites under investigation related to Cases 003/004 were the sites of similarly massive killing events during the DK period.

Purges

Internal party purges were also a major source of death and suffering during the reign of the Khmer Rouge. The purges of the Northwest and Central Zones, within the purview of Cases 003 and 004, were two of the three largest purges (along with the 1978 purge of the Eastern Zone) and involved mass killing and misery on a shocking scale. According to Kiernan, the standard purge process adopted by the Khmer Rouge was to send trusted cadres under the command of Ta Mok or Northern Zone Secretary Ke Pauk into an area and thereafter systematically arrest and execute local officials. In 1976, Ke Pauk led a violent purge of the Central Zone and in 1977 Ta Mok's forces purged the Northwest Zone. Kiernan estimates that the death toll "probably exceeded one hundred thousand" victims in 1977 alone during the purge of the Northwest Zone.

Worksites

Worksites and forced labour camps were another feature of the Khmer Rouge regime, which caused mass death through both on-site executions and the convergence of overwork, famine, disease and complete lack of medical care. The purview of Case 004 covers Anglong Chrey, Trapeang Thma, Spean Spreng and Prey Roneam Khmer Rouge dam construction sites. These locations were massive worksites involving huge numbers of forced

labourers. For example, according to Human Rights Watch, Case 004 suspect Im Chaem assumed responsibility for the construction of Trapeang Thma dam in mid-1977 and “[t]he very harsh conditions imposed on the laborers allegedly under her control resulted in many deaths. Some laborers were executed at the water-control work site for complaining about conditions or being unable to cope with the demands.”

Genocide of Cham Muslims

In addition to the various international crimes committed at security centres, prisons, execution sites, worksites and during purges, Cases 003/004 stand out as involving allegations of genocidal killings of Cham Muslims, a minority ethno-religious group in Cambodia who died at a much higher rate than ethnic Khmer-Cambodians under the Khmer Rouge period. Indeed, the Khmer Rouge treated Cham Muslims with particular scorn and there is ample evidence suggesting that the regime committed genocide against the Chams. Crimes related to the alleged Khmer Rouge genocide of the Cham are included in both Cases 003 and 004 and Ta An specifically has been implicated in overseeing large-scale massacres, including many thousands of Cham Muslims.

Conclusion

Based on even a brief overview of known information related to ECCC Cases 003/004, it appears that all four surviving suspects in the cases clearly qualify as “most responsible” individuals. First, it appears to be uncontradicted that all four suspects were Khmer Rouge “officials” during the period from 1975 to 1979. Second and more importantly, the alleged crimes involved – including crimes against humanity, war crimes and genocide are amongst the most serious crimes in existence, covered large geographic areas, were committed over multiple years and involved millions of total victims, including the deaths of hundreds of thousands of victims according to former

International Co-Prosecutor Robert Petit. Indeed, journalist Douglas Gillison has estimated through his research that between 248,990 and 295,190 deaths are involved in the Case 004 allegations alone.

The sheer force of these numbers makes Cases 003/004 stand out among recent prosecutions for international crimes as especially grave. The ICTY for example, found Milan Lukić, Dragomir Milošević and Rasim Delić to all qualify as being amongst those “most responsible” for crimes committed in the former Yugoslavia and declined to refer their cases to national jurisdictions for prosecution. These conclusions were despite the fact that all three cases involved far less grave crimes than ECCC Cases 003/004 in terms of duration, total numbers of victims and the death toll, even though a referral decision resulted solely in a change of venue for trial to a domestic court and not cessation of prosecutions altogether. Moreover, the SCSL Prosecutor, operating pursuant to an undoubtedly narrower jurisdictional policy, brought charges against twelve accused, two more than the total of ten suspects at the ECCC and the propriety of doing so was never in any serious doubt. In particular, the Prosecutor did not exceed the bounds of jurisdictional discretion in bringing cases against Augustine Gbao and Allieu Kondewa, who appear to have been subordinated to the highest echelons of power in Sierra Leone, just as the suspects in Cases 003/004 were within the Khmer Rouge hierarchy.

