

Searching for

THE TRUTH

- ◆ Deserving to Hear the Other Side of Nothing but the Whole Truth
- ◆ Remorse Haunts Former Khmer Rouge Killer at the KR Tribunal

«Now they are aged and frail. Let them live; do not kill them. [Ieng Thirith] has an illness; let cure her. They have nothing to give me back and my husband and daughters, who are all dead.»

--Lach Phat

Special
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Two women, along with their kids, attended the hearing

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LETTERS FROM YOUK CHHANG:

DESERVING TO HEAR THE OTHER SIDE OF NOTHING BUT THE WHOLE TRUTH

After only one day of testimony in the historic Case 002 against senior Khmer Rouge leaders Ieng Sary, Nuon Chea, and Khieu Samphan, Cambodian Television Network (most popularly known as CTN) stopped daily broadcasting live from the Extraordinary Chambers in the Courts of Cambodia (ECCC).

CTN's decision is understandable as it is a private company. However, it is the responsibility of the ECCC (United Nations/Royal Government of Cambodia) to make sure that the full trial is broadcast live to the public.

This is the most important genocide trial of the 21st century and it is taking place in Cambodia.

Survivors have been waiting for over 30 years to hear what the Khmer Rouge leaders have to say and they have the right to hear the accuseds' testimony, whether or not they choose to believe it. Youth also have the right to hear it so that they may better understand their country.

No obstacles should prevent survivors from hearing the full story from the Khmer Rouge leaders. This is only the second ECCC trial, and may be the last. Only four persons may ever face justice for the deaths of nearly two million Cambodians. What is the point of all the effort to hold this trial if Cambodians are not able to see it happen?



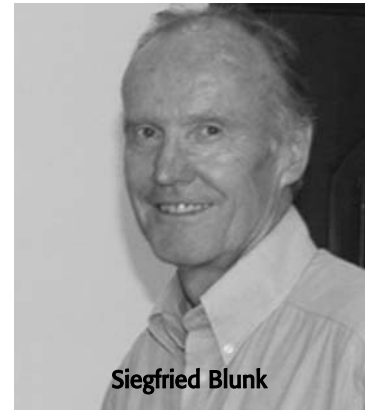
Youk Chhang (right) talking to Andrew Cayley, ECCC International co-prosecutor in 2011

THE ENTIRE OCIJ MUST BE INVESTIGATED IMMEDIATELY

As an institution which promotes justice and memory for victims of the Khmer Rouge, the Documentation Center of Cambodia (DC-Cam) has a strong interest in ensuring the legitimacy and success of the Extraordinary Chambers in the Courts of Cambodia (ECCC) as an institution. While DC-Cam is not affiliated with the ECCC in any formal way, the Center was integral to the creation of the Court and has provided it with over 500,000 pages of documents along with various films, maps, photographs and interviews as a recognized "in-kind" donor. DC-Cam also continues to assist the ECCC through the provision of its research and expertise.

For months, various commentators and civil society institutions have alleged corruption and political

interference at the ECCC. These allegations have been focused on the ECCC Office of the Co-Investigating Judges (OCIJ). Recently, International Co-Investigating Judge Siegfried Blunk resigned, citing the appearance of political interference by the Royal Government of Cambodia (RGC) as his motivation. Judge Blunk's resignation has only added fuel to conspiracy theories and conjecture regarding corruption within the OCIJ. The time for speculation and debate however, has now long passed and there is a pressing need for the United Nations (UN) to act decisively.



Siegfried Blunk

The legitimacy of the entire ECCC has already been compromised by widespread perceptions of corruption within the OCIJ. Simply replacing Judge Blunk will do nothing to restore confidence in the ECCC. The only way to salvage the reputation of the Court and demonstrate that the international community is serious about combating corruption, impunity and injustice is through an immediate, impartial, transparent and thorough investigation of the entire OCIJ, followed by appropriate remedial action.

If no investigation takes place, every entity connected to the ECCC, including the UN itself, will be complicit with the RGC in compromising the last opportunity to provide some measure of justice for victims of the Khmer Rouge, whose suffering has already been ignored and/or politically manipulated for over 30 years.

Youk Chhang is the Director of the Documentation Center of Cambodia and Editor-in-Chief of Searching for the Truth Magazine.



Elderly women brought packed rice as they attended the hearing in November 2011

SPEECH OF HEAD OF DELEGATION

KHIEU SAMPHAN GAVE A SPEECH IN PEKING IN MARCH 1974

D27315

All the members of our delegation feel most excited and happy to come to the capital Peking—symbol of the glorious socialist New China. The welcome accorded our delegation by Your Excellency, gentlemen, the people capital Peking and the Government of the People's Republic of China is a grand welcome permeated with warm, friendly and fraternal sentiments of solidarity. It is another expression of the sincere sentiments which the great Chinese people and the Government of the People's Republic of China have

consistently shown for us, the Cambodian people, the National United Front and the Royal Government of National Union of Cambodia, who are fighting at the front against U.S. imperialism and all its lackeys.

We take much pride in bringing to the heroic and fraternal Chinese people and the Government of the People's Republic of China the sentiments of the warmest friendship and firm solidarity from the Cambodian nation and people, the National United Front, the Royal Government of National Union and the People's Armed Forces of National Liberation of Cambodia.

In the period of the struggle against the U.S. imperialist aggressors, we the Cambodian nation and people, who bravely hold high the militant banner of national liberation and fight U.S. imperialism and all its lackeys at the hottest field of battles, have all along received unqualified and sincere support and multiform assistance from the Chinese people and the Government of People's Republic of China. The People's Republic of China is a big country with population of 800 million. Yet the People's Republic of China has supported and assisted our small country of only seven million people sincerely, unconditionally and on an equal footing; she respects our state sovereignty and national dignity. This fills our Cambodian nation and people with immense satisfaction. We the Cambodian nation and people highly appreciate the correct stand taken by the great, fraternal Chinese people and the Government of People's Republic of China under the wise leadership of the Chinese Communist Party with the chairman Mao Tse Tung as its illustrious leader. Therefore,



Khieu Samphan giving a speech

the Cambodian nation and people, the National United Front of Cambodia with head of State Samdech Norodom Sihanouk as its Chairman and the Royal Government of National Union of Cambodia with Samdech Penn Nouth as its Prime Minister feel extreme pride and comfort in having the great Chinese people and the Government of People's Republic of China as our trusted comrades-in-arms in times of success or adversity. The friendship between the Chinese and Cambodian peoples is a pure one based on the correct principles of equality, mutual benefit and unqualified mutual respect. We are convinced that the friendship between Cambodian and Chinese people is a valuable example in the world and, at the same time, provides the basis for the world stability now and in the future.

We, the Cambodian people, have always been honoured and held in high esteem. We have a high civilization and the ability to build our country, such as the invaluable relics of Angkor Wat, which have been preserved to this day. But for the several centuries, our national honour has been sullied and trampled upon successively by the French colonialists, Japanese fascist imperialist and U.S. imperialists, who reduced our country to the position of their colony. As a nation and people who are courageous in struggle, we dare to make any sacrifice for national liberation and to save and preserve our national honour. We are infinitely

gratified to have as our sincere friend the People's Republic of China who respects the principle of equality and renders us unqualified support and assistance. We, the Cambodian nation and people, greatly need the principle of mutual respect. We are convinced that the people of all countries, particularly those of small countries of the Third World now engaged in national liberation struggle against colonialism and imperialism, also very much need such a friendship.

The national-liberation war waged by the Cambodian people against the cruel war of aggression launched by U.S. imperialism and all its lackeys has been going on for four years. In these four years, the Cambodian people and the People's Armed Forces of National Liberation of Cambodia have surmounted all difficulties, made all kinds of sacrifice and exerted every effort to oppose the most ferocious U.S. imperialism and the most ferocious fascist traitorous clique of Lon Nol, Sirik Matak, Son Ngoc Thanh, Cheng Heng, In Tam, Long Boret and Sosthene Fernandez. In the liberation struggle of national salvation, the heroic Cambodian people and People's Armed Forces of National Liberation of Cambodia have constantly scored important victories in the military, political, economic and diplomatic fields. The victories won by us, the Cambodian nation and people, are of strategic significance.

We have already liberated more than 90 percent of our territory with upwards of 5.5 million people. The Liberated Zone in Cambodia is vast in expanse, whereas the areas temporarily occupied by the enemy are small and ever contracting, consisting only of Phnom Penh and a few provincial capitals.

U.S. imperialism and its lackeys and the traitorous Phnom Penh clique have been utterly defeated. But, to prevent our people's complete victory, they increasingly resort with cunning and obduracy to such vicious manoeuvres as shame ceasefire, sham talks and sham peace.

At present, they are continuing their



Khieu Samphan during the visit of foreign delegations during DK

desperate effort to push the "Khmerization" of the war in Cambodia. Some public opinion mistakenly believes that, with the bombing halt from August 15, 1973, U.S. imperialism is letting the traitors Lon Nol, Sirik Matak, Son Ngoc Thanh, Cheng Heng, In Tam, Long Boreth and Sosthene Fernandez to carry on by themselves the war against us. The fact, however, is that U.S. imperialism is directly commanding this war more actively than ever. Today, in the city of Phnom Penh and on all the battlefields, for instance, those around Phnom Penh and at Kampot, Kampong Thom and Svay Rieng, there are as many as 3,500 U.S. imperialist military advisers disguised as civil service personnel. U.S. imperialism is planning to increase the number to 10,000 by the end of this year. U.S. imperialism and the Phnom Penh traitors are daily committing towering crimes against our people. Therefore, the war in Cambodia has not changed in nature; it remains a U.S. imperialist war of aggression against the Cambodian people.

Therefore, our people unanimously hold that, since U.S. imperialism persists in pushing "Khmerization" of its war in Cambodia, we will resolutely fight to the end so as to realize the five-point declaration of the National United Front of Cambodia issued on March 23, 1970 by Samdech Norodom Sihanouk, Head of State and Chairman of the National United Front of Cambodia. Our people are well aware that our struggle is a just one. We are fighting for no other purpose than to wrest back our national rights, independence and freedom. We have never invaded anyone. Over a long period of time, our nation and our people were reduced to the status of a colony. Therefore, we suffered enough from foreign aggression and eagerly desire independence and dignity. On the other hand, Cambodia has small population and we, the Cambodian people, are a kindly and peace-loving people. However, we want a genuine peace with independence and dignity, and not a sham peace which would be used by the enemy to recuperate and strengthen its forces in order to return and attack us again.

In the present circumstances, the Cambodian

problem can be solved only if imperialism evacuates all its military advisers and military personnel from Cambodia, stops its aggression against Cambodia and ceases to provide the traitorous Phnom Penh clique with any form of assistance and leaves the Cambodian people to settle the Cambodian question by themselves. Only thus can the Cambodian question be solved; there is no other way.

We, the Cambodian people, highly appraise the support and assistance rendered us by the people of all friendly countries and the people of the world. It is our position to establish, on the basis of mutual respect for sovereignty, equality and mutual benefit, extensive ties of solidarity with all those countries respecting Cambodia's independence and sovereignty, whatever their political system may be. Cambodia pursues a policy of independence, peace, neutrality and non-alignment.

In keeping with this stand, we support all national liberation movements against imperialism, colonialism and neo-colonialism, namely, the south Vietnamese struggle for national liberation, the Lao struggle for national liberation, the Chinese people's struggle for the liberation of Taiwan, the Korean struggle for the peaceful and independent reunification of the country, the Palestinian national-liberation movement, the Syrian people's struggle of using the oil weapon against U.S. imperialism as well as the struggle of the peoples of Guinea-Bissau, Angola and Mozambique against Portuguese colonialism and South African colonialism.

In conclusion, please allow us, on the bidding of the Cambodian people and the fighters and cadres of the People's Armed Forces of National Liberation, to express again our most cordial thanks direct to the Chinese Communist Party and the Chinese Government for the sincere and unqualified support and assistance that the People's Republic of China has rendered to our people's national-liberation struggle. We are convinced that the visit of our delegation will further consolidate and strengthen this special militant unity and friendship.

IENG SARY'S SPEECH

D29058

Speech of Ieng Sary, Deputy Prime Minister in charge of Foreign Affairs of the government of Democratic Kampuchea during the welcome dinner in the honour of Daneil Leon Burstein, member of the central committee of the Communist Party Marxist-Leninist of the USA editor of the Journal "The Call" and his delegation on April 22, 1978 in Phnom Penh

Respected Comrade Daniel Leon Burstein,
Dear Members of the Delegation,
Dear Comrades,

On behalf of the Central Committee of the Communist Party of Kampuchea and the Government of Democratic Kampuchea, we have great pleasure to extend our warmest welcome to Comrade Deniel Leon Burstein, Member of the Central Committee of the Communist Party Marxist-Leninist of the USA, Editor of the journal "The Call" and his delegation.

Comrades, you are the first Americans who have come and paid a visit to our country since April 17, 1975 when the people and the Revolutionary Army of Kampuchea won the historic glorious victory over the US imperialist aggressors and their lackeys, and totally and definitively liberated Kampuchea.

We would like to receive all comrades as representatives of the vanguard unit of the American workers class and the American people who have stood by the side of the just cause of our Kampuchea's people. At this reception, it reminds us of the great number of young Americans and people of the USA who waged a valiant struggle against the devastating and barbarous war of the US imperialists against Kampuchea and actively supported the national liberation struggle of the Kampuchea's people. Especially, we are moved to recall the memory of the US students at the Kent and Jackson's States colleges. Therefore, it is in these sincere and friendly feelings towards the American people that we have today received you.

Comrades, you have come and paid a visit to

our Democratic Kampuchea at the moment the situation of country is excellent. After the celebrations of the 3rd anniversary of the glorious victory of April 17, 1975 and the founding of Democratic Kampuchea, the people and the Revolutionary Army of Kampuchea, under the correct leadership of the Communist Party of Kampuchea, are impetuously carrying on their tasks of



Ieng Sary making statements during DK

defending Democratic Kampuchea, pursuing the socialist revolution and edifying socialism, by firmly abiding by the position of collectivism and of independence, sovereignty and self-reliance, of being masters of their own destiny.

In the task of defending Democratic Kampuchea, we have totally crushed all activities of spying and subversion of enemies of all kinds, including the Vietnamese and CIA activities, who are cooperating together aiming at destroying Kampuchea's revolution and staging coups d' Etat to overthrow Democratic Kampuchea. We have successfully safeguarded, strengthened, developed and embellished the worker-peasant States power of the Party. After the great victory of January 6, 1978 won by our Revolutionary Army of Kampuchea over the acts of the Vietnamese aggressors, annexationists and swallows of territories, the people and the Revolutionary Army of Kampuchea have overcome all difficulties in order to be always masters of the situation in defending the independence, sovereignty and territorial integrity of Democratic Kampuchea and in insuring her perennality.

During your visit, Comrades will be directly aware of the endeavours of our people by relying on their own forces in edifying their country, improving their standard of living and edifying a new society with equality, justice, genuine democracy, without exploiting class and exploited class. Through the results we have won during these past three years, we have successively

acquired more bases to solve the contradictions, between cities and countryside, between workers and peasants, between manual labourers and intellectuals, between the economic basis and the superstructure, between cadres and the mass. In order to achieve this so great and new noble ideal in the history of mankind, we need to mobilize all our forces and time. We have no reason to provoke anybody whatever. We want only to have peace in honour and dignity, in independence, sovereignty and territorial integrity of our own country. Despite all their painful past, the people of Kampuchea look only forwards to their present and future. Democratic Kampuchea wishes to have close ties of friendship with all countries, near or far, on the basis of equality and mutual respect. But we are resolute to struggle against all acts of aggression the independence, sovereignty and territorial integrity of Democratic Kampuchea.

Your Communist Party Marxist-Leninist of the USA and your journal "The Call" have successively expressed their support to our endeavours in our tasks at this new stage of the revolution of Kampuchea.

We highly appreciate and we express our sincere thanks.