Equally importantly, while the overall number of death toll of the Khmer Rouge period in Cambodia, estimated at 1.7 to 2.2 million lives, dwarfs the total number of deaths in both Yugoslavia and Sierra Leone, making grim comparisons of relative culpability based on death toll percentages between the ECCC, ICTY and SCSL impracticable, ECCC Cases 003/004 still involve far more deaths than Case 001. Indeed, presumed

Case 003 suspect Meas Muth is directly implicated in some of the crimes prosecuted in Case 001, as he allegedly sent victims to S-21 prison to be tortured and executed. In Case 001, the Trial Chamber found that “at least 12,273” victims were killed under Duch’s authority. The ECCC Supreme Court Chamber summarily dismissed Duch’s claim on appeal that the ECCC Co-Prosecutors and/or Co-Investigating Judges abused their discretion in considering Duch a “most responsible” person and committing him to trial. Thus, it would appear to be irreconcilable for Duch to be sentenced to life in prison as a person properly considered “most responsible” for the atrocities of the Khmer Rouge by the Co-Prosecutors and Co-Investigating Judges if individuals, some of whom appear to have been Duch’s superiors, and all of whom appear to be directly implicated in equally, if not far more, grave criminal behaviour than Duch, including potential responsibility for tens of thousands more deaths, have the cases against them dismissed.

In sum, it appears former ECCC International

Co-Prosecutor Robert Petit was correct in asserting that that all of the suspects in Cases 003/004 “fall well under the jurisdiction of the ECCC.” Furthermore, Judge Laurent Kasper-Ansermet’s outgoing decisions holding that both suspects in Case 003 qualified as “most responsible” also appears strongly supported in both law and fact and it is difficult to envision any scenario wherein sound professional judgment led to any other conclusion. As such, while trials in Cases 003/004 may be politically inconvenient for certain interested parties, trials in both cases appear to be the only defensible course of action at this juncture and any other outcome should be viewed as a product of bad faith or unsound professional judgment. Thus, while Case 002 undoubtedly remains the ECCC’s flagship case, Cases 003/004 may very well determine the Court’s credibility as a legal institution and shape its ultimate legacy.

Randle C. DeFalco



Live screening of verdict announcement

Oddar Meanchey provin



on Case 002/01 at Along Veng district, nce on August 07, 2014



Live screening of verdict announcement Vihear province on



on Case 002/01 at Kulen district, Preah n August 07, 2014



CAMBODIA'S POLITICAL CALCULUS

Farina So

Recent articles on a deal to bring refugees to Cambodia from Australia have caught public attention. Concerns raised range from Cambodia's readiness to receive refugees to the means available for effectively resettling refugees given the living conditions of the local people.

My question is slightly different though. I wish to address the conditions that are conducive to Cambodia's inconsistent policy and behaviour in dealing with refugee issues. Political calculus – including the state's political interests and support

from the sending countries, particularly influential states – is an outstanding factor. Among the adverse consequences of this inconsistency is the naming and shaming of Cambodia by the international community.

On the spectrum of political interests, the country once had a great need for the resettlement of its own people, as hundreds of thousands of Cambodian refugees were displaced and settled by Thailand, the Philippines, Malaysia and Indonesia, and then resettled by third countries, including



Cambodian refugees who escape to refugee camp along Cambodian-Thai border during the Civil War in 1980s

Australia, in the 1980s and the 1990s.

Having signed the 1951 UN Refugee Convention in the early 1990s, Cambodia is obliged to accept refugees. If acting consistently with the convention's obligations, there would not be any naming or shaming by the international community of Cambodia. Indeed, on some occasions, the acceptance of refugees under the treaty obligations may help Cambodia strengthen diplomatic relations with the sending countries.

Cambodia has thus far accepted 68 refugees from several countries, including Myanmar. These refugees were resettled by Cambodia with support from the United Nations High Commissioner for Refugees and they were placed in a safe environment. In interviews in July with four

Rohingya Muslim refugees who arrived in Cambodia in 2013, I was told that they were trying to adjust to Cambodian culture.

Additionally, the political position of the sending country does matter. Whether or not the government of the sending country requests Cambodia to settle or resettle refugees influences the Cambodian government's decision. In the case of Australia, its government has promised to provide Cambodia with full political, monetary and technical support to help resettle those Middle Eastern refugees. At least \$35 million was pocketed as a signing fee.

Cambodia seems eager to accept these refugees. However, in 2009, the Kingdom – despite being a signatory of the UN Refugee Convention for nearly two decades – rejected and controversially repatriated 20 Uighur refugees to China instead of resettling them in Cambodia or sending them to a third country.

Cambodia took this decision because China pressured it into doing so. In return, China continued to back the Cambodian government and rewarded the Kingdom with \$850 million worth of trade deals. Cambodia was named and shamed by the international community for not fulfilling its obligations.

According to a Time magazine article dated September 29, 2014, kangaroo courts in China sentenced 17 of the 20 Uighurs to lengthy prison sentences.

Therefore, the inconsistency in refugee policy towards Uighur refugees is highly motivated by political calculus – gaining political interest and rewards from the governments of the sending countries, namely China and Australia. This simultaneously creates a negative image of Cambodia in the international arena.

Farina So



CONVICTION OF KHMER ROUGE LEADERS RAISES INTERCONNECTED DEFINITIONS OF JUSTICE

Sreyneath Poole

August 7, 2014 marked a momentous event in Cambodia's contemporary history. Finally the nation and the world learned the outcome for Case 002, which is the long-awaited verdict for the remaining former Khmer Rouge leaders, Noun Chea and Khieu Samphan: guilty, with life imprisonment.

Youk Chhang, Executive Director of the Documentation Center of Cambodia (DC-Cam), aptly put the occasion into perspective: "There will be no winners and no cause for celebration. While the occasion marks an enormous achievement in Cambodia and the international community's long struggle to assert the primacy of human rights, peace, and the rule of law, it is a victory that can only be marked with somber contemplation."

This prompted me to contemplate the core principle of why the tribunal was set up in the first place. Finding "justice" is its aim, but can it be done? This is a question that everyone will continue to ask. This comes down, in some respect, to a matter of legal definition designed by westerners and the personal terms of the victims. The Oxford English Dictionary defines "justice" as "just behavior or treatment: (1) the quality of being fair and reasonable (2) the administration of the law in maintaining this."

This definition serves as a good basis to our understanding of the concept. However, the UN and the Extraordinary Chambers in the Courts of Cambodia (ECCC), have to work in such a way that they help find justice for the victims and Cambodia as a whole. According to a March, 2010 statement by the UN Secretary-General, "transitional justice consists of both judicial and non-judicial processes

and mechanisms, including prosecution initiatives, facilitating initiatives in respect of the rights to the truth, delivering reparations, institutional reform and national consultations. Whatever combination is chosen must be in conformity with international legal standards and obligations." The core components ring true in how the ECCC has operated in its quest to seek justice for Cambodians.

However, it seems that many of us, as Cambodians, have unclear or conflicting ideas about the meaning of justice. To a certain extent, it is still a foreign concept that we are still trying to learn and adapt to our own understanding. I believe there isn't enough of a national discussion of this subject, including among the elected members of parliament, about what "justice" is. What does it mean? What should it mean? What does it look like?

I have travelled all over the country and interviewed people about the Khmer Rouge, and they all told me that they want justice. However, when asked what justice means to them, they had a hard time articulating it. When I pushed them for an answer, they tended to say what it means to them in personal terms. A woman who I recently interviewed regarding the Case 002 verdict told me that justice for her was to never see the country revert back to an era like that of the Khmer Rouge's, but it will never bring her relatives back from the dead, she explained as she cried and told me her story.

This poses a dilemma. Clearly, survivors' definition of what justice means doesn't conform to justice as defined by the international norm and

judicial practice. This then begs the question, is justice really being served for the survivors? These two definitions of justice should be reconciled. There must be a way to ensure those survivors' wishes and hopes are met instead of the process just being an exercise conducted by the UN in all of the courts that it operates.

This is an opportunity for the UN to incorporate the expectations of survivors to ensure that it is the kind of justice that the people truly want and not simply what the UN thinks they want.

Sreyneath Poole

CAMBODIA TRIBUNAL MONITOR

The Cambodia Tribunal Monitor (www.cambodiatribunal.org) provides extensive coverage throughout the trial of two former senior Khmer Rouge officials accused of atrocity crimes. The Monitor provides daily in-depth analysis from correspondents in Phnom Penh, as well as complete English-translated video of the proceedings, with Khmer-language video to follow. Additional commentary is provided by a range of Monitor-affiliated experts in human rights and international law. The Monitor has been the leading source of news and information on the Extraordinary Chambers in the Court of Cambodia (ECCC) since its inception in 2007. The website hosts an archive of footage from the tribunal and a regularly updated blog containing analysis from expert commentators and coverage by Phnom Penh-based correspondents.

An estimated 1.7 million Cambodian citizens died under the Khmer Rouge regime between 1975 and 1979. The former Khmer Rouge officials to be tried in the ECCC's "Case 002" are Nuon Chea, former Deputy Secretary of the Communist Party of Kampuchea's Central Committee and a member of its Standing Committee and Khieu Samphan, former Chairman of Democratic Kampuchea State Presidium.