Your visit is an encouragement for us as well as an occasion for mutual understanding in order to further strengthen the friendship between the Kampuchea's people and the American people.

In these sentiments, we propose a toast:

- ♦ for the development of the friendship between the Kampuchea's people and the American people.

- ♦ for the health of Comrade Michael Klonsky, Chairman of the Communist Party Marxist-Leninist of the USA,

- ♦ for the health and good stay in Democratic Kampuchea of Comrade Daniel Leon Burstein and all members of the Delegation,

- ♦ for the health of all comrades present here.



Ieng Sary during Democratic Kampuchea regime

SPEECH OF DEPUTY SECRETARY NUON CHEA ADDRESSED TO THE PARTY MEMBERS ON JANUARY 17, 1978 DURING THE TENTH ANNIVERSARY OF KAMPUCHEA ARMY ESTABLISHMENT

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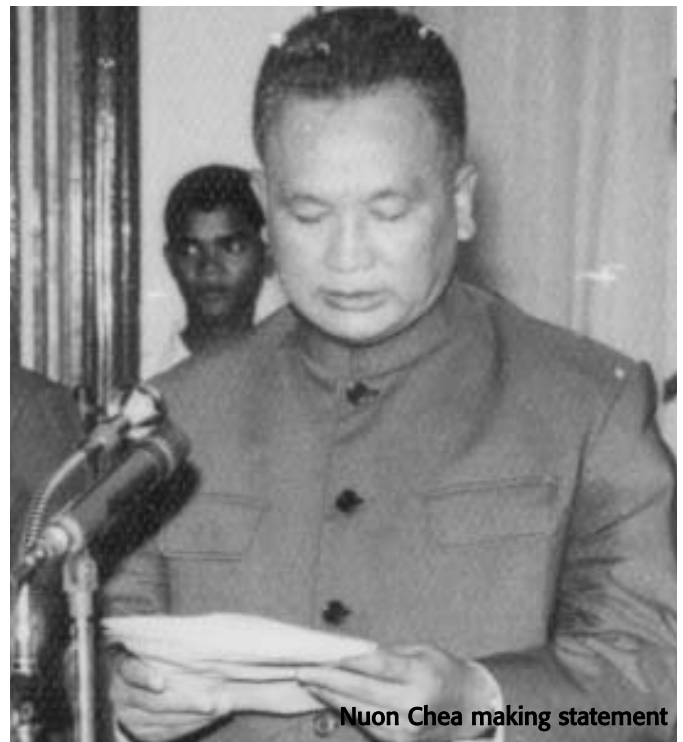
On this occasion and under the present circumstances, I wish to make two important points. The first is that the founding anniversary of our nine-year old army reminds us of the very high sense of heroism of our Revolutionary Army. At this moment we think with profound emotion and revolutionary sentiment of our comrades-in-arms, male and female combatants and cadres of our army, who made all kind of sacrifices for the most difficult, complicated, tortuous and involved revolutionary struggle until the total liberation of Cambodia, freeing the people worker and peasants and bringing to them forever the status of masters of the nation and of their own destiny.

The second point we should consider on this occasion is that as we think of our formerly empty-handed army and its present condition, we should take great pleasure in the thought that never before have we had an army such as the present Revolutionary Army—an army with truly revolutionary characteristics. A valiant, competent and wonderful army absolutely loyal to our revolutionary organization, our people—the workers and peasants—our state power and our beloved fatherland. Our Revolutionary Army was founded, strengthened, expanded and transformed from secret defence forces into guerrilla units, regional units and regular army units which launched guerrilla warfare, large-scale warfare, internal war and revolutionary war against the US imperialists and their lackeys for the liberation of the nation and people, until the day we won the great victory of 17th April 1975.

We have also strengthened and developed this army politically, ideologically and organizationally. Now our army has all the characteristics of a truly revolutionary nature—it is a fully organized army, including ground, naval and air forces which are defending the national territory and territorial waters and air space—the whole territory of

Cambodia. For thousands of years our people have never had an army comparable to the present one. Realizing this, we are proud of, and fully satisfied with, our people, our army and our revolutionary organization, which have waged a protracted struggle to build up Democratic Cambodia, the Cambodian people—workers and peasants—the state revolutionary power and a valiant capable revolutionary army.

To repay the debt of gratitude to our army, all of us, whether in it or outside, must pledge ourselves in memory of our combatants and our people to carry on the tradition of our heroes, who fought valiantly in past struggles, by continuing to perform correctly their revolutionary tasks and by fulfilling in the best way possible the tasks of defending and building the country. If we fulfill these tasks with great care and a high sense of responsibility, then all of us will be repaying properly and fully the debt of gratitude to our heroes. To do so is our



Nuon Chea making statement

determination.

On this occasion, we also resolve further to consolidate further and expand our revolutionary position, In all our activities and tasks, small or large, we must always maintain the spirit of struggle and regard this determination as our driving force. We must use the pledge given in memory of our heroes as the driving force to boost our morale. We are strong, but this driving force can make us even stronger.

Why are we fulfilling the revolutionary tasks of the new era? We are doing it to abolish forever our century-long slavery. We liberated our country from slavery on 17th April 1975, and our people were also freed that day. Why should we continue to perform our tasks correctly? We are doing it for the defence of Democratic Cambodia, the Cambodian workers and co-operative peasants in the coming decade, century, millennium, the next 10,000 years, forever. We are doing it to build our Democratic Cambodia by leaps and bounds. This is why we should perform our tasks.

Is this an honour? Yes, it is an honour for us. The great victory of 17th April 1975 brought our nation, people and army great honour which we must preserve, consolidate, expand and prevent from being tarnished and lost. The fulfillment of our tasks is therefore aimed, firstly at repaying the debt of gratitude to our heroic male and female combatants and cadres who have passed away and, secondly, at defending forever the honour of our nation and people.

The 17th January of 1968 was the day of the birth of the Cambodian Revolutionary Army. At the beginning of 1967 the traitorous Lon Nol clique waged an internal war, repressing, shooting, and killing innocent people and Cambodian patriots and revolutionaries in the most ferocious manner in large-scale and systematic actions. January 17th 1968 was the day the secret defence units of our revolution were turned into, and reorganized as, guerilla units which were then ordered by our revolutionary organization to attack an enemy position on the bank of the Sangke River, eleven kilometers from Battambang town; the Bay Damram position, which we completely destroyed, capturing enemy weapons to arm ourselves.

This was our first armed exploit.

The start of the armed struggle on 17th January 1968 was not an accidental event. Since 1960, our Cambodian revolutionary organization had drawn up the strategic and tactical lines for the revolution of a democratic nation. We realized that the US imperialist, their lackeys and all kinds of exploiting classes used dictatorship and force in their attempts to kill and terrorize our people. It was our well-defined position that political action alone would not succeed in crushing and overthrowing the US imperialists, their lackeys and all the exploiting classes. The enemy used force of arms and his totalitarian tools with which he repressed and killed our people. After 1960, our revolutionary organizations clearly decide therefore that political action and armed violence must be used to overthrow and crush the enemy. We had to turn revolutionary forces in to a revolutionary army. After 1961, we began to organize our secret defence units.

These secret defence units were hidden in villages, bases and towns. Some of them were armed with firearms, but most of them were armed only with cutting weapons, clubs and rocks. These secret defence units had the duties of defending the cadres and the people and crushing enemy intelligence agents and other enemy forces which caused trouble for the people.

A number of secret defence guards were lost; the enemy arrested some of them. Our combatants continued to fulfil their duties as secret defence guards to ensure security for our cadres, offices, places of meeting and to serve as messengers. These tasks were dangerous. Our cadres had to move from one village to another to perform their tasks. Without the secret guard, our cadres could not have survived; we would all have been killed by the enemy. However, our secret defence units were fully informed about the situation in the village and communes and the position of enemy military and police force. Our secret guards also serve as our guides, carrying out the necessary tasks of our army, our secret guards always volunteered to escort our cadres anywhere they went.

Year by year, we expanded our secret defence units. From 1961 to 1966, the revolutionary bases throughout the country and in every region had their secret defence units,

each of these units consisted of at least three people. These secret defence units were the core of our army.

The birth of our Revolutionary Army on 17th January 1968 was no accident, no invention. That day saw the beginning of the successive and systematic struggle movement along our strategic and tactic lines. The secret defence units were born; these units were then transformed into guerrilla units which started fighting first of all in Battambang Province and launch an all-out offensive, waging a guerrilla war throughout the country. The enemy was not capable of containing our forces. Had this event really been an accident or had it been an attack without strategic and tactical planning, we would have been crushed by the enemy immediately. In fact, the enemy could not crush us because in 1968, although we had not seized many rifles from the enemy, the determining factor of the offensive was not weapons but the fact that all of us were joined in an offensive against the enemy.

As I said earlier, in the first month we attacked the enemy in the North-West and in the second month we moved in on enemy forces in the South-West. The enemy was then not able to concentrate his forces on the North-West because his forces were also attacked in the South-West. When armed struggle started in the East, the enemy had to move some of his forces to defend the Eastern front, and when the offensive spread to the North-East, the enemy moved some of his forces to that area and then to the North.

In April 1968, our guerrilla units were waging guerrilla was in 17 of the country's 19 provinces. Under these circumstances, were the enemy forces able to counter-attack our guerrilla units throughout the country? No, the enemy could not attack us. Only our forces were in the position to launch attacks. In short, why could the enemy not crush us? Because we had a systematic organization, that meant that our army was founded on a well-planned strategic and tactical bases, including the creation of secret units, and was successively tested and developed to its present state.

This army, which developed within the revolutionary movement, is now extremely powerful. At the time, we did

not have enough weapons and our men were few but the correct lines of the people's war made us strong. Those who have correctly followed the organization's lines went through all the phases of secret units, have been tempered in the movement and have grasped the guerrilla-war tactics of our revolutionary organization. These people are the future leaders of our forces and our guerrilla units and the core of our army.

It follows that this army has not come from any military academy; in fact, it came out of a revolutionary struggle movement which began with empty hands. All these people united around the lines of our revolutionary organization and grasp all its stands. We attacked the enemy with empty hands, Enfield rifles or locally-made firearms. This was how we started fighting



Nuon Chea in the Courtroom

the enemy. Our army is very strong. An army which can fight the enemy only with big guns and by expending a large quantity of ammunition is not strong.

An army which starts empty-handed and which passes through successive revolutionary struggles and develops itself gradually is an extremely powerful one. This is the history of our army.

We must grasp and understand the true nature and results of our revolution. When we won the victory over the US imperialist, we had neither naval vessels nor armoured vehicles. As for artillery, we only had some pieces captured from the enemy. This army had no planes, tanks or artillery pieces and was short of

ammunition. Yet our fight was crowned with success. We must remember all this to realize that this army is strong. Why is it so strong? It is strong ideology, policy, organization and correct combat tactics that makes it strong. Understanding the history of this army makes us realize the influence and the power of our revolutionary army. If we strengthen and expand this army in accordance with this trend, no enemy can defeat it. Our army does not commit aggression against any country. But in the event of aggression by any country, our army and people can fight for an unlimited number of years as long as it adheres to this line. If we have planes, naval vessels, tanks and artillery but not adhere to the principles of people's war and the military lines of our revolutionary organization, we will not have an army as strong as



the one we had in the struggle against the US imperialist and will never be as strong as when we had no planes, tanks and naval vessels. For this reason, we must remember our fight against the US imperialists.

Is this the end of our Army's duties? Should this Army continue to carry on its tasks? The quality of our army has already reached its present stage, should we stop at this point or should we go on? We should be proud of, and satisfied with, the quality of our army, we must strive to build, strengthen, expand and improve it and make it capable of defending and building the country.

Past experiences show that we smoothly carried

out our revolution, the national liberation and the tasks of defending and building the country were all done with a high sense of self-reliance. During devastating war unleashed, by the US imperialists, in the past five years, we were able to solve economic problems. We never imported rice. We were able to ensure self-sufficiency. After the war, we encountered some difficulties. However, these problems were all solved. Then we had another problem. Could we solve it? Did we fulfil the 1976 plan? Were we able to apply the rice rationing orders prescribed by the state? The first order allotted 30 kg to each person per month, the second 25 kg and the third 20 kg. According to reports received early this month from every region and according to our finding after visits to each of our bases, we realize that these rationing orders were appropriate. In short, each Cambodian has 312 kg of rice to eat per year. This is a very large quantity of rice. The living conditions of our people have gradually improved. In other words, our people have enough to eat. We have reserved two bushels of paddy for each person in 1977. At the same time, we have surplus of more than 150,000 tons of rice for export. This means that we have completely fulfilled the 1976 plan.

Rubber production increased in accordance with the 1976 plan, as did the production of cereals and other industrial crops. All this was achieved by our people in spite of innumerable difficulties encountered as a result of the devastating war. We must preserve this tradition and position, strengthening and expanding it for our national defence and construction tasks. In the future, as we gather more experiences, so our strength will gradually grow.

The conditions for our Cambodian revolution have been gradually improving and it has grown stronger and developed in every respect, steadily moving forward. This is the situation as it is today and the prospects for the Cambodian revolution in 1977 are much better than they were in 1976. May all comrades—male and female combatants and cadres of the Revolutionary Army—whether they are on land or in our territorial waters, enjoy the best of health and achieve success while fulfilling their tasks in this new phase of our revolution to defend and build Democratic Cambodia.

TIME TO RECEIVE JUSTICE: CASE 002 HEAR



HEARING STARTED ON NOVEMBER 21, 2011



Built in 1955 as Preah Chey Chesta Primary School, Wat Koh high school hosted an anti on December 23, 2011. After the coup in March 1970, the school was renamed Wat Koh Democratic Kampuchea regime (1975-1979), it was turned to animal farm and banana 1979, the school was reopened and was renamed Wat Koh School and again its name High School in 1998. For this academic year 2010-2011, Wat Koh High School has 2,60 are girls. The slogans are being mounted with financial support from Mr. Chhun Saron and students of this High School. Her Excellency Tun Sa Im of Ministry of Education pr



an anti-genocide slogan ceremony
 at Koh Primary School. During the
 banana plantation. In September,
 name was changed to Wat Koh
 s 2,607 students, 1,145 of whom
 Sarom, School Director, teachers
 on presided over the ceremony.



REMORSE HAUNTS FORMER KHMER ROUGE KILLER AT THE KHMER ROUGE TRIBUNAL

Chhunly Chhay

Ever since he was a commune committee member between 1975 and 1979, Chhim Phan has had something to hide. It was just on November 21, 2011 that he confessed to killing a couple who had been accused of the severe crime of committing an immoral offense. Chhim Phan killed the couple with his own hands in the courtyard in front of Preah Neth Preah Pagoda in 1977.

In his confession made recently, Phan said that he killed the couple in a big meeting attended by Preah Neth Preah district committee members, such as Moang, Sam Art, Kho and Krak, who was a chief of Preah Neth Preah Commune. Phan added that it was Sam Art who ordered him to kill the couple.

In the meeting when the event occurred, thousands of villagers from the entire the commune of Preah Neth Preah were invited to attend in order to witness the killing of the a couple. The idea (known by the Khmer Rouge as People Court) was to warn others not to follow the same mistakes as the couple; otherwise they would meet the same fate. Youk Chhang, who was fourteen at the time and lived just a few hundred meters from the killing site at Trapeang Veng Village, was also called to join the meeting and witnessed the killing with his own eyes.

Now seventy-two, Phan lives in Malai District of Banteay Meanchey province, which was one former Khmer Rouge strongholds of the 1980s and early 1990s. Born in Koh Thom district of Kandal Province

into a peasant family, Phan had a younger sister who worked in order to support Phan's education after their parents passed away. Phan reached grade three at Preah Yukunthor high school during the Sangkum Reastr Niyum period. When in Phnom Penh, Phan stayed at Langka Pagoda in Buddhist clergyman Chhi's house. In 1962, Phan quit school because he could no longer afford it.

After quitting school, Phan's life took several unanticipated turns. He had intended to go to Pailin to

look for a job as a gem seeker on a friend's advice, but could not make his trip to Pailin. When he arrived at the town of Ratanak Mondul, he met a Sino-Khmer family who asked him to live with them as a housemaid; there Phan earned 100 Riels per month. Because he could speak some French, Phan taught Khmer

and French to the family in order to earn more. Three months later, Phan moved to work in an orange, corn and soybean plantation called Rasmey Sangha located in Damnak Sdao Commune, Ratanak Mondul District where he worked to clear grass in the field. There, he fell in love with a lady named Chuon Rin who was a niece of the landlord. They married in 1970 after which they moved to live in Teuk Pos Commune where they grew vegetables to earn their living.

In 1970, Lon Nol staged the coup to depose then Head of State Prince Sihanouk. After the coup, the Khmer Rouge gained more forces. Just a year later, the Khmer Rouge forces gained control over Phan's



So Phan at the ECCC compound

home village, after which Phan was assigned by the Khmer Rouge as chief of the economics unit because he knew how to grow and care for vegetables.

At the same time, the Lon Nol government assigned Phan to lead a group of fifteen people. However, Phan did not want to take a side; he just wanted to be neutral. Therefore, he rejected both assignments by the Khmer Rouge and Lon Nol government. Phan realized that his life would be endangered if they continued to live there, so the couple moved to his wife's homeland in Omal commune. However, when they arrived at Omal, they realized that the villagers had already joined the Khmer Rouge movement struggling against the Lon Nol government so they forced themselves to join the Khmer Rouge group at the end of 1971. Phan was assigned to look for food and honey to support the ten families in his group, while his wife, Rin, was assigned to farm.

In 1974 Phan was sent to receive political trainings at a village along the Sangke River where he met with 4,100 Khmer Rouge forces. In 1975 Phan was assigned to join the group of fifteen men to herd 50 to 60 pairs of cows. Phan said that just a day before Phnom Penh was captured, a team of armed Lon Nol soldiers came to confiscate all of the cows. Phan and his team were very frightened and worried about the loss of all the cows and shortly later, a chief of the group reported to the upper echelon about this; however, the upper echelon did not blame Phan and his team. Phan said that "the chiefs [upper echelon] did not blame us and they told us not to worry as we captured Phnom Penh and would reclaim all the cows. This is what the chiefs told me."

After the Khmer Rouge captured Phnom Penh in April 1975, Phan and his team, along with other villagers, returned to Omal Commune where all people with political trainings were given assignments of authority in that area. "Those who struggled with the Khmer Rouge to fight the Lon Nol government were appointed chiefs of groups, teams, and communes," said Phan. Phan added that there was a three-day meeting in which Krak, who was then a chief of Preah

Neth Preah District's military unit, presided over the meeting. Krak and Phan knew each other well when Phan was in the cow-herding group. Shortly after the Khmer Rouge won victory, Krak asked Phan to work with him. At first Phan was a village chief in Kralanh village of Siem Reap Province; however, Phan himself did not know the name of the village because the position he held was very short-lived. Phan held that position as a village chief for two days, after which Krak appointed Phan to be one of Preah Neth Preah Commune's committee members along with Krak.

Phan said that Krak was a chief, Sorn was a deputy chief, and Phan himself was a member. Phan added that Krak was responsible for overall tasks in the commune and Sorn and Krak often worked with each other. Phan, who could read and write, was a report writer and he often went to the fields to monitor paddy plowing activity. "I don't know much about the policies and political issues of Angkar," said Phan in his house in Malai. However, shortly later, another man became a commune committee member. "Later Cham, who had connections to the upper echelon of Region 5, was appointed a member of the commune committee. Cham, Krak, and Sorn often worked closely with each other," added Phan.

Phan was responsible for keeping the list of all New People (people who lived in the Lon Nol government until April 1975); however, Phan added that he did not know how and where Krak resettled those people and that he just followed Krak's orders. Phan added that the Preah Neth Preah district committee members included Moang, Sam Art, and Kho. "I was transferred by Krak to take over Trapeang Thmar and I was there for a year. Therefore, I did not know much about the work of the commune office on the ground," said Phan.

In 1977 distrust and purges were widespread among the Khmer Rouge leaders at the commune and other levels. Some leaders at the commune and district levels were arrested and executed, while the cadres from the Southwest Zone came to take over Region 5 of the Northwestern Zone. Finally Krak was

arrested along with his close associates in the rainy season of 1977. Sorn, who was Krak's deputy, had been arrested earlier because he committed an immoral offense. Moang, Sam Art, and Kho were called for re-education and never returned. Phan was the only commune committee member to survive the purge. He was sent to Phnom Leap commune to lead a group of thirty people who were constructing Sraeng Bridge.

After Moang disappeared, Im Chaem, a cadre from the Southwest Zone, replaced Moang. Nonh and a woman named Tha replaced Krak and Sorn in the Preah Neth Preah commune committee. Phan was in the same position and he was assigned to supervise a mobile unit group.

Phan said that once during the rice-transplanting rice season, the situation got worse. The Vietnamese were approaching. Shortly before the Vietnamese arrived, Im Chaem invited all group chiefs and district military chiefs to join the meeting at her house where she told the audience, "My dear comrades, who among you volunteer to fight the Vietnamese, raise your hands." Phan added that all the people attended the meeting raised their hands. However, Im Chaem did not recruit forces to fight against the invading Vietnamese.

After the meeting, Phan returned to Preah Neth Preah Commune to collect rice. Phan added that people still lived with famine, although they produced lots of rice. Even Phan himself was given the same ration of porridge as ordinary people. "Once a week during the meeting all people and I could get hard-cooked rice to

eat, but for the rest of the days I was given a small jar of porridge for five to seven people," said Phan. Phan added that although he was a commune committee member, he was not given much power and that he did not know much about the tasks of his commune. When the Vietnamese soldiers arrived in 1979, Phan fled with Nonh and Tha and other Khmer Rouge soldiers to Prey Moan areas. As the fighting intensified between the Vietnamese and the Khmer Rouge soldiers, Phan took shelter in Dangrek mountain area, but then he took shelter in a refugee camp of Site 8 along Cambodian-Thai border. Between 1991 and 1993, people who had fled the country to take shelter in the refugee camps were allowed to return to their homeland as part of United Nations Peace Keeping forces' mission to organize an election in the country. However, Phan decided to live with the Khmer Rouge after the Khmer Rouge boycotted the Paris Peace Agreement of October 1991. He continues to live in Malai until today.

On November 21, 2011, Phan and his wife as well as other former Khmer Rouge cadres including former messenger of Ieng Sary and villagers from Preah Neth Preah commune attended the trial chamber hearing of Case 002 at the Khmer Rouge tribunal on the invitation of the Documentation Center of Cambodia in which the three senior Khmer Rouge leaders—Nuon Chea, Khieu Samphan and Ieng Sary—stand trial. It was the first time that Phan participated in a trial hearing. Phan said that he was happy to have an opportunity to be in the courtroom and see the hearing with his own eyes. He spoke out about his experience during the Khmer Rouge regime, which he had hid in his heart for over three decades. Phan confessed that he killed a man and a woman who fell in love with each other in front of the public because the Khmer Rouge regarded this action as an immoral offense. "I was furious with the Khmer Rouge leaders who forced me to be a killer," said Phan.



Youk Chhang (Right) meeting with So Phan in November 2011

Chhunly Chhay is a team member of Promoting Accountability Project.

HAUNTING MEMORY: THE LIFE STORY OF LACH PHAT

Suyheang Kry

Lach Phat, a widow with two surviving daughters, has lived alone in a cottage in a remote part of Kampong Chhnang Province for more than three decades since the demise of the Khmer Rouge regime. She has struggled to deal with her deplorable living conditions, all the while grappling with the emotional torture caused by her traumatic memories of those years. Looking at the canal, watching the documentary films, talking about the regime, inter alia, watching and listening to those senior Khmer Rouge leaders for the first time on their first day of trial suddenly stirred those extremely sad memories of life during the regime. The memories take her breath away and will never, ever be forgotten. They haunt and invisibly torment her every day of her life. She describes those years as "too extreme to bear."

April Evacuation: the Opening of the Bloodiest Chapter

Because they lived in a populated area of

"I am here [at the tribunal] for the first time; I want to see those Khmer Rouge leaders. They remind me of my daughter who was sacked and thrown into a pond; my husband who was killed, what befell upon me was not a matter of Karma, it was them; without them, my loved ones would not have died."

Seventy two years old, Lach Phat

Lach Phat for life.

As hordes of people drifted along in different directions, Lach Phat and her family made their way from La-baek Village to Anh-chanh Rong of Srok 10 (District 10). During the journey, Phat delivered her baby girl near the bank of Pich Changva Stream with help from two elderly villagers. The baby later was named Pich Changva. Without delay after delivering the baby, the KR soldiers forced her to continue walking despite the fact that she was bleeding and had no energy to walk any further. Seeing that, her husband named Iek Kann carried her across the stream and then put her in a cart. As a result of exhaustion from delivering her baby without medicine and traveling without rest, she went into convulsions very often and lacked breast milk for the baby. When she reached Ah-chanh Rong, she was lucky to receive traditional medicine from her cousin. Though not fully recovered, she felt better.

During the first two or three months after the evacuation, the villagers were still able to eat individually using the food ration allocated by the Khmer Rouge cadres. Her family, however, was able to obtain only three spoons of rice. She then had to pick banana trunks to mix with rice to make porridge. Not long after, the cadres asked her to work transplanting rice and pulling out rice seedlings. Two months later, her



Lach Phat

baby, Pich Changva, died of starvation. The body was taken away and buried by Ta Ol, chief of militia, at Pha-neat Village. Seven days later, she was called by Comrade Kea, her unit chief, to be re-educated from 7:00 to 9:00 in the evening. "Comrade! You must work harder. You must not steal or you will be responsible for the consequences. Don't miss your dead daughter. You must commit to working for Angkar," said Comrade Kea. She could do nothing but listen and follow orders.

When the village operated the cooperative dining, her family then was separated. Her remaining six daughters were assigned to live in different children's units. Her daughter named Channa, about four years old, was relocated to Andaung Rovich Village and several months later died of starvation and malnutrition. The rest were put in Trepeang Chann Children's Unit, but with different groups. She was told that the children were taken to study, however she could only see them carrying spades, digging soil, planting cassava, and so on and so forth. And their food was very little. Meanwhile her husband was asked to build houses and canals while she was placed to drive an ox cart to transport food supplies to the village. They rarely met each other and were not allowed to do so.

1977: the Mourning Year of two Traumatic and Tragic Incidents

The conditions in District 10 became harder and harder in the year 1977. The food rations were smaller and the workload heavier. Although it was a forced labor camp, it was not as brutal on her as the killing of her two beloved ones, her husband and daughter. This caused a deep wound in her heart that is there even until today. The memory is so vivid that she cannot find a way to put it aside, although decades have passed.

During that time, she mostly was called to transport rice, pumpkins, and other fruit from Kampong Koh Kandal to Preah Kol Cooperative. Later in one occasion that year, she was asked to drive the cart to Kraing Leng in order to transport rice to the village. As she drove past Trapeang Chann, she saw her

daughter, Channy, living in the nearby children's unit. Upon seeing her mother, Channy, a seven-year-old girl separated from mother for so long, cried for her mother. "Mother! Mother! I want to go with you. I miss you very much, Mother!" pleaded Channy. "Please don't follow me. Your teacher would beat you," answered Lach Phat. Because of being annoyed with the crying sound of the kids, comrade Laun, who was the unit chief, suddenly caught Channy and another child and put them into a big sack. They then sewed it tightly and tied a big rock to the bottom of the sack. The kids cried even louder. Seeing that, Lach Phat desperately shouted that: "Please! Do not do that to my daughter. She is going to die." "What? Do you want to die with your daughter? Just drive your cart away and care nothing," answered that comrade. Although she could say no more and had to slowly drive the cart, Phat still kept watching from that moment until the end. Two cadres carried the sack containing the two children and shouted, "One! Two! Three!" The sack was thrown into a nearby pond. Lach Phat could hear how the kids crying for help, could feel how they suffered while drowning and could see how they moved around inside the sack in an effort to escape, and how they eventually slowly sank in the pond and disappeared. That moment almost killed her but she had to survive to take care of her other children. Despite the pain, she was not allowed even to cry. As she drove the cart past Kbal Damrei Pogoda, under a big tree she screamed and cried painfully. When seeing people approaching, she secretly dried her tears and drove the cart away.

About a month later that year, she was asked to transport fruit to Trapeang Chann. She then stayed a day in nearby school building. Coincidentally, her husband was sick and sent to that place to cure. Knowing that his wife was there, Iek Kann sneaked out to meet her and called "my dear!" However, as even husband and wife were not allowed to meet each other unless there was permission, Lach Phat immediately answered: "Oh! Dear! It's dangerous. People will see. You take these pineapples and please go back to your place." He then went back. The next

morning, he was accused of stealing fruit from Angkar. Despite trying to explain that the fruits were from his wife, the cadres didn't listen and arrested him. Prior to tying his hands behind his back, the cadres asked him whether he could climb the coconut tree. He said no. "What about picking up coconuts?" he then responded "yes". Soon, he was transported on a bicycle to Samdach To Temple. There he was starved, cuffed, and tortured. Seven days later, he died and his body was disposed into a nearby pond of the pagoda.

She learned this information from Ta On, a cart driver who witnessed the incident and later told her about it. She was so heartsick and sad after receiving the news. Seeing such emotion in Phat, Comrade Laun warned her again: "What are you grieving for? Your husband's death? Don't even try to do that again. Parents' death would not cause so much pain as this. Why do you go on like this for only a husband's death? Couldn't you find other man?" she was so furious but had to calm down and go away.

Firmly Opposed Forced Marriage: Solution to Deal with Its Consequences

In fact, Ta On informed her about her husband's death just because he wanted to ask for hand in marriage. Lach Phat firmly and strongly rejected the proposal. Later she was called to be reeducated in the jungle. Comrade Ban asked if she would accept the proposal. She again said no and would rather die should she be forced to remarry. "Then you must commit to building yourself. If I see you with someone else, anyone I can spot, I will take both of you away," answered Comrade Ban. Despite such death threats, she was committed to not follow the request. As she was watched all the time, she chose not to speak to anyone—especially men in order to survive this danger. She kept doing her work and talked to no one. She was very quiet and never even dared to look at men's faces. She would cover her face and disappear once she saw that a man was approaching. This method was effective, of course, but caused her to live in a constant state of fear.

Life was at Stake before the End of the Chapter

Cooperative meetings, mostly about the commitment to fulfill the assigned tasks and with Angkar, were held frequently. Meetings were guarded by many soldiers stationed at every corner of the venue. Still a few people who were starving tried to find a way to get out and steal something during the meeting because it was at this time that the cadres and soldiers were busy. Very unluckily in one occasion, they were caught and among them was Lach Phat, who at that time was very ill. The next morning, she and the other eleven people were asked to queue. She was in the front of the line. As she was silent, she prayed for all the holy sacred things to help her escape from such a regime. Then a soldier asked her: "which cooperative did you come from?" "Laun Cooperative." Suddenly, he asked others to take her away to the nearby hospital. And the rest, as she heard, were brought to be killed at A-sram Pagoda.

It was very fortunate that she survived the killing, but her other two daughters, Sitha and Veasna, who lived in the children's unit were not as lucky. They were disappeared and later she was told that they were dead without any reason.

When the Vietnamese troops were approaching, villagers were again evacuated. The KR tried to move people to go with them. Lach Phat was then forced to go to O'ral Mountain. She was with her only remaining two daughters, Chantha and Channak. As the KR exchanged gunfire with the Vietnamese soldiers, she and her daughters struggled to pick some fruit and moved forward as they were pushed. When the KR could no longer fight against the Vietnamese soldiers, they ran away and left the people there. Later, the Vietnamese soldiers asked all the people to go back to their own village. However, the situation was still in chaos and thus Lach Phat didn't directly go to her home village. She first stayed at Panak, then Kdol and Pralean before settling down in her in La-baek Village, Khun Rang Commune, Baribo District, Kampong Chhnang Province.