The Cambodia Tribunal Monitor was developed by a consortium of academic, philanthropic and non-profit organizations committed to providing public access to the tribunal and ensuring open discussions throughout the judicial process. The site sponsors include Northwestern University School of Law's Center for International Human Rights, the Documentation Center of Cambodia, the J.B. and M.K. Pritzker Family Foundation and the Illinois Holocaust Museum and Education Center. The concept for the website was conceived by Illinois State Senator Jeff Schoenberg, a Chicago-area legislator who also advises the Pritzker family on its philanthropy.



MY FATHER, CHEA SOEUN, CAN NEVER FORGET IT

Socheata Eng

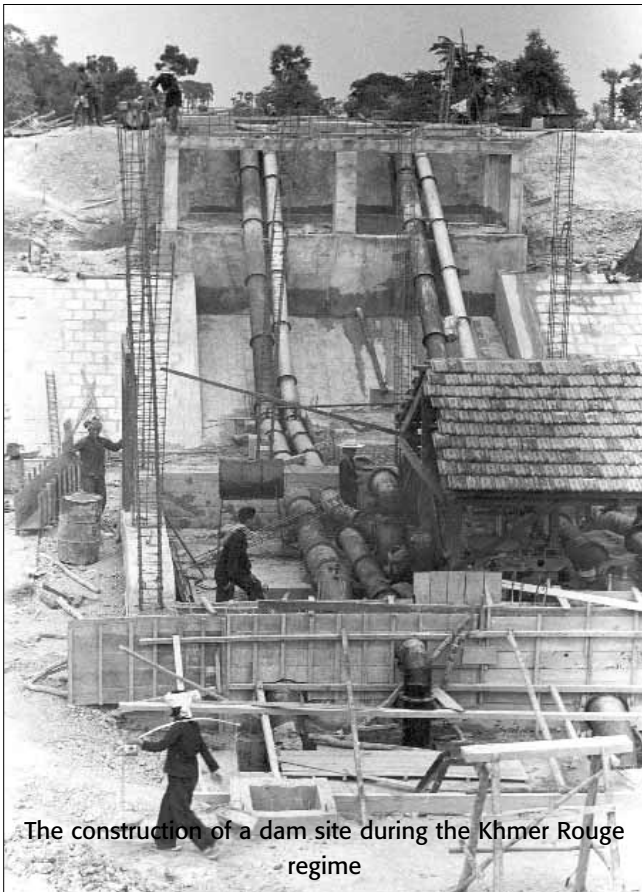
My father was born in Tramkhnar Village, Saupy Commune, Takeo Province. He grew up in a family involved in business. From his birth until 1970, his family had a comfortable life as their enterprise performed well. After the coup by Marshal Lon Nol, my father's family decided to move to Phnom Penh to start a new business. As the political situation worsened, their business also faltered. My grandparents had to borrow money from neighbors. My father and my grandfather usually listened to the Khmer Rouge radio. They learned that when the Khmer Rouge came to power, they would not permit the use of currency. After hearing this, my grandfather sold his property to settle his debts before the Khmer Rouge took

power, however my father and his family still enjoyed a happy life.

Everything changed on April 17, 1975. On that day, my father and twelve other members of his family were evacuated from Phnom Penh to their home village. At 5 p.m., he left Phnom Penh and spent a night in Pochentong. On his journey he only had some old clothes, a small amount of rice, a bicycle, and a watch. The Khmer Rouge soldiers frequently took vehicles and belongings from people traveling on the road. My father was afraid that the Khmer Rouge would take the bicycle from him, so he let the air out of one of the tires. When the soldiers walked passed him they saw the flat tire and did not take the bicycle. At 7 a.m. the following morning, he started his journey again. He walked many kilometers every day. Along the road, he saw many dead soldiers and civilians.

My father's family decided to live in Kampong Speu. At first, the living standard was not too bad, but later the Khmer Rouge started to spy on them, gave them less food, and forced them to do hard labor. My father was very young and lost his childhood. He was prevented from living his previous comfortable life. All he could do was follow the Khmer Rouge's orders.

In August or September, his family was sent to Ponley Village, Mong Russey District of Battambang Province. This was another long journey for them. When they arrived, the family was separated and forced to work in cooperatives. My father told me "at that time I had nothing to eat besides the root of the tree and the leaves. Despite knowing that the leaves were poisoned, we still picked and cleaned them to eat because we had no choice." It was fortunate that he did not die from



The construction of a dam site during the Khmer Rouge regime

eating the poisonous leaves. In that village, many people died from malaria and other diseases because there was no medicine or medical care.