"... I [have got] Broken Courage"

Although a long time has elapsed, what happened

to her has not diminished. She has endured all the pain—physically and psychologically and silently—yet its black shadow haunts her. Since the fall of the regime, Lach Phat isolated herself from the public and lost interest in social interaction. The fear she lived with during that time, especially when she was forced to remarry, has made her even until now to "fear of contact with men" or even to just look at them. As she confirmed: "Whenever I see men, I fear, I think I [have got] broken courage." No matter what, she still struggles to live her life despite the pain and trauma.

Is It Possible to Forget to Avoid Further Suffering?

Although memory is selective, could she be able to choose to forget what happened to her specifically? As many people have said, the best way to not feel the hurt is not to recall painful memories and sooner or later it will be forgotten. However, could she do that as sometimes the memories come out of the blue and sorrow then emerges?

I remember a survivor named Sophat living in Kampong Thom Province, who said: "The memory that strikes you personally and deeply is impossible to remove...the more you try to forget the more you remember it." This proves to be true when Lach Phat later said: "it was too extreme to me and too vivid to forget." And thus, to forget is not possible. However, as she talked about it again and again, she said, she felt relief even though the wound was still stuck in her heart. To her, a culture of silence only fosters speculation, resentment, and pessimism. She wants the younger generation to learn about and understand the past. **"Let the judges decide. The fact is [we all know] they did it."**

Reaching her early seventies, Lach Phat feels so happy to see the establishment of the Khmer Rouge Tribunal and to visit it for the first time during the opening statements of Case 002, which tries the four senior KR leaders. Her only objective for the visit was to see with her own eyes those senior leaders. For what befell on her, she said firmly, "was not a matter of Karma; it was them. Without them, my husband and daughters would not have died." She continued:

"the regime they ruled was so bad. They killed everyone ... and now they said they killed only the enemy of the Angkar. Who is their enemy? Even the innocent children? It's absurd." However, she further stated, "No matter what, I am here just to listen and I cannot say anything. Besides, I am old and not educated. I have no idea of the law...what I know is that the tribunal is beneficial for the next generation to learn to clean all that dirty past."

Despite the great level of suffering she endured, she still was able to produce such kind words as:

[...] Now they are aged and frail. Let them live; don't kill them. [Ieng Thirith] has an illness; let cure her. They have nothing to give me back and my husband and daughters, who are all dead. It is in the past and it is impossible to return. So just let it be; let the judges decide. [No matter what] the fact is [we all know] they did it.

Indeed, the truth was revealed a long time ago or those senior KR leaders would not be brought to justice before the Extraordinary Chamber in the Courts of Cambodia. Lach Phat was one among the millions of Cambodian people who suffered from the genocidal policies imposed by those leaders and she could still find a way to forgive those leaders, though the memory continues to haunt her. What she wants is only for them to accept their guilt. However, those leaders still deny their guilt and instead think that they are heroes of the country. I doubt it. If they were, they should take the responsibility for what took place during their administration. I wonder whether they are haunted by what they were involved in or committed or, as they have always said, they "did for the sake of my people." It is more than enough to cheat yourself and worse still to cheat your own people. Give your people who you claimed you "loved" a way to move on and a genuine reason to reconcile events which happened during your haunting regime.

Suyheang Kry is a team member of Victim Participation Project.

ONE LUCK

Teav Sarakmonin

Sixty-year-old Chan Hunsuor was sitting alone under a tree inside the compound of Kampong Chhnang Teachers' Training Center. When asked where she lives, Hunsuor responded with a smile "I live around here; I live alone." At the training center, it was a windy day with lots of trees providing shade and Hunsuor was enjoying himself and breathing fresh air. After being asked, Hunsuor spoke about his experience during the Khmer Rouge (KR) regime.

She started his life story when she was living peacefully and happily with his parents and his brothers and sisters. Before the KR captured Phnom Penh, Hunsuor was a student at the University of Agriculture in Phnom Penh; however, his parents were living in his homeland in Kampong Chhnang Province. In 1973 Hunsuor's parents fled to Phnom Penh to reunite with him because the situation in his homeland was very fragile and the KR communist groups persecuted his family unbearably.

They all lived in Phnom Penh until April 17, 1975, the day when the city was captured by the KR. Life changed swiftly. His family was evacuated out of the city-just in a period of three days. Walking along National Road 5 with an intention to travel to Kampong Chhnang, Hunsuor's family was blocked from going there. Instead, they were told to travel to Kampong Chham. Hunsuor followed the orders and along the way to Kampong Cham, Hunsuor met his former teacher who was now a KR soldier. That soldier told Hunsuor that those who left Phnom Penh were not allowed to go back, that she needed to be cautious all the time, that she better not talk about the Lon Nol government, and that she needed to save salt because salt would be important in life.

Because Hunsuor's family did not want to go to Kampong Cham, they hired a boat to bring them to Kampong Chhang by crossing Tonle Sap. They arrived in Kampong Chhnang safely where then they settled

in Chres Commune. Once there, the KR assigned Hunsuor's family to live in a house with other families who were evacuated from the cities or towns. Hunsuor said that every single night the KR militia came to spy on new evacuees.

Soon afterwards the KR relocated all new evacuee families, except Hunsuor's family and another family of Chinese descent who sold Chinese noodles, to live in another village. Hunsuor and another family remained in the same village where she lived in a family of base people.

During the rainy season, Hunsuor and his older sister were assigned to grow corn and to gather a type of bush to make brooms. Since the place Hunsuor and his older sister went was a bit far from home, they brought food with them, such as rice, salt and kerosene for lighting. "They did not confiscate that stuff; I could have what I wanted to eat. I was given a can of rice and some salt daily," said Hunsuor. Hunsuor added that once a week, she and other people were allowed to take a day off.

Later, Hunsuor was assigned to make a dam with other people while his father cleared the forest and his brother was assigned to join with mobile youth unit to build dams. The family was separated from that day.

After returning from the forest, Hunsuor's father was wounded in his foot from stepping on a thorn which pierced deeply into his flesh. Hunsuor was helpless and disappointed. At the same time, his brother was away in the mobile unit; his sister was skinny and sick, and his mother had been sick ever since she was evacuated from Phnom Penh.

One day Hunsuor's family and another Sino-Khmer family were sent to live in another village. The KR confiscated all their remaining property, such as a radio, watch, and other things. However, Hunsuor's family still owned some gold. When they arrived at the

village, Hunsuor and his father were not yet recovered from sickness. Therefore, they could not work, but Hunsuor's mother and older sister went to work. Hunsuor said that the food ration was worse than in the previous place.

A few days later, Hunsuor recovered and then she and his older sister were assigned to work in the commune's mobile unit and later were transferred to the district's mobile unit. One day his older sister got poisoned after she ate poisonous fruit and was sent to a hospital and Hunsuor was not allowed to visit his sister in the hospital. At night the group chief assigned Hunsuor to work in the regional mobile unit and she realized that this time she was going to be killed. Hunsuor said that the group chief said that "you will know when you join the regional mobile unit." In the morning, Hunsuor and several others walked to a village where lots of unmarried youths were gathered. Hunsuor said that at that village, the KR cadres were very friendly and young people were served with enough food. Hunsuor began to question to himself why the KR cadres treated him and the others so well. Hunsuor said that at the time, the KR cadres cooked good food and some young men ate too much because they were too hungry.

Later Hunsuor was assigned to work in District 18 where she farmed from six in the morning until five in the evening with a three-hour lunch break. According to Hunsuor, the food ration was not very bad. After the harvest, people could eat rice. Work was not as tough as the previous place, and people worked communally. In 1977 Hunsuor's group work was assigned to work at Koh Bo in Kampong Leng District, which was a big work site. Because the site was too big, it required much work. Hunsuor's team was blamed for not being able to complete all work and being careless. Then the group was assigned into two small groups. The first group was sent to work in another district and the rest were sent to plant potatoes at Deum Phka Mountain. Actually Hunsuor was assigned to be in the first group, but fortunately, a woman who knew him asked him to come with her

to plant potatoes. The first group was assigned to go very far. Hunsuor said that the group chief at Deum Phka Mountain was Pum. Hunsuor said Pum was a nice guy and she was the one who allowed him to visit home. "Pum also issued a ticket for me to go home," said Hunsuor.

The food ration was enough because the Deum Phka cooperative was self-sufficient. In the cooperatives, some men produced sugar, some women planted vegetables, other teams hunted wild animals for food, and Hunsuor planted potatoes. Hunsuor said that once in 1978, there was a dancing ceremony at night. Once Hunsuor was taken to work at other places without Pum's knowledge. When Pum realized that Hunsuor was taken away, he asked for the return of Hunsuor. Hunsuor was very grateful to Pum. She said that Pum saved his life. After the KR collapsed, Hunsuor returned home and found his family at Salalek 5, where she found that his father had passed away in 1977 because of starvation. She had been away from his family since 1977 to work in other areas. One of Hunsuor's brothers had been missing since she joined the mobile unit team.

Hunsuor said that she was one of the luckiest men who survived the KR regime. Near the end of the regime, Hunsuor stated that she did not work very hard, which saved his life. However, the death of his father, the missing of his brother, and the long separation is still in his heart, even today.

Teav Sarakmonin is the Team Member of Searching for the Truth Magazine.

READING HISTORY OF DEMOCRATIC KAMPUCHEA

DC-Cam's publication History of Democratic Kampuchea written by Dy Kamboly and teacher guidebooks can be downloaded with free of charge at http://dccam.org/Projects/Genocide/Genocide_Education.htm

FOR JUSTICE AND RECONCILIATION

Sreinith S. TEN

"I bear pain, anger, and revenge. But for justice and national reconciliation, I am in a position to respect the rule of law and the court's decision if it finds Ieng Thirith has Alzheimer's disease, and that she is unfit to stand trial." This was the voice of Nai Chhunheng, one of the civil parties to Case 002.

On August 30, 2011, the second day of the court's proceedings to question the geriatrician John Campbell concerning his medical report on the fitness to stand trial of accused Ieng Thirith and Nuon Chea, the defense lawyers for Ieng Thirith—Phat Pouy Seang and Diana Ellis—were trying to confirm Campbell's conclusion that Ieng Thirith may be unfit to stand. In reaction to the defense lawyers' questions, Nai Chhunheng said that, "If she is mentally ill, or unable to speak or walk, we cannot force her [to stand trial]. I respect the court's ruling on this matter." When asked what if the court found Ieng Thirith unfit to stand trial, Chhunheng claimed that, "If so, I will have

to accept this finding. If she actually suffered from dementia, I think the court cannot fulfill its duty to find justice because it would be likely that Ieng Thirith is cognitively unable to provide relevant and reliable answers to the court's questions." He further commented that the truth and justice-seeking process largely relies on the accused's health condition.

When asked what his reaction would be if the trials of the four accused were closed down because they died or suffered from dementia, Nai Chhunheng reluctantly expressed that for him this would signify closure, and said "I would be at least relieved from anger and revenge because the previous trials of these accused proportionally reveal some facts of the crimes they were accused as having instigated, planned, and ordered killings. However, I am starting to pray for Ieng Thirith and the other accused to maintain their health so that justice and truth can be found for the Cambodian people." Chhunheng emphasized that his goal to seek the truth lies at hands of the Khmer Rouge (KR) tribunal, and it will never cease unless the tribunal officially concludes Case 002 of the four accused.

Nai Chhunheng is now 59 years old and lives in Ta Moang Village, Koh Rokar Commune, Kampong Siem District, Kampong Cham Province. He is the oldest brother among his three siblings (two brothers and one sister). His father was Nai Pok, a barber, and his mother Hak Hen, a local shop owner in the village. Both of his parents died when he was a teenager.

Prior to the KR rule, Chhunheng's family was in desperate condition in Memay Village, Kampong Siem District, Kampong Cham Province. When he was nine years old he became a pagoda boy in Chuthanaram Pagoda, also known as Boeng Kok Pagoda. He decided to become a monk when he was just sixteen years old. However, two years later, he had to disrobe



Ieng Thirith sitting inside the courtroom

because his parents fell ill and became fragile. At that time his younger brother and sister were studying in Phnom Penh. In 1969 he was recruited to serve in military service for the Lon Nol regime by the village chief (name forgotten). He was assigned to fight in the frontier of the battlefield against the KR resistance forces in certain areas. Unfortunately in 1970, his mother passed away, and not long after that his father was also gone due to old age and illness. A few years after his parents' death, he decided to get married.

In early 1974 when the KR forces occupied the village where he had settled his own family, he and his wife were evacuated to Prey Baus Village (currently Prey Kok Village), Stung Trang District, Kampong Cham Province. There he tried to hide his identity as a Lon Nol soldier. He was separated from his wife and assigned to work in a mobile unit by the cooperative chief (name forgotten). Life under the KR was hard, including not having enough food to eat and being

put under forced labor. Nonetheless in 1977 he was assigned to build a dam in Khla Kaun Village. There he was assigned to dig the ground one cubic meter per day. He had to work both night and day to complete the assigned task. Everyday people at the dam site were arrested and killed. Most of those who were killed were arrogant, talkative, or new people. To kill people, the KR used a pretext saying "Angkar requests Mith (name the KR used to address people) to water the crops" or "Angkar moves Mith to live in a new house." Not far from the dam site there was a security office, known as Ta Van security office. He was warned by his unit chief that "You must work hard, and do not dare to go near the security office; otherwise, you will never come back alive!" At one point, he secretly went to see the security office, and found out that the place was surrounded by a wooden fence and witnessed people, prisoners, digging the ground. But after that he never again went to see the security office.



Students waiting in line to enter the courtroom

After two weeks of overwork at the dam site, Chhunheng fell ill and requested that the unit chief assign him to work as a cook in Stung Poun Village. There he and a few others cooked for both the KR cadres and ordinary people. One day in mid 1977, he saw a beautiful woman being escorted by a handful of young KR cadres. Her name was Chan Dara. Arriving at Chhunheng's kitchen, she asked the KR cadres to wait for her two younger sisters, Chan Mony and Chan Bopha. The KR cadres left her, and then she had a few minutes to talk to Chhunheng. She was sobbing as she spoke to him, saying "Uncle, I want to say goodbye to you as I will die soon." Chhunheng was reluctant to respond to her because he was afraid of being accused of interference. But he felt sympathy for her, and gave her a plate of porridge to eat. When the two sisters arrived, the three of them embraced each other and sobbed. Chan Dara painfully talked to her sisters that, "Oh, my dears, our parents were just killed a few

days ago, and now our turn has come. We will die together soon." Suddenly the handful of KR cadres led by Khun returned to the spot and escorted the three sisters up to a hill surrounded by brush near the village. From that moment, Chhunheng knew for sure that they would definitely be killed. On their way back, the young cadres were laughing and rejoicing upon the completion of their brutal acts. Chhunheng overheard one of them saying "It is fun to have played with her private areas!"

Besides working as a cook, he was also assigned to build the dike in the rice field. In Stung Poun Village, the KR made a secret route called, Veal Sos Khyal route, in order to bring people to be killed. It was surrounded by a moderately thick forest. While working in the rice field, he witnessed trucks fully loaded with people go

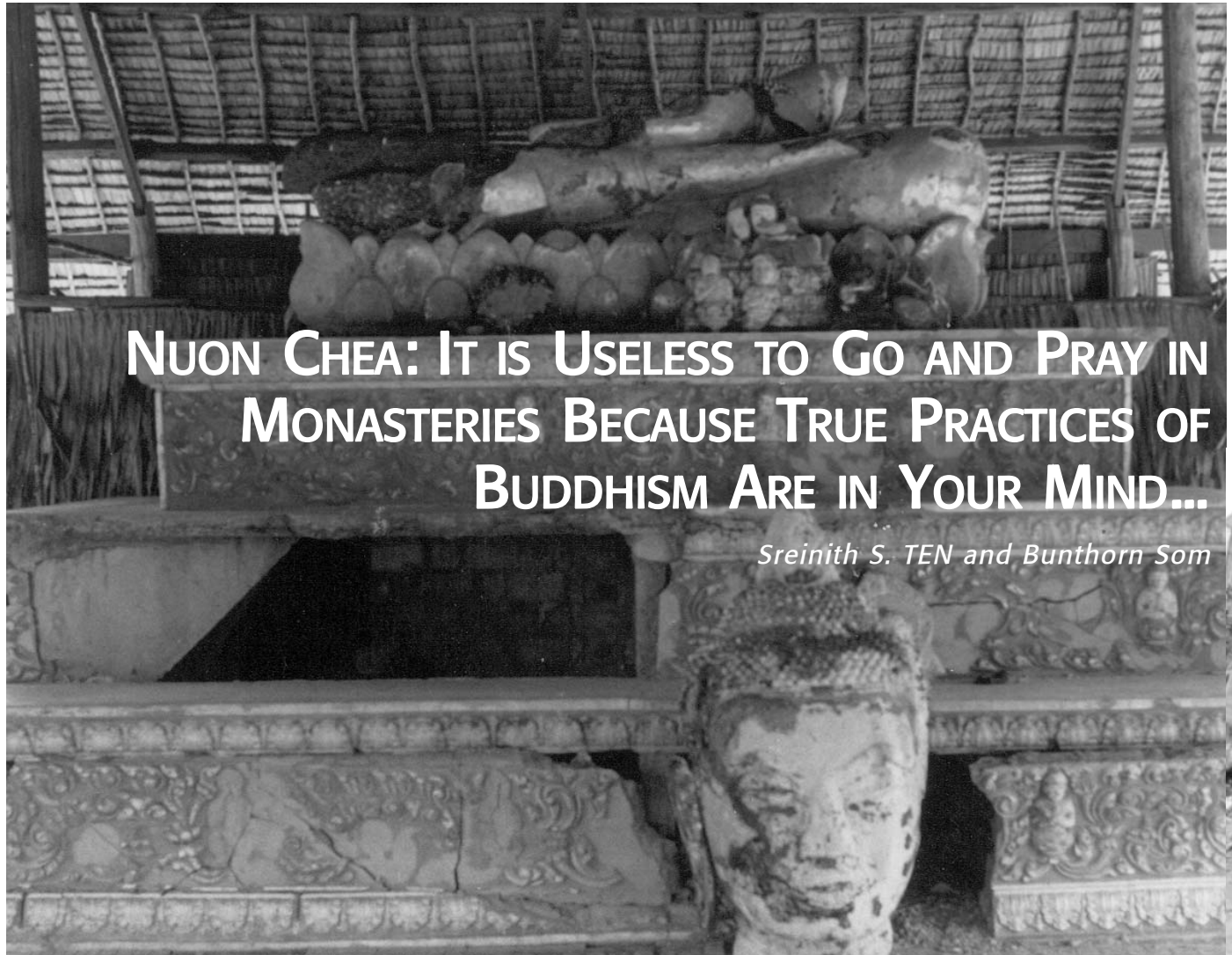
through this route. When such incidents happened, music was played out loud to distract the attention of people working in the rice field nearby. One day he asked a man whose work was to set a snare for wild hogs, and went with the man into the route. Chhunheng and the man hoped to search for some valuable stuff from the dead. Arriving at the spot, he saw several mass graves full of dead bodies. Each grave was separated from each other by about fifteen meters. At the edge of each grave, there were four poles set up in all directions. He suspected that these poles were used by the KR cadres as killing instruments. He believed that people would have to put their head on the pole and wait for an axe or metal stick hit behind their head. He saw hundreds bodies in each grave and found some golden coins scattered on the ground. Chhunheng was not aware who these people were.

Having witnessed death and killing, Nai Chhunheng worked harder despite the fact that he barely had enough food to fill his stomach. He struggled to go through the hell of the KR until early 1979 when the KR was chased out of power. At that time, however, he and his family including people in Stung Poun Village were evacuated to the other side of the river. There the remaining KR cadres threatened everyone that if anyone dared escape from this island, they would be shot dead. Nonetheless, at midnight, Chhunheng's family along with many other families escaped by boat, and finally made it back to his home village.

Nowadays Nai Chhunheng is one of the civil parties in Case 002, and hopes to find justice for his two brothers-in-law, Khem Ann and Khem Roeun, who were military medics. He punctually participates in the court's proceedings whenever there is a public trial of the four accused. He hopes justice will be achieved one day.

Sreinit S. TEN is the translator for Searching for the Truth Magazine.





Based on stories of survivors, interviews, hundreds of thousands of documents and remaining photos, it is clearly implicative that the Khmer Rouge destroyed treatise, the Buddhist code of conduct, Buddhist monasteries and temples, disrobed and killed Buddhist monks, and forced monks to marry women. These acts are deemed inhuman and therefore seriously violate the Buddhist code of conduct.

During the December 15, 2011 hearing on Case 002, the accused Nuon Chea, however, strongly condemned those who claimed that his Democratic Kampuchea regime had devastated Buddhism in Cambodia, stressing that these people did not clearly understand "key meanings of Buddhism." "The key meanings of Buddhism are virtue, meditation, and intelligence which remain attached to the heart and daily lives of the people," he added. In fact, "The key

meanings of Buddhism" which he defined mean:

Virtue: refers to the fact that Nuon Chea and other senior Khmer Rouge leaders committed their "good" deeds and adopted moral conduct to exploit the common interest of vulnerable and poor people to gain support for their resistance movement.

Meditation: refers to the fact that Nuon Chea and other senior Khmer Rouge leaders were benevolent and calm in a way that they ignored massive forced labor, famine, lack of medication, and the death of innocent Cambodians.

Intelligence: refers to the fact that Nuon Chea and other senior Khmer Rouge leaders utilized their higher education from foreign countries to mislead the country, causing the death of approximately two million Cambodians.

"It is useless to go and pray in monasteries

because true practices of Buddhism are in your mind. The Buddhist was born and enlightened in the forest," he added, before the trial chamber. His view was that the existence of Buddhist monasteries was not the true manifestation of "the key meanings of Buddhism". He, however, maintained that the true lovers of Buddhism were those who never committed a sin, claiming that under his regime, Buddhism remained in the heart of every Cambodian in spite of the absence of worship with burned incense.

Actively sought to destroy religion in Cambodia,



the Khmer Rouge leaders ordered the evacuation and demolition of Buddha statues and monasteries, and turned them into pig farms, prisons, execution centers, or warehouses. In addition, they defrocked monks and forced them to do hard labor, likening them to leeches sucking blood from people or pigs waiting for food given by people. Likewise, they ceased religious practices of Muslim and other religions, ordering the destruction of their mosques and churches.

As aforementioned, Nuon Chea and a handful of senior Khmer Rouge leaders carried out the idea of murdering monks, defrocking monks, and forcing monks to get married, as well as preventing ethnic minorities from their religious practices. According to Buddhism's code of conduct, are not these acts a sin?

Monk Lay Sochea from Phnom Penh's Neakvorn Pagoda said that keeping Buddha's teaching in mind

is correct, but that is not enough; both mind and action must come together. "Monks represent Buddhism, and pagodas are used not just as a place of worship but also a place for residing, learning, and implementing Buddha's teachings. Monks are Buddha's disciples whose roles are to educate and disseminate Buddha's code of conduct to people," he responded to Nuon Chea's claim.

The monk maintained that the practice and spiritual purification are a real implementation of Buddhism, and that this aspect of Nuon Chea's claim

is correct. However, he noted that all their past actions are contrary to Buddha's teaching, and therefore are deemed as sins.

What Nuon Chea raised at the court is just a pretext to get away from the past mistakes that he committed during his regime from 1975 to 1979. His speech in front of the trial chamber and the public including the monks is a serious insult to Buddhism, which was restored following the fall of the Khmer Rouge and is strictly followed by Buddhist Cambodians. So far, Nuon Chea, along with his co-accused Khieu Samphan, Ieng Sary, and Ieng Thirith, have refused to accept their past guilt.

Sreinith S. TEN and Bunthorn Som are the Staff Writers for Searching for the Truth Magazine.

CAMBODIA TRIBUNAL MONITOR

The Cambodia Tribunal Monitor (www.cambodiatribunal.org) plans extensive coverage throughout the trial of three former senior Khmer Rouge officials accused of atrocity crimes, which commenced on Monday, November 21, 2011. The Monitor provide 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.

Monitor Co-Managing Editor Youk Chhang is available as an expert source via email (dccam@online.com.kh). The Monitor has been the leading source of news and information on the 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.

The ECCC was established through a joint partnership of the United Nations and the Royal Government of Cambodia. 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 Cambodian Communist Party's Central Committee and a member of its Standing Committee

- ♦ Ieng Sary: Former Deputy Prime Minister and Foreign Minister of Democratic Kampuchea

- ♦ 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.



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HALF THE STORY OR BURYING THE EVIDENCE?

ADMISSIBILITY OF EXTRA-TEMPORAL EVIDENCE IN THE ECCC

Krista L. Nelson

Noted historian David Chandler has said "[The Khmer Rouge's] rise to power was made more likely by external events, starting in March 1945, and by the Cold war after that than by anything else." The Nuremberg trials first established the principle that an individual may be held responsible in international law for grave violations of human rights, a principal which allows for tribunals such as the Extraordinary Chambers in the Courts of Cambodia to bring individual perpetrators to justice today. While knowledge of historical context is necessary in understanding the atrocities committed by the Khmer Rouge, it is simultaneously important to allow for the attribution of responsibility to individuals and not permit context to diminish a court's ability to conduct fair trials and enforce punishment. It is in the interest of justice to strike a balance between these competing pressures.

Jurisdiction

Since courts have limited financial and human resources to work with, it is necessary for lawmakers to limit who can be tried in that forum. There are a number of ways limit a court's jurisdiction, or authority of the court. Courts can limit the people who can appear before it, or personal jurisdiction; the issues that come before the court, or subject matter jurisdiction; or even the time period within which the court can look at cases, or the temporal jurisdiction. The Establishment Law for the Extraordinary Chambers in the Courts of Cambodia (ECCC) defines the court's temporal jurisdiction as applying to "crimes and serious violations of Cambodian penal law, international humanitarian law and custom, and international conventions recognized by Cambodia, that were committed during the period from April 17, 1975 to January 6, 1979." These dates correspond with the generally recognized beginning and end of the Pol Pot

regime (Democratic Kampuchea), reflecting Cambodia and the international community's desire to focus the trials on the so-called "worst of the worst" perpetrators.

The Court's limited jurisdiction is indicative of both pragmatic and political concerns. Similar temporal limits are present in the International Criminal Tribunal for Rwanda (ICTR) and the Special Court for Sierra Leone ('Special Court'), signifying these courts' unique jurisdiction over specific political and historical events. These jurisdictional limitations reflect a goal in international criminal law to focus ad hoc tribunals around only those most responsible for the most egregious crimes—rather than opening tribunals to investigate the broader historical context in which human rights violations occurred—an approach that could open itself to politicization. However, while it is necessary to limit the scope of tribunals such as the ECCC, it is equally important to recognize that these events did not occur within a neat temporal slice of history and the discussion of some events preceding 1975 and following 1979 may be necessary in order to conduct fair trials. Often, events occurring outside of these dates are important for deciding whether necessary elements of crimes were present. For instance, the crime of conspiracy may require examining planning that occurred prior to 1975 or events prior to 1975 may shed light on important mental elements of crimes, such as intent. Interestingly, at some point during negotiations, the governments involved in each of these tribunals advocated for the temporal jurisdiction to be extended in order to place events in historical perspective. The intensity of these negotiations points to the high stakes potential of tribunals to establish the victors' historical truth.

Determining the ECCC's Temporal Jurisdiction
The process for creating the ECCC began in June of

1997, when the co-Prime Ministers of Cambodia sent a letter to the UN Secretary-General requesting the UN's assistance "in bringing to justice those persons responsible for the genocide and crimes against humanity during the rule of the Khmer Rouge from 1975-1979."

The UN General Assembly took the lead on Cambodia's request and the Secretary-General appointed a Group of Experts to look into the possibility of a tribunal. The Group of Expert's mandate was to "determine the nature of the crimes committed by the Khmer Rouge leaders in the years 1975-1979," "to assess . . . the feasibility of bringing Khmer Rouge leaders to justice" and "to explore options for bringing to justice Khmer Rouge leaders before an international or national jurisdiction."

The Group of Experts' ('the Group') mandate directed them to consider human rights violations that occurred between 1975 and 1979. The Group interpreted this mandate to mean the period of the Khmer Rouge's rule over Cambodia, specifically from April 17 1975 to January 7, 1979, and decided Khmer Rouge violations of international law that occurred outside of that period were beyond their scope of inquiry, unless they were necessary to discuss the Group's mandate. In their discussion of whom should be tried by the Tribunal, the Group explained that trying people for human rights abuses outside of the period of the rule of Democratic Kampuchea would "detract from the unique and extraordinary nature of the crimes committed by the leaders of Democratic Kampuchea," however, the Group left the final decision of the Tribunal's temporal jurisdiction for the body that would create the Tribunal.

The enthusiasm expressed in the Cambodian government's letter to the Secretary General requesting a tribunal was soon tempered by a number of domestic events: internal power struggles, the death of Pol Pot, and the opportunity to encourage the defection of Khmer Rouge leaders such as Ieng Sary. While the Group of Experts were working on their recommendations, more Khmer Rouge leaders defected, including Nuon

Chea and Khieu Samphan, prompting Prime Minister Hun Sen to say that "the time had come to dig a hole and bury the past," a sentiment diametrically opposed to the establishment of a war crimes tribunal. In January of 1999, Hun Sen submitted a memorandum to the Secretary-General suggesting a trial could lead to instability and recommending if there is such a trial, it should address crimes committed before 1975 and after 1979. He then submitted a response to the Group of Experts report, in which he expressed concern that a trial could renew guerrilla warfare in Cambodia and that the government was looking into the possibility of a South African style truth and reconciliation commission instead. The Cambodian government revisited the idea of a tribunal when Ta Mok, one of the remaining Khmer Rouge leaders, was captured on March 6, 1999. Hun Sen expressed renewed interest in a tribunal to the extent that it would try the one person who had refused to surrender, Ta Mok. Ambassador Hammarberg noted that it appeared "the tribunal had been considered as a means of defeating the Khmer Rouge."

While in its initial letter the Cambodian government put forth a temporal jurisdiction of 1975-1979, the government used the Court's temporal jurisdiction as a bargaining chip during negotiations, proposing changes when the UN pushed provisions with which it did not agree. A major outstanding issue, whether a foreign prosecutor could act without the support of his or her Cambodian colleague, prompted Hun Sen to indicate to the Secretary-General in April 2000 that if the foreign prosecutor was permitted to act independently, then the Tribunal's establishment law might allow for the prosecution of crimes committed from 1970 to 1999.

The Cambodian government was not the only entity with an interest in constraining the ECCC's temporal jurisdiction. Opposition from China, upon whom the Khmer Rouge relied for support between 1975 and 1979, also undermined efforts to create the type of international criminal tribunal recommended by the U.N. Group of Experts for Cambodia. Following the

Group's report, China told the United States it would veto any tribunal brought before the United Nations Security Council. While Hun Sen responded to the Group's report by seeking to expand the temporal jurisdiction from 1970 to 1998, the United States rejected this proposal because it would encompass America's own 1970 bombing campaign in Cambodia. In the end, the ECCC's Establishment Law codified the originally agreed upon temporal jurisdiction.