One day the Khmer Rouge announced that King Norodom Sihanouk had returned and that people could welcome him back. Many people were ambushed and killed by Khmer Rouge soldiers while traveling to greet the King. My father witnessed Khmer Rouge troops killing many innocent people, cutting them open, and removing their livers. The soldiers cooked the organs in front of my father's house.

After living in Battambang Province for nearly a year, my father was sent to Khmaoch Cham village to work in a mobile unit. The Khmer Rouge supplied only four or five cans of rice to feed more than one hundred villagers. He would go with other children to look for peanuts near a communal dining hall. When other children searching for peanuts were caught by the Khmer Rouge, they forced them to dig a hole, told them to go inside, and then buried them alive. My father and other children were made to witness this act. It was a lesson in punishment because they took things to eat other than the food ration they were given. My father was afraid that one day he would die in a similar way.

While in Khmaoch Cham, my father's father and his elder sister died from starvation and disease. My dad could not even bury his father by himself or cry loudly to show his love. He tried to memorize his father's face and prayed for him in his mind. A few months later, his elder sister died of similar causes. His heart was stolen by their deaths. He would never share in happy moments with them again.

My father asked the Khmer Rouge to work in Phnom Thom in exchange for three spoons of rice per day. At 4 or 5 a.m., he had to walk 7 kilometers to his work site and walk back at 6 pm. When he worked in Phnom Thom, my father injured his legs

and they swelled until he could no longer walk. Many said that he would die, but he decided that he wanted to die in the village so he walked there. Fortunately he did not die. Before his legs fully recovered, he was made to dig canals from Thepadey Mountain to Krahath Mountain. He worked from dawn to dusk. Sometimes he was only given one spoon of rice per day, and sometimes there was no food for days, even half a month. Workers would go into the forest to find tree leaves to eat. My father ate everything he found, saying "during that time, I never thought that I could survive, all I thought was when and how I [would] die."

One day my father was caught by soldiers with some other children looking for something to eat in a rice field. He wanted to run away, but was afraid of being shot. The Khmer Rouge marched them to another village, but freed them in the evening. A soldier secretly gave my father some food because he had known my aunt. My father lived in Khmaoch Cham village until the fall of the Khmer Rouge regime.

My father will never forget his experiences and those of the Cambodian people who suffered during the regime. My father said, "Each moment during that time I could not forget as it was the time that stole my happiness, especially my lovely father and sister." Maybe this is why he always advises his family now to help others as much as we can and to save our time for useful things. Every time he has told me about his life during the Khmer Rouge, tears roll down his face. He wants justice and hopes that all of the younger generations know what happened. He hopes that the ECCC will bring a sense of justice to all Cambodians. The senior leaders in the Khmer Rouge regime should take responsibility for their crimes, admit their guilt, and give Cambodians a sense of closure.

Socheata Eng

MY FATHER; "I WILL NEVER HAVE A CHANCE TO FULFILL WHAT I SAID"

Hout-Pheng Ly

My father, Ly Hang Ngov, was born in Sa-ang, Kandal Province, to Chinese parents who immigrated to Cambodia during the Chinese Civil War in the 1940s. When my father turned 12, Lon Nol ousted Prince Norodom Sihanouk in a coup. The country was engulfed in the flames of war. My father's family had fled a conflict in the 1940s, but they now found themselves in a similar situation. Because of instability and violence, my father's family moved to Ta Khmao. Because they left quickly and had to survive, my father was unable to

soldiers. They were happy that the war was over and thought that peace would return to Cambodia. This hope turned into a terrible nightmare when the Khmer Rouge ordered my father, his parents, his elder brother and sister to leave their home immediately. They were told that they had to flee because the U.S. would bomb the city but that they would be allowed to return in two or three days and everything would be normal. When my grandfather tried to pack supplies and their belongings, Khmer Rouge soldiers ordered him to



Ly Huot Pheng's father (on the right side, front row) during his daughter's wedding

attend school. He supported his family by selling ice cream.

When the Khmer Rouge took power on April 17, 1975, my father's family went to welcome the

drop everything and leave the house immediately.

My father's family was evacuated to Preah Net Preah District, Battambang Province. My grandparents were in their 60s at the time. During

the evacuation, some people carried food supplies and cooking tools with them, but my father's family did not. They did have some money with them, which they used to buy food in order to survive. My father said that some people used the opportunity to sell food because they heard propaganda that the new government would use money in the short term.

My father's family had to sleep on the ground during the evacuation and relieve themselves in an open area. During the journey my father witnessed many people who were trying to locate their family members. Many children were crying, and others collapsed and died because of the hot weather.

Upon their arrival at Preah Net Phrea, Angkar (Khmer Rouge leadership) divided families by age. My father and his older brother were told to move to join a youth unit near another village. When my father and my uncle were about to depart, my father told my grandparents, "Mom and Dad, I will come back to meet you soon." It was a heartbreaking moment in his life because this was the last time he was with his parents and siblings.

My father was assigned to build dams and dig canals. He worked from early morning to 8 p.m. Sometimes he had to continue working until 10 p.m. During the dry season, some members of his unit could not handle extreme working conditions and died. My father has told me that in return for his slavery he was given rice soup, and that he hoped that one day he would be reunited with his parents and siblings.

One day my father and other villagers heard loudspeakers announcing that the Cambodian people were to be liberated from the Khmer Rouge regime. Vietnamese troops and the National Liberation Front were about to liberate his area. The situation was one of chaos as everyone was trying to hide from the Khmer Rouge and any potential fighting, but the Khmer Rouge cadres had escaped.

My father rushed to find my grandparents at

the place they had been evacuated to, but they were not there. He was told that everyone was heading back to their hometowns. After searching for his parents at Preah Net Preah, my father and his elder brother ran home on foot, trying to find his parents at Sa-ang. When they arrived at their home village, they did not recognize anyone. At first, my father did not lose hope; he waited and waited for his parents and relatives. But as time passed, his faith was diminished. Eventually, a neighbor who had been evacuated to the same place as my father's parents arrived and told my father that his parents and siblings had died from starvation and disease.

My father and brother started a new life full of grief and empty hands. Unfortunately, my uncle passed away in 1985, leaving my father alone. My father has never told me that his life was meaningless, but he told me that wherever you go, always think of your family and try to make them laugh as much as you can. The immediate and inexplicable loss of family members has shaped his attitude. He is overanxious regarding his children. My father never had a chance to fulfill what he said to his parents, "Mom and Dad, I will come back to meet you soon."

Very few people in my family know this heartbreaking story except for my father himself. Even though I asked him many times about his experiences during the Khmer Rouge regime, it took several tries before he agreed to tell me. I know it is painful to recall his past, but it is better for him to let us share his suffering and learn about our history. Before I used to complain when my father worried about what I did, now I realize the motivations behind his attitude. To me he is a very strong man who has led a very tough life without family. He is not a rich man but he has a rich heart that provides the whole family with happiness.

Hout-Pheng Ly



THE BOOK OF MEMORY OF THOSE WHO DIED UNDER THE KHMER ROUGE

The Documentation Center of Cambodia is writing and compiling a book of records of names of those who died under the Khmer Rouge regime from 1975 to 1979 and those who disappeared during the period, who are still not known by their relatives. It also includes a section for family tracing purposes.



DC-Cam already has in its database up to a million names of those who may have died under the Khmer Rouge. If you would like to have your relatives' names, who died under the Khmer Rouge or disappeared then, appearing in this book,

Please contact Vanthan.P Dara Tel: 012-846-526

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Website: www.dccam.org or www.cambodiatribunal.org



FOOD IS LIFE

Pheana Sopheak

To attend good schools, my six siblings and I live and study in Phnom Penh and receive financial support from our parents who live in the countryside. Living far away from our parents, we are taken care of by our aunt. She does all the household chores, has trained us to be respectful, encourages us in our studies, and has influenced our everyday living habits. We have adopted the practice of eating all the food in our bowl or on our plate, not leave even a single grain of rice. My aunt says that "Food is life, do not waste it." To support her claim, she has told us of her experience during the Khmer Rouge (KR) regime. When she first told us, I was childish and unaware of our country's past; I did not believe that such terrible things had happened and thought that this was just a story she invented not to let us waste the food. After working at the Documentation Center of Cambodia and learning about the history of the KR regime, I have realized that every single thing my aunt said was true.