Proposed Trial Topics

At the April 5, 2011 Trial Management meeting, the Trial Chamber of the ECCC announced that it intended the initial four topics in Case 002 to cover the structure of Democratic Kampuchea, the roles of each accused during the period prior to the establishment of Democratic Kampuchea, the role of each accused in the Democratic Kampuchea government, and the policies of Democratic Kampuchea on the issues raised in the indictment. In response, defendants Ieng Sary and Nuon Chea submitted motions to the trial chamber requesting the inclusion of topics pre-1975 and post-1979; topics they deemed "material to the allegations made in the Indictment" and "essential to a proper determination of the charges made therein."

Ieng Sary's proposed topics include: the culture and demography of Cambodia from the pre-colonial period to 1975; the background to, rise and aims of the Cambodian left; the context of attitudes towards Buddhism in Democratic Kampuchea; the context to attitudes towards the Cham in Democratic Kampuchea; the context to attitudes towards the Vietnamese in Democratic Kampuchea; the UN's recognition of Democratic Kampuchea as the legitimate government of Cambodia, the nature of government in the Peoples' Republic of Kampuchea, and the historiography of Democratic Kampuchea (collectively the "Ieng Sary Topics").

On May 25, 2011, Nuon Chea's defense team filed a motion supporting

Ieng Sary's request for additional topics and requested that additional topics be added to the Trial Schedule. Adopting the reasoning from Ieng Sary's motion, the Nuon Chea defense team motioned to add to the Trial Schedule:

Relevant Contextual Elements: the historical, geo-political, socio-economic, demographic, military, and legal circumstances and/or institutions- including those of the CPK and those originating in or operating from outside Cambodian soil- which directly or indirectly impacted Cambodia before, during and following the DK regime.

Nuon Chea's defense argued that forgoing a broader contextual analysis of the crimes their client is charged with for the sake of judicial economy would deprive their client of a fair trial.

Response to Proposed Topics

The ECCC Trial Chamber addressed both Ieng Sary and Nuon Chea's motions in its Directive in Advance of Initial Hearing Concerning Proposed Witnesses. The Chamber announced that, at this stage, it was rejecting their motions to add certain pre-1975 and post-1979 topics to the list of issues that the Trial Chamber already decided to hear at trial. The Chamber proceeded to introduce a new standard for when background contextual issues and events outside the ECCC's temporal jurisdiction would be considered: "when demonstrably relevant to matters within the



Nuon Chea talking to a member of his defend team, Prum Phalla

ECCC's jurisdiction and the scope of the trial as determined by the Chamber."

While the Chamber did not elaborate on how it would decide that evidence is "demonstrably relevant," the ECCC is able to adopt "additional rules where these existing procedures do not deal with a particular matter, or if there is uncertainty regarding their interpretation or application, or there is a question regarding their consistency with international standards." As both the Internal Rules and Cambodian law are silent on the issue of admissibility of extra-temporal topics, the ECCC is permitted to look to international law for guidance.

Extra-Temporal Evidence in International Courts

Despite the practical and political needs for limitations on the time periods addressed, international courts have allowed evidence outside of their temporal jurisdiction to be admitted in limited circumstances. For example, in the case of Josef Alstötter and Others, before the United States Military Tribunal, Nuremberg, in 1947, the Tribunal admitted evidence beyond its temporal jurisdiction because "such acts are relevant upon the charges . . . [and] [n]one of these acts is charged as an independent offence in this particular indictment."

Likewise, the ICTR and the SCSL have also permitted the admission of evidence beyond their temporal jurisdiction in limited circumstances, so long as the crime itself occurred within the court's temporal jurisdiction and the evidence's purpose is in the interest in justice, not solely to blacken the defendant's character or to turn the trial into a political debate.

The seminal case of *Prosecutor v. Nahimana et al*, also known as the "Media Case," established a rule for when the ICTR was permitted to enter evidence outside of its temporal jurisdiction. In its decision, the Appeals Chamber noted that although it was the intention of the framers of the Statute that the ICTR only have jurisdiction over an accused when all of the elements required to be shown to establish guilt were present in 1994, it is also well established that the provisions of the Statute do not preclude the admission of evidence on events prior to 1994. Such evidence

may be admitted if the Trial Chamber deems it to be "relevant and or probative value and there is no compelling reason to exclude it." The Appeals Chamber provided four instances where such evidence would be considered to have relevant and probative value:

- ♦ Clarifying a given context, legally or factually
- ♦ Establishing by inference the elements of criminal conduct occurring in the court's jurisdiction
- ♦ Demonstrating a deliberate pattern of conduct.
- ♦ Continuing crimes

While the ECCC's Internal Rules do not explicitly include minimum standards of relevance for the admissibility of evidence as found in the ICTR, ECCC case law has incorporated this standard. Therefore, for extra-temporal evidence to be admitted, it would need to clarify a given context, establish by inference an element of a crime with which the accused is charged, demonstrate a deliberate pattern of conduct, or pertain to a continuing crime. Even if evidence satisfies these criteria, whether or not to admit the evidence remains within the Trial Chamber's discretion.

Clarifying a Given Context

In its judgment for Case 001, the ECCC reached back to the 15th Century to establish the context of the Khmer Rouge's policies and its conflict with Vietnam. The "Historical Context and Armed Conflict" section begins with Vietnamese Southern expansion in the 15th century and describes this event as "resulting in hereditary enmity between Cambodia and Vietnam." The Trial Chamber later clarified in its judgment that this context is provided in order to fulfill the required element of the existence of an international armed conflict for grave breaches of the Geneva Conventions of 1949.

In *Nahimana*, the ICTR found that the Appellant's role in setting up Radio Télévision Libre des Mille Collines (RTL) in 1993 and management from the time of its creation could be taken into account in the Court's assessment of his criminal responsibility after January 1, 1994 because it gave context to his role in RTL, whose broadcasts in 1994

instigated the killings of Tutsis. This evidence standard is further discussed in the case of Aloys Simba when the Appellant requested an order to exclude from the indictment against him allegations based on events outside of the Tribunal's temporal jurisdiction. The Tribunal noted that the indictment only charged Aloys Simba, with crimes committed between April 7, 1994 and May 30, 1994 and found that references to events prior to 1994 were limited to providing a context or background for the charges. The scope of this exception is discussed in Judge Shahabuddeen's separate opinion from the Nahimana interlocutory appeal, which was cited in the *The Prosecutor v. Théoneste Bagosora et al.* In it, he describes context as an event without which "the account...would be incomplete or incomprehensible."

Thus the ECCC may decide that in order for extra-temporal topics to be admissible under the context exception, they would need to be so key to the case that without their inclusion, the account of events would be incomplete or incomprehensible. It is up to the Trial Chamber to decide if Nuon Chea and Ieng Sary's submitted topics meet this standard.

Establishing by inference the elements of criminal conduct occurring in the court's jurisdiction

Although the ECCC Trial Chamber noted that events relating to M-13, the Khmer Rouge prison where Duch worked prior to Democratic Kampuchea, fell outside of the temporal jurisdiction of the ECCC, it nevertheless heard testimony regarding M-13, seeing it as a precursor to S-21, the prison where Duch worked during the ECCC's jurisdiction and the basis of the charges against him. The Trial Chamber clarified that while facts pertaining to M-13 were not in the Closing Order, as they fell outside of the ECCC's temporal jurisdiction, M-13 was key to understanding "the context of S-21 relating to the organizing of structures, the operation and functioning of S-21 and other reasons, and the personality of the accused." The co-prosecutors described M-13 as "the training ground of the accused."

In Nahimana, the Appeals Chamber of the ICTR

held that the Trial Chamber had not erred in admitting evidence of events prior to the Tribunal's temporal jurisdiction in order to prove Appellant Barayagwiza's genocidal intent. This evidence included his presence at "the meetings, demonstrations, and roadblocks that created an infrastructure for and caused the killing of Tutsi civilians." The ICTR has also held that evidence outside of the Tribunal's temporal jurisdiction "may be a basis on which to draw inferences as to the intent or other elements of the crimes alleged to have been committed within the temporal jurisdiction." The Chamber offered an illustration of a man charged with a crime committed on a particular date. The prosecution would need to prove that the intent to commit the crime existed on the date as an element of the crime. The evidence to prove intent would not necessarily need to come from the date of the crime; the court could use events from a previous occasion so that a reasonable inference could be drawn that the intent apparent on a previous occasion was also present at the time of the charged crime.

However, the Tribunal in Bagosora recalled a long-standing principle of common law adopted by the International Criminal Tribunal for Yugoslavia stating that "as a general principle of criminal law, evidence as to the character of an accused is generally inadmissible to show the accused's propensity to act in conformity therewith." Extra-temporal evidence of the accused's past conduct cannot be introduced merely to blacken the character of the accused; it must have some probative value.

For extra-temporal topics to be admissible under the exception of establishing by inference the elements of criminal conduct occurring within the temporal jurisdiction, ECCC parties would need to show that a reasonable inference regarding the crimes for which they are accused of can be drawn from the extra-temporal evidence.

Demonstrating a deliberate pattern of conduct.

The ECCC has not yet addressed the temporal implications of proving a deliberate pattern of conduct. At the ICTR, the rules for introducing evidence of a

consistent pattern of conduct are articulated in the Court's rules. Under Rule 93, "evidence of a consistent pattern of conduct relevant to serious violations of international humanitarian law under the Statute may be admissible in the interest of justice." The Appeals Chamber in *Nahimana* interpreted the Rule as applying to evidence outside of the ICTR's temporal jurisdiction, citing the massacres of Tutsis in 1990, 1991, and 1992 detailed in *Nahimana's* indictment, his persecution of Tutsis working under him as Director of ORINFOR and his decision in 1992 to broadcast a statement inciting the population against Tutsis as demonstrating a deliberate pattern of conduct. In the *Bagosora* case, the Chamber referred to this type of evidence as "similar fact evidence" and cites with approval Shahabuddeen's opinion supporting the admission of evidence of prior offenses that "prove a pattern, design or systematic course of conduct by the accused where his explanation on the basis of coincidence would be an affront to common sense." The ICTR followed the approach of the Canadian case of *R v. Handy* when deciding whether the similar fact evidence exception was satisfied. According to the ICTR, in order to satisfy the exception, the evidence would need to show:

1. Proximity in time of the similar acts
2. Extent to which the other acts are similar in detail to the charged conduct
3. Number of occurrences of the similar acts
4. Any distinctive feature(s) unifying the incidents
5. Intervening events
6. Any other factor which would tend to support or rebut the underlying unity of the similar acts.

Continuing Crimes

The ICTR found that extra-temporal evidence is admissible in the case of continuing crimes in cases where the criminal conduct commenced before the court's jurisdiction and continued into the jurisdiction. However, a conviction may only be based on the part of such conduct occurring within the court's jurisdiction. The Trial Chamber recognized conspiracy to commit genocide and public incitement to commit genocide as crimes that could be characterized as continuing

offences.

While this issue has not yet arisen in the ECCC, it could come up in the context of enforced disappearances. The Inter-American Court of Human Rights has classified enforced disappearances as continuing crimes and the United Nations has gone as far as calling enforced disappearances "prototypical continuous acts," beginning at the time of abduction and extending for the entire period of time until the crime is complete.

Conclusion

While ECCC case law and international jurisprudence have shown that, in limited circumstances, it is permissible to admit extra-temporal evidence, it remains up to the Trial Chamber to decide whether or not the topics submitted by Ieng Sary and Nuon Chea meet the Court's standard of "demonstrably relevant." International jurisprudence has provided guidance in interpreting when evidence fulfills the standard of being "demonstrably relevant," including: when it clarifies a given context, legally or factually; allows the court to establish by inference the elements of criminal conduct occurring in the court's jurisdiction; demonstrates a deliberate pattern of conduct; or pertains to continuing crimes such as enforced disappearances. The Trial Chamber in Case 002 has the opportunity to further expound upon these categories and clarify the admissibility threshold for extra-temporal evidence.

Sharita Gruberg

DC-Cam Legal Associate, Summer 2011

Georgetown University Law Center, 2012

READING HISTORY OF DEMOCRATIC KAMPUCHEA

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THE KHMER ROUGE IN A COLD WAR CONTEXT

David Chandler

The Cold War probably seems pretty faraway to you these days. After all, it came to an end over twenty years ago. Nonetheless, it was a crucial element in world history for almost fifty years beginning in 1946 and ending in the early 1990s. Cambodia was swept into the Cold War and the Khmer Rouge would never have come to power without it, but most non-Communist Cambodians had no desire to be on either side of the conflict, that is to say, they did not want to be on the of the so called Free World, led by the United States, or on the side of the Sino-Soviet Bloc led by China and the Soviet Union.

In the late 1960s, when the North Vietnamese secretly stationed troops on Cambodian soil, and when the United States began to bomb Vietnamese supply lines inside the country, Cambodia was forced into the Cold War. Under Lon Nol, Cambodia was forced into the Free World. Under Pol Pot and the PRK, it fell first under Chinese and later under Soviet-Vietnamese influence. Cambodia escaped from the Cold War when it ended in 1989-1990. I will be talking about that period as it affected Cambodian history, and how it relates specifically to the Khmer Rouge, so as to place Cambodian history inside a larger context.

Another way of putting Cambodian history into a global context is to ask: Did the Khmer Rouge and Democratic Kampuchea have to happen? Was the Khmer Rouge's rise to power, because of international factors, in some way "inevitable"? I think not, but I will argue today that its rise to power was made more likely by external events, starting in March 1945, and by the Cold

war after that than by anything else.

Historians sometimes play the game of imagining alternative histories, asking what might have happened had certain events not occurred. What would have happened, for instance, if Napoleon had won at Waterloo, or if US President John Kennedy had not been shot?

Before I go on to discuss the relationship between the Khmer Rouge and the Cold War I want to ask one of these "what if" questions: what would have happened in Cambodian history if the Japanese had not given power to local authorities in Indochina on March 9, 1945?

This half-forgotten event, which took place a year or so before the Cold War began, was extremely important for the states of French Indo-China. Cambodia was one of these, and I believe that The Khmer Rouge might never have come to power had the events of March 9, 1945 and the next six months not occurred. The Cold War began a few months later, so the picture is complicated, but March 9 marked a crucial turning point in the history of the region.



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The events of March 1945 in turn, depended on a sequence of previous events. These included the Japanese occupation of Indo-China, beginning in 1941, France's humiliating defeat by Germany in 1940 and the organizational skills and political energy of the Indochina Communist Party (ICP) founded by Ho Chi Minh in 1930.

The ICP was a secret, highly organized, idealistic and illegal party, whose objectives were to remove the French from power and impose a Marxist- Leninist regime on what the ICP called the feudal states of Indochina. In March 1945, many of the Party's leaders has been imprisoned by the French while the Party's leader, Ho Chi Minh and his poorly armed followers were bottled up in the mountains of North Vietnam. The chances of their seizing power at that point seemed very poor. After March 9, the fortunes of the ICP changed dramatically and what the Party did had a strong influence on later Cambodian history, But first, I need to provide a little background .

In 1940, after France had been defeated by Germany, the French were powerless to resist Japanese military expansion into French Indochina, and its officials on the spot chose not to do so-in contrast later on, to the British in Burma and Malaya, the Americans in the Philippines and the Dutch in Indonesia. With Japanese permission, French authorities remained in command of the day-to-day administration in Indochina even though Japanese forces were stationed on French Indochinese soil.

In early 1941, following a brief war between Thailand and France where France had been defeated on land and the Thai had been defeated at sea; the Japanese arbitrated a peace treaty between the two countries that was advantageous to the Thai. The provinces of Battambang and Siem Reap (but not the ruins of Angkor), as well as parts of Laos, were taken over by the Thai.

For the next four years the French and the Japanese lived in a fragile, uncomfortable alliance that was humiliating to the French. By the end of 1944, it was probably clear to the Japanese that they were

going to lose the war. In France, meanwhile, the newly established government of Charles de Gaulle wanted to take part in the Pacific War, without having any troops to send into the region, and established a secret, ineffective resistance movement in Indochina. The Japanese were aware of these developments. They also feared an Allied invasion, and, as proud Asian nationalists they hated the idea of Europeans coming back to restore colonialism. The Japanese followed a policy of "Asia for Asians" which attracted support among local people throughout the region, although in French Indochina, where the French had repressed nationalists, and especially the ICP, the party that the French viewed as a genuine threat, nationalism was still relatively weak, and political parties did not exist. There were none in Cambodia before 1946.

On March 9, 1945, the Japanese authorities took the French completely by surprise. They staged a coup de force, imprisoning French officials and military personnel. They advise each of the region's local leaders (the Vietnamese emperor, the King of Laos and 23 year old King Norodom Sihanouk) to declare independence.

Over the next few months, the Japanese released all of the political prisoners—many of them members of the ICP—from colonial prisons. Most of these revolutionaries quickly took up political struggle, especially in northern Vietnam, without any fear of being arrested.

At this time, ICP guerrillas, no longer threatened by French military forces, moved out of their mountain hiding places along the Chinese border and peacefully took control of large stretches of northern Vietnam. The Japanese did nothing to prevent this and in September 1945, after the Japanese had formally surrendered to the Allies in Japan and while French forces Indochina were still interned, the Ho Chi Minh declared at a mass meeting in Hanoi that Vietnam was now truly independent, and not independent as a gift of the Japanese. The regime that had been established by the Vietnamese emperor, Bao Dai, resigned almost immediately. Arming themselves with Japanese weapons, the new, ICP-dominated regime was prepared

to negotiate with the French from a position of strength.

In Cambodia, the situation in the months after the Japanese coup de force was less clear. No political party existed that could declare complete independence, and King Sihanouk, then only twenty-three years old, was not prepared to take such a drastic step on his own. Instead the patriot Son Ngoc Thanh, the Japanese-installed prime minister, tried for a time to maintain Cambodia's fragile independence, without funds or weapons. He was unable to do so. The French returned in force to southern Vietnam in October 1945 and released the officials and military personnel who had been interned by the Japanese. They swiftly arrested Son Ngoc Thanh. Sihanouk, perhaps reluctantly, perhaps not, welcomed the French return,

If the Japanese had not staged the March 9 1945 coup, the French would have remained in control of Indo-China until the end of World War II. If this had been the case, Vietnam could never have declared its independence so forcibly and the Cambodian independence movement (to say nothing of the Khmer Rouge) would have taken more time to develop. It's also possible and that other, non-Communist roads to independence might have opened up.

But of course the March 9 coup did occur, and the events that followed from it were almost, but not quite, inevitable.

At the end of 1945 the French knew that they had to make concessions in Indo-China, at least for the time being, when they had so few troops on the ground. Many Cambodians—including King Sihanouk—had enjoyed a brief taste of independence, however, and sensed, after March 9, that the French were not as invulnerable as they had always seemed to be. The seeds of independence had been planted. Faced with this new situation, France negotiated cautiously with Cambodia for a new relationship between the two countries.

In early 1946, the French agreed to allow political parties to form in Cambodia, a constitution (Cambodia's first) to be written, and a National Assembly to be elected. The mildly anti-French Democrat Party,

formed at the time, won elections in 1946 and in 1947 this momentum distressed the French, even though the Democrats had no real power. The French were in charge of all expenditures in the kingdom, after all, and the Democrats had no guns.

The new constitution was modelled on the French constitution (the only one Cambodians had ever seen) and allowed for a relatively weak chief of state and a supposedly powerful national assembly but all real power remained in French hands. In 1945-1949, Cambodia was still very far from independence and the French faced very little armed opposition. King Sihanouk, although powerless, did not feel threatened by these arrangements, primarily because he enjoyed strong French support.

In another development, toward the end of World War II Thailand, whose leaders had always opposed to the French protectorate, sheltered some Cambodian nationalists and had sponsored a non-Communist Cambodian independence movement known as the Khmer Issarak. The movement was small, without leadership, and lacked weapons, unlike the Communists in northern Vietnam. The movement couldn't associate itself with the new, Democrat-dominated government in Phnom Penh whose leaders hoped to achieve independence more gradually and without armed struggle. In any case, over the next few years its Thai patrons abandoned the movement and many of its members especially in eastern Cambodia joined the ICP-led resistance to the French.

In the meantime, the Cold War had begun, Soon after World War II; Communist parties supported by the Soviet Union had seized power in several countries in Eastern Europe, and threatened to come to power in parts of Western Europe as well. The French Communist party was the largest and most powerful in the region. The United States, calling itself the leader of the Free World, was fearful of a Communist victory in France, and viewed the Cold War as a global confrontation between good and evil. Their almost religious reading of the situation seemed to be justified when the Communists seized power in China in 1949

and when this action was followed, in June 1950, by a Communist invasion of southern Korea.

The Communist victory in China soon changed the character of the First Indo China War, which had broken out between the French and resistance movements throughout Indo-China, and especially in northern Vietnam, at the end of 1946. For several years the French had the military advantage, but after 1949 China increasingly provided shelter, weapons and support for the Vietnamese resistance. In 1950 the Vietnamese began to stage and win set battles against the French.

In 1949, in the context of these developments, the French were able to convince US officials that the First Indochina War was not primarily a war of colonial oppression but was a crucial part of the global war against Communism. The United States, angered at what they called the "loss" of China agreed to provide extensive military aid to the French, but only through the Indochinese states. At the end of 1949, the French agreed, and granted what Sihanouk later called "50% independence" to Cambodia, Laos, and the components of Vietnam. Genuine power over finance, defence and foreign affairs remained in the hands of the French.

With hindsight an important aspect of these arrangements, unnoticed at the time, was that the Cambodian Ministry of Education came under local control, and the moderately anti-French Democrat Party was able to prepare the lists of students who would be sent on scholarships to France. The pro-Democrat students named in 1949-1952 included Pol Pot, Son Sen, Ieng Sary, and Khieu Samphan, who all became members of the French Communist Party, as well as many others who never did so.

In the late 1940s and early 1950s, along the eastern border of Cambodia, Vietnamese Communist guerrillas or Viet Minh recruited many young Khmer to help them in what they saw as an Indochinese struggle—rather than a purely Cambodian one—against the French. In 1951, just as the war began to go badly for the French the Vietnamese helped to found the

Khmer People's Revolutionary Party (KPRP). Its leaders were Khmer who were fluent in Vietnamese.

Thus, if we consider the students in Paris as genuine patriots anxious to remove the French from power (even though they later did many murderous things), we can see that by the early 1950s there were three Cambodian streams of opposition to France. One of these, which were controlled by Vietnam, was concentrated in the eastern part of the country, and drew its support largely from poor peasants. A second stream, which became important later, was among Communist students in France, and ironically was more nationalistic, and more anti-Vietnamese, than the Cambodians who were actually fighting the French. The third, more peaceable stream included the Democrats in Cambodia and others, including King Sihanouk who wanted to gain independence from France without resorting to armed struggle. The first two streams—the one supported by Vietnam and the one containing Cambodians who had become Communists in France—were intimately linked to the Cold War. The third one was not—or can we say: not yet? If we notice that there was no royalist nationalist "stream" before 1955, yet, we can see the ancestors of the four political groupings that emerged from the Paris Agreements of 1991.

Most of the fighting in the First Indo-China war took place in northern Vietnam, so the supporters of the KPRP gained little combat experience. However many of them received political training from Vietnamese-trained cadre who convinced them that a Communist state would be preferable to a royal one. The Communist students in France agreed, but hoped that such a state would be independent of Vietnamese control. Both strands of resistance had responded to foreign influences—from the ICP in Indo-China and from the French Communist Party in France. The more peaceable strand responded to conditions inside Cambodia, and had not yet been affected by the Cold War, except by the fact that the Cold War had made the French give the Democrats more power in 1949.

As the war went badly for the French, and as

the Democrats consolidated their political power in Phnom Penh, King Sihanouk boldly decided to strike out on his own. In 1952-53 his vigorous, well-orchestrated and beautifully timed royal crusade for independence led the French to grant independence to Cambodia at the end of 1953, and led many Cambodians to believe that the King had achieved this result single-handed. In a sense these people were correct for France would never have negotiated Cambodia's independence with the Democrats, whom they distrusted, or with the Vietnamese-dominated KPRP.

In the summer of 1954, after the battle of Dienbienphu, the First Indochina war ended as a humiliating defeat for the French. Because non-communist leaders in Vietnam and Laos had not been able to wrest freedom from France, however, they had far less leverage than the Cambodian delegation enjoyed at the Geneva Conference convened to end the war. The Cambodian delegation was able to press for many concessions from France and the Vietnamese Communists at Geneva. These concessions served Cambodia well for the next fifteen years.

In the aftermath of the French defeat, the United States established a regional anti-Communist alliance, called SEATO that the Americans hoped would prevent further Communist victories in the region. Unfortunately for the United States only two Southeast Asian countries, Thailand and the Philippines, joined the alliance.

In 1955, King Sihanouk riding a wave of popularity in Cambodia, attended the conference of supposedly non-aligned nations at Bandung in Indonesia where he befriended the Chinese leader Zhou En Lai, India's Nehru, Indonesia's Sukarno and other world leaders. He quickly became convinced that a non-aligned foreign policy that would remove Cambodia from the playing an active role in Cold War—would benefit his country far more than an alliance either with the so called Free World or with the Soviet Bloc.

For as long as Sihanouk was in power, he happily accepted foreign aid from as many countries as offered it—although he rejected aid from the United States

after 1963. Domestically he was especially harsh with opponents on the left. As a result, and the Cambodian Communist movement, as we shall see, remained small and fractured for many years. By making friends with powers on both sides of the Cold War and accepting assistance from them, Sihanouk and Cambodia, ironically, were beneficiaries of the Cold War, before they became its victims.

Sihanouk was able to put his ideas to work later in 1955 when he abdicated the throne and formed a political movement, the Sangkum Reastr Niyum. Sangkum candidates, hand-picked by the Prince, swept the elections for the National Assembly in 1955. The buoyant and energetic ex-monarch became a politically effective head of state.

I believe that Sihanouk's neutral policy, and his attempt to stand aside from the Cold War, made sense for Cambodia, as long as participants in the Cold War, including North Vietnam and the United States, left Cambodia alone. Sihanouk's neutrality depended on the good will of larger, more belligerent powers. When, starting in the mid 1960s it was in the interests of these powers to ignore or override Cambodian neutrality, time began to run out for the Prince and for the Khmer. In the meantime, it is hard to see what other choices Sihanouk could have made. An alliance with the United States, and with his hostile neighbours South Vietnam and Thailand, would certainly have accelerated Cambodia's participation in the Second Indochina War. See would an open alliance with North Vietnam.

On the other hand, while Sihanouk always tried his best to extricate Cambodia from the Cold War, it eventually overwhelmed his country, and I would argue that without the Second Indochina War (1959-1975) the Khmer Rouge would never have come to power. It's also unlikely that Sihanouk would have been deposed.

To give you some idea of the outside forces at play in Cambodia in the early 1960s, when the kingdom was an "island of peace" and when Sihanouk was immensely popular, I'll insert a personal note at this

point.

I first became interested in Cambodia fifty two years ago, in 1959, when I volunteered for Khmer language training in Washington DC. I was then a low ranking member of the American diplomatic service. I thought Cambodia would be an interesting place to work, and it certainly was.

When I worked in the American Embassy in Phnom Penh, between 1960 and 1962, American policy toward Cambodia was based on the Cold War; which is to say on attempting to arrest the progress of Communism throughout the world and specifically in Southeast Asia. A country, the Americans declared, was either for us, or against us. Cambodia was confusing, because it was neither!

The Second Indo-China War has not begun in earnest, but the United States felt that it had to hold the line against Communism in South Vietnam, and to do so it preferred its Cold War allies in Saigon and Bangkok to the independent-minded and therefore unreliable Prince Sihanouk in Phnom Penh. Unsurprisingly, perhaps, the Prince was not fond the United States, largely because the pro-American regimes in Saigon and Bangkok both wanted to remove him forcibly from power and also because the only Western country he had ever liked, or made an effort to understand was France,

Outside of the Cold War framework, the years when I worked in Phnom Penh—although I had no effect in anything that was happening there—were good years for Cambodia. They probably marked the high point of Sihanouk's popularity. Cambodia seemed to many people, myself included, to be a genuine 'island of peace' in an increasingly disorderly world, and the possibility that the Prince would be removed from power either by a pro-American coup or by a Communist revolution were so remote as to be unimaginable.

But since both of these events happened in the 1970s we need to turn our attention back to the Khmer Rouge, about whom almost nothing was known in the years when I was working in Phnom Penh.

The last we saw of Pol Pot was in 1952, when he was joining the Communist Party in Paris. He came back to Cambodia in 1953, after failing all of his examinations, and spent a brief time in the Vietnamese-dominated resistance, where he was accepted as a member of the ICP and worked closely with a Cambodian KPRP cadre named Tou Samouth. Because Pol Pot came home sooner than his Communist colleagues in France, he gained an important foothold in the Cambodian Communist movement, especially because of his close association with Tou Samouth.

In the late 1950s, Pol Pot married a fellow radical nationalist named Khieu Ponnary and began to teach in a private school, while secretly carrying out Communist Party work. The Party in those days was small, disorganized, poorly financed, and harassed by Sihanouk's police.

Most of the men and women who had fought alongside the Vietnamese in the First Indo-China War resumed their lives after Cambodia gained its independence. The Cambodian Communist movement became, for the first time, largely an urban phenomenon, cut off from the countryside and from the movement's rural supporters. North Vietnam was not yet willing to sponsor armed struggle in South Vietnam and had not yet reactivated its old networks inside Cambodia. For local Communists in South Vietnam and Cambodia the 1950s and early 1960s were a dangerous, disillusioning period that coincided in Cambodia, as we have seen, with a high tide of Sihanouk's popularity, skill and self-confidence as chief of state. By repressing Communists in Cambodia and making friends with China, the Prince was sure he could keep Cambodia from being taken over by the Communists and also out of the war in Vietnam,

To be fair to the Prince, he could not foresee the ferocity of the Second Indo-China War which more than anything else ended his years in power and led in 1975 to the victory of the Khmer Rouge.

Although Pol Pot and most of his colleagues in the clandestine Communist leadership managed to

escape the attention of Sihanouk's police, they were shaken when Tou Samouth the secretary of the party disappeared in 1962 and was presumed to have been killed. Pol Pot took his place and in the following year and fearing arrest, took refuge, with several associates in a Vietnamese Communist military base near Memot on the border with Vietnam. He stayed there for two years. Surprisingly, perhaps he never gave up hope. In 1965 he was summoned to Hanoi for consultations. Probably connected with the intensifying conflict in South Vietnam. He travelled north for several months, largely on foot, happy that the North Vietnamese had recognized him as secretary of the Cambodian party, and looking forward to sharing his revolutionary ideas with his opposite numbers in Hanoi.

In fact the North Vietnamese authorities had little interest in the ideas of the Cambodian party. Instead, were eager to reinstate Cambodian co-operation for their military efforts and to protect their supply routes that ran through "neutral" Laos and Cambodia into the battlefields of South Vietnam. In other words, they wanted to reestablish the alliance they had forged with rural Cambodians in the First Indo-China War.

By this time, Sihanouk had broken relations with the United States and had made friendly gestures toward the Communist Vietnamese, whom he believed were going to be victorious in South Vietnam. Like Pol Pot, and much less willingly, he was being drawn inexorably into the battlefields of the Cold War.

Over the years, with his fellow Communists, Pol Pot had developed an ambitious and radical revolutionary program for their Party. Among other things the program involved inaugurating armed struggle against Sihanouk and destroying what the Communists saw as the "feudal" and oppressive character of Khmer society.