In 1972, the KR took control of the Kandal Stung District, forcing my aunt, her aging mother, her sister and my mother to flee to Phnom Penh. When they left their hometown, they lost their property and had to start a new life with almost

nothing. With no relative in Phnom Penh, they rented two square meters of space, in which they built a hut to live and started a tiny business. They sold tobacco to survive and their income was just enough to afford their food. Three years later, their business had grown and they had become a bit more prosperous. However, this happy time would not last long. On April 17, 1975, the KR entered

Phnom Penh. With the rest of the city, my mother's family was ordered to leave Phnom Penh for three days. My aunt, her mother, her sister, and my mom quickly packed and joined the crowds fleeing the city. They only had time to pack a bag of rice, kitchen utensils, money, and a few clothes.

Along the road, they saw many dead bodies of Lon Nol's soldiers. People were directed to the suburbs, no one dared to turn around or to go back to Phnom Penh because the KR threatened to kill

anyone who did. Everyone marched during the day and rested at night. They had to sleep wherever they were on the road, sometimes near dead bodies. My aunt, who used to fear ghosts, was very brave. There were food shortages, and those who had brought a lot of food sold it at high prices, which was unaffordable for most people. Having no way to buy food, my aunt's family had to go hungry.

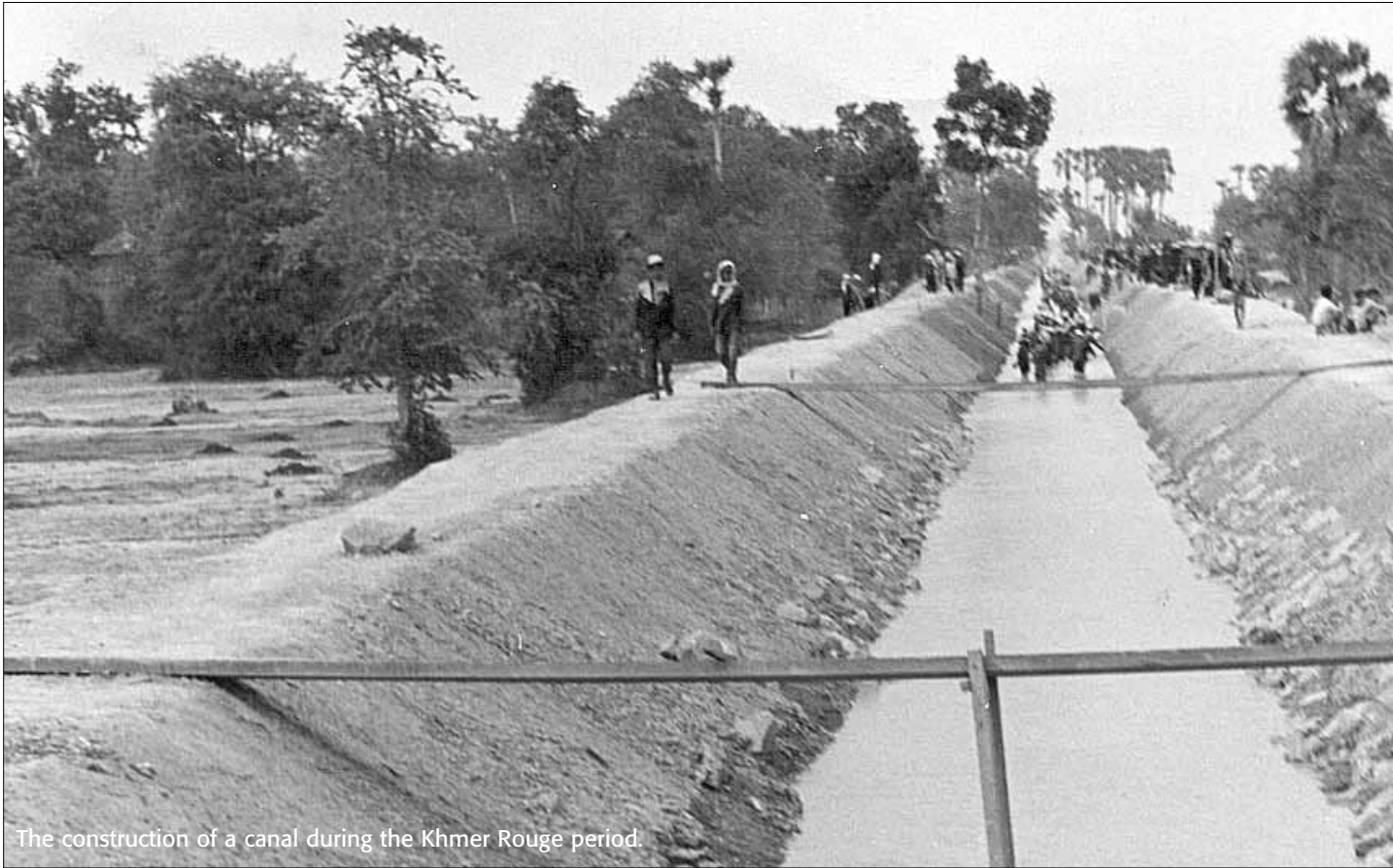


Pheana's aunt, Neang Ky

After a tough week-long journey, my aunt and her three relatives finally arrived in Trea Troas Village, Kandal Province.