When Pol Pot reached Hanoi, he presented the program his opposite number, the secretary of the Vietnamese Workers' Party, Le Duan, who told him bluntly that the Cambodian program was unsatisfactory because it ignored the international aspects and obligations of Communism in general and the Cambodian revolution in particular. The program

ignored the Communists' alliance with North Vietnam. Le Duan told Pol Pot to subordinate his party and its program to Vietnamese priorities, and to delay armed struggle until the North Vietnamese had defeated South Vietnam and United States. Although he may not have mentioned the issue to Pol Pot, Duan probably also wanted to protect the secret agreements that the Vietnamese Communists had recently reached with Sihanouk, whereby they were allowed to station troops inside Cambodia and move supplies through the kingdom in exchange for causing no harm to the population and agreeing to honour Cambodia's frontiers. Pol Pot's reaction to Le Duan's criticism is not recorded, but his sense of humiliation and resentment is easy to imagine.

To be fair to Sihanouk, there is no way he could have refused the Vietnamese demands, and he probably believed that by entering into these secret arrangements before American power in the region became too overwhelming he would be able to keep Cambodia out of the war and to benefit from Vietnamese friendship after the Communists had won.

In early 1966 Pol Pot travelled from Hanoi to China, which was then on the eve of the Cultural Revolution. Officials there told him that China supported revolutions throughout the world that did not emphasize international socialist aspects and obligations, but responded instead to conditions inside each individual country. In other words, China seemed to support revolutions like the one that Pol Pot had in mind. Because China was still formally allied to Sihanouk, however, Pol Pot's visit was kept secret and the officials who met him had to be discreet. They could hardly offer him the same levels of friendship and armed support as they did in the 1970s.

Nonetheless, Pol Pot probably saw that there would be greater advantages for him and for his radical idea of revolution, when the circumstances allowed, to be allied with China than to remain subordinate to Vietnam. When he returned home, he established his headquarters in the north-eastern part of the country, where he still enjoyed the protection of Vietnamese

Communist troops but no longer lived under day-to-day Vietnamese supervision. Over the next two years (1966-1968) he gathered support and refined his program. At the same time, he and his colleagues did not yet feel confident enough to inaugurate armed struggle, at least without Vietnamese approval and assistance, on the surface at least it looked as if the Khmer Rouge remained obedient to Vietnam.

In this same period, the political landscape in Cambodia was changing, to Sihanouk's disadvantage. For many reasons, governing Cambodia more or less single-handed was becoming increasingly difficult for Sihanouk. The economy was faltering. Cambodia was isolated from the region, and members of the Cambodian elite, especially in Phnom Penh, were becoming impatient with Sihanouk's highly personal style of rule. Next door, the fighting threatened to spill over into Cambodia and some members of the elite

and officers in the army, including General Lon Nol, were unhappy with the way that Sihanouk seemed to favour Communist countries over the United States.

In the National Assembly elections in 1966 all the candidates, as usual, were members of the Sangkum. However the elections were the first ones since independence for which Sihanouk had not handpicked the candidates. As a result the ones who took office after the election owed nothing to the Prince, and in some cases ran without his support. As evidence of Sihanouk's growing unpopularity among the elite, for example, some members of the Assembly whom Sihanouk disliked, including the Communists Khieu Samphan and Hu Nim and the pro-Western ex-Democrat, Douc Rays, regained their seats with increased majorities. Always adept at assessing his position, but incapable of leaving the scene, Sihanouk began to lose confidence in 1967 and spent more and more of his



Pol Pot during the visit of Chinese delegation during Democratic Kampuchea

time making films.

In February 1968, as Vietnamese troops poured out of their Cambodian sanctuaries to take part in the Tet Offensive in South Vietnam, the Khmer Rouge inaugurated armed struggle by capturing a police station and its weapons in rural Battambang. Over the next year scattered skirmishes took place in the Cambodian countryside between Khmer Rouge guerrillas and the Cambodian army. The development alarmed Prince Sihanouk, who knew he had already lost the confidence of the urban elite. He had always assumed that the "Khmer Rouge" as he called them, were subordinate to the Vietnamese, who now seemed to be betraying their secret alliance with him by unleashing their "puppets."

Edging away from his former policies the Prince reinstated diplomatic relations with the United States, secretly allowed the Americans to bomb the Ho Chi Minh Trail and appointed the conservative anti-Communist Lon Nol, as the new prime minister. In 1969, in an effort to keep his Cold War account balanced, Sihanouk was the only chief of state to attend Ho Chi Minh's funeral in Hanoi.

These sensible moves came too late to avert disaster, but it is impossible to imagine a scenario in which Cambodia, under Sihanouk or anyone else could have opted out of the Second Indo-China War or, more widely the Cold War in which it had no genuine interest. Cambodians did not want to be part of the Free World or part of the Communist Bloc, Understandably they wanted to be Cambodians living lives that made sense to them.

Instead we can say that Cambodia was crushed by the forces released by the Cold War, and also that it has revived not only thanks to the resilience common sense and energy of its people but also because the Cold War came to an end.

Meanwhile, in the United States, Richard Nixon, a Cold War figure par excellence, had come to office as President. He pledged to end the Second Indo-China War in what he thought would be an honourable way. While he continued the negotiations with the North

Vietnamese that had been opened under President Lyndon Johnson, he also believed, for reasons that remain obscure, that Cambodia was in some sense the "key" to America's future strategy in Indo-China. This miscalculation had disastrous long-term effects.

In March 1970, while he was travelling in Europe, Prince Sihanouk was voted out of office as Cambodia's chief of state by the National Assembly. The coup was the climax of a long history of disaffection with the Prince on the part of Cambodia's urban elite. The coup quickly met with approval from the United States, which was eager to have an ally at this stage in the Second Indo-China War. I do not think it occurred to anyone in the United States that such an alliance would be ruinous for Cambodia, because your country was a chess piece, not a chess player in the Cold War, and the United States walked away from it when the game was lost.

In effect, the coup was a death warrant for Cambodia as an "island of peace" and Prime Minister Lon Nol's request soon afterwards that all Vietnamese troops leave Cambodia immediately was hopelessly naïve. The Vietnamese troops were there, as they had been since 1964, to "liberate" South Vietnam.

The blame for what happened from then on (as far as the Cambodian people are concerned) can be shared by the North Vietnamese, the United States, the Khmer Republic and the Khmer Rouge but the war that was set in motion by the coup also depended to a large extent on the decisions that Sihanouk made when, after hearing of the coup in Moscow, he sought refuge in Beijing and decided to declare war in the new regime in Phnom Penh.

Almost as soon as his plane landed, Sihanouk's old friend Zhou Enlai, the Chinese prime minister, promised to return the Prince to power. The North Vietnamese Prime Minister, Pham Van Dong, soon seconded the promise, which was visiting Beijing, and Political backing from China and open-ended military support from North Vietnam were very pleasing to Sihanouk. The new alliance also legitimised the Khmer Rouge, who now had access to Vietnamese

weapons and military training. They also capitalized on the "treason" of the coup to claim, in the Cambodian countryside, that they were devoted to Sihanouk and wanted to restore him as chief of state. This propaganda gained them thousands of recruits and international support in anti-American circles.

For the next five years Cambodia was a battlefield in the second Indo-China War—precisely the fate that Sihanouk, fully aware of Cambodia's military weakness, had tried so hard to avoid during his years in power. In 1970-1972 the Khmer Rouge forces benefited enormously from Vietnamese weapons training and support. Meanwhile, North Vietnamese forces were able to inflict stinging defeats on Lon Nol's poorly trained and poorly led forces.

What would have happened if Sihanouk had not entered into what turned out to be such an unholy alliance? The war between the Lon Nol regime and the North Vietnamese would certainly have continued and intensified and US involvement was unavoidable. In fact, sad to say, once the machinery of war had set in motion, nothing Sihanouk did or might have done made any difference. Cambodia slipped out of his hands—once he placed the country in other peoples' hands—and fell into the Cold War.

The Khmer Rouge, when they came to power, wanted to present them as a purely Cambodian revolution, owing nothing to foreign help or inspiration. In doing so, the Khmer Rouge leaders denied their long associations with Vietnam and their developing alliance with China. They to place themselves in a global context, although for the next three years it became clear that China saw the Khmer Rouge as a counter-weight to the pro-Soviet regime that had taken power in Vietnam in 1975. Once again Cambodia, without wanting to do so, had become a pawn on the Cold War chessboard.

China encouraged the Khmer Rouge to be hostile to Vietnam, but never provided troops or air support once war broke out between Cambodia and Vietnam.

After 1979, China and the United States, allied against the Soviet Union, continued to support the

Khmer Rouge membership in the UN --the only government in exile to be so honoured. Meanwhile, the new, Vietnamese regime in Phnom Penh received very little foreign assistance and as a result recovered slowly from the damage inflicted by the civil war and by the traumas of the Khmer Rouge period.

Cambodia didn't emerge from the Cold War until the Cold War ended in 1989-90, over twenty years ago. Norodom Sihanouk did his best to keep Cambodia removed from the Cold War. First the North Vietnamese, and then the United States, did not allow this to happen. Later on, Lon Nol and Pol Pot, participants in the Cold War, thought that their alliances with the United States and China would be sufficiently powerful to prevent defeat. The alliances were not, and two successive regimes were removed from power against their will. The PRK was treated as satellite of the Soviet Union rather than as a country that needed foreign support and membership in the UN.

Speaking in 2011, I see no virtues stemming to Cambodia from the Cold War, which was enormously expensive in terms of human lives, expenditures, and physical destruction. A renewal of these antagonisms, on a global scale, is difficult to imagine, but if there are lessons for Cambodia to learn from the Cold War one lesson would be not to become too closely allied with any single country, for fear of having to serve that country's national interests, rather than to serve the interests of the Cambodian people.

In terms of the damage and entanglements brought to Cambodia by the Cold War, none of Cambodian history before 1990 is worth repeating, but it is equally important for us not to forget it, any more than we should ever forget the dark history of the Khmer Rouge regime, that is so ably set out in the volume we will be discussing and studying over the next few days and weeks.

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JUSTICE WITHIN REACH

Sok-kheang Ly

The notorious crimes committed by the Democratic Kampuchea (DK) regime (1975-1979) are, among other things, infamous inside and outside Cambodia. The Cambodian people have explicitly known those responsible for the mass atrocities. Of the dozen leaders, former ideologue Nuon Chea, former Head of State Khieu Samphan, and former Deputy Prime Minister in charge of foreign affairs Ieng Sary took the highest command of the regime. While they are legally bound to face criminal charges under international and domestic law, former low-level Khmer Rouge (KR) cadres have begun to think of their moral responsibility for those upon whom crimes were intentionally or unintentionally inflicted.

The Extraordinary Chambers in the Courts of Cambodia (ECCC)'s historical court hearing that began on November 21, 2011 against the three senior KR leaders has turned a new leaf for both victims and former low-level KR cadres. It has been more than thirty years that these KR leaders have enjoyed their freedom of movement, thus irritating Cambodians and the rest of the world. During the intervening years, the hope for justice has been extremely thin, or perhaps not even possible to some who reasoned that the Cambodian government had no political will to pursue justice. Even with its concrete establishment of ECCC and five senior KR leaders being placed under ECCC's provisional detention, such a pessimistic view still persisted. Commentators thought there would be no trial until after all of these leaders had died of natural causes. Now there is a light at the end of the tunnel, as an actual court proceeding has commenced its historical work.

Three KR Leaders Take the Stand

During the three-day hearing, national co-prosecutor Ms. Chea Leang read a summarized statement on the nature of the crimes that each accused should have known or had reason to know in their capacity as rulers. Overall both national and international co-prosecutors Ms. Chea Leang and Mr. Andrew Cayley stressed that the Joint Criminal Enterprise (JCE) bound the three accused in the criminal charges, which includes the forceful evacuation, enslavement, systematic and widespread purges, forced marriage, and genocide on ethnic and religious groups.

However none of these leaders have admitted the historical mistakes made during their leaderships.



Phy Phoun (front) former messenger of Ieng Sary visiting ECCC

In turn, they presented various reasons to challenge the prosecution. Nuon Chea made a counter-argument in the afternoon of November 22, 2011, by viewing the trial as injustice. He read that the court merely looked into one side of the entire history, rather than the root causes and effects of the revolution. In this way he compared the proceedings with the notion that only the body of a crocodile is raised for discussion, but not its head and tail. His statement has thus focused on

external factors such as Vietnamese aggression and United States bombardment before the DK's rule (1975-1979) and the long-standing and steadfast endeavor to defend and prevent Vietnam from annexing Cambodia. However, he never went deeper into the question of "why" his regime caused nearly two million to die.

Without responding point by point to the prosecution's charges, Ieng Sary read his statement in the morning of November 23, 2011 by stating that he should not be tried. His nearly two-page statement reiterated that: "...In 1996, I received a royal decree of amnesty and pardon from the then-King Norodom Sihanouk." However, his appearance before the Trial Chamber showed great respect for the court.

Third in row to read his statement on November 23, 2011, Khieu Samphan challenged the co-prosecutors by stating that: "...over the last two days, I feel that it is different from what I expected...The



Mr. Chhim Phan (right) and Ms. Khanh Ut

co-prosecutors merely make guessing accusations, no-evidence claims, and mixed up this and that issue." Mr. Samphan asked the co-prosecutors to stop the accusation as there was no document to prove that he was a member of the Central Committee officially. He even said the position of "Head of State" was just a sort of decoration.

It has almost become a normal practice for these leaders to try to shun their responsibility. What

they should realize is that the regime's extremism and radicalism, which led to widespread and systematic purges, could be among the numerous reasons that led the DK regime to destroy this country across all sectors and to kill nearly two million people.

The regime has indeed sowed the seed of enmity that its legacy has put the relations between victims and former KR cadres at risk. Having gone through a variety of reconciliation efforts since the collapse of 1979, both victims and former low-level KR cadres are now coming together to observe the legal proceedings against these leaders. It is one of the important processes to prove that both sides all have been and are poised to unite to fight genocide.

Integrating the Differences

The term "genocide" legally refers to the worst crimes that have taken place in world history. The DK regime's senior leaders have been charged with international crimes including genocide against the Vietnamese (including Khmer Krom people) and the Cham people, representing the second largest population of Cambodia. The severity of the crimes brought about untold suffering that many survived the regime only to find themselves in a state of great depression and trauma. This mental status has become a huge barrier to daily life since the DK's collapse.

More or less it hampers healthy inter-personal relations, especially between former KR cadres and victims. The genocide has spiritually and socially divided these groups. However, as years have elapsed,

change has been visible and the discriminatory notion of "us" versus "them" has vanished from time to time.

The nightmare of the genocide, rather, helps integrate the differences among the former adversaries. Ms. But Kimony, a survivor from Battambang Province, spoke frankly about her tolerance and leniency toward all the low-level KR cadres as they just executed their superior's orders. She made the comment without knowing that Mr. Chhim Phan, who sat close to her,

was among many former KR cadres. Paying great attention to other participants' views with his eyes frequently looking to the ceiling, Mr. Chhim seemed to be satisfied. Although he did not say anything about it, his wife Ms. Chuon Rin nodded in agreement and murmured "that's right."

However, a challenging question to them was raised about whether any former KR cadres went beyond their superiors' orders because they were induced by personal greed, grudges, or vengeance. All thirty participants seemed to be quiet for a while before Ms. Kimony proceeded to say that if so, the survivors had the right to get angry with them. However, Mr. Suon Sokhen, the first deputy chief of Sangkat Svay Pao, Battambang Province, and Mr. Kung Vatha, deputy chief of Social Affairs Office of Battambang Province, acknowledged that there would be some former KR cadres who indeed acted brutally on their own decision. But many, including Mr. Chhim, had to acknowledge this and express regret for what they had done wrong. According to interviews with three KR cadres and eight survivors, they repeated a conciliatory phrase of vindictiveness that is ended by not being vindictive. The phrase implied that they all did not want to see other junior KR members, except the current accused, tried. They have demonstrated their preparation for forgiving those low-level KR cadres, whose moral responsibility would be adequate.



So Phan meeting with Youk Chhang in front of DC-Cam office

The Moral Responsibility of Former Low-Level KR Cadres

So far the three KR leaders—Nuon Chea, Ieng Sary and Khieu Samphan—have never accepted that the death of nearly two million people and the untold suffering brought