My aunt's family had to build a hut in the village. They were sent to farm while my grandmother stayed at home and did mild tasks. Two or three months later, Angkar came and wrote down the names of all who wanted to go back to their hometown, my aunt's family registered for this. The KR transported the registered individuals

plant vegetables around the hut. Angkar gave them each a tiny pack of rice, but they were eventually given less and less food. Later, my aunt's family members only received a bowl of gruel, which contained three to five grains of rice. It was like drinking water. Lack of food caused my grandmother to get sick, and because there was no hospital or medicine, she died. Afterwards my aunt asked other New People to help her cremate her mother in the jungle at the bottom of the



The construction of a canal during the Khmer Rouge period.

in a truck, which was overcrowded. Lacking food, my aunt and relatives almost fainted. Some people volunteered to go to specific places, others, such as my aunt and her family, agreed to go anywhere Angkar sent them to. They were sent to Pursat Province before being forced to board a train to the Thipadey Mountain, Battambang Province.

They were sent to live at the bottom of the mountain where they were put to farm. My grandmother was permitted to stay at home and

mountain.

My aunt, her sister, and my mom were sent to work in a female unit where they ate and slept collectively. At first, they were given rice; however just as before they were soon given diluted gruel. They had to build dikes and perform other heavy work. The hard labor, brutal conditions, and lack of food caused my aunt's sister to become sick. Angkar sent her to a hospital but did not allow my aunt or mother to go with her. My aunt who was

sent away never returned. Neither Angkar nor the hospital sent news to the family. Shortly afterwards, my family realized that she had died.

After my grandmother and my other aunt passed away, my aunt and my mother were put to work in different units. Then, they started to live separately. My mom was sent to the front line near the battlefield, while my aunt was in the jungle of Tuol Mtes. There was not enough food in the jungle, and some people starved to death. At Tuol



Mtes, my aunt was tasked with clearing the forest. To avoid starvation, my aunt decided to look for potatoes in the jungle, but she was caught. She was sent to a reeducation center where the KR cadres shackled her legs and locked her arms to a wall. My aunt knew that she would be killed in the morning, so she tried to escape. She was able to break out and run back to her sleeping place, but the shackles were still on her arm and leg. While she was trying to figure out of how to remove them, my mother

came to visit her. After thinking together, my mom went to the cadre house to ask for two axes. She lied that she needed two axes to cut firewood. When the cadres gave them to her, she brought the tools to my aunt and cut the shackles off. My aunt and my mom believed that if they stayed there, they would be executed, so they forged a letter, saying that they could enter other areas to look for their relatives. Forging the letter was a dangerous thing to do, but they had no choice. They ran away at night, crossing the river and went through obstacles. At last, they arrived at Bavi at dawn.

Once they arrived, the local cadres asked if my mom and my aunt were still looking for their relatives. They replied that they had no hope of finding them now and begged the KR cadre to let them stay. The cadre permitted them to live in his village. Living conditions in Bavi were better than other areas because there was a large agricultural unit and Kok Son, the regional chief, was a kind man. People there got enough food to eat. This generosity would lead the regional cadre to be executed and allowed the South West cadres to take over. My aunt, my mom, and others, again, suffered from the lack of food. This misery would last until the collapse of the KR regime in 1979.

Because of her harrowing experiences, my aunt always reminds my six siblings and me not to waste a single grain of rice. She wants the regime to be buried under the ground and never come back. The pain of losing her beloved relatives will be with her for her whole life. Knowing that the youth have been introduced to genocide education, my aunt is very delighted. She believes that through education, the children and grandchildren of those who endured during the KR regime will understand, and, together, they will not let such a brutal regime come to power again.

Pheana Sopheak



Villagers read Genocide books during the verdict announcement of Case 002/01 at Prey Ta Koy pagoda, Kep province

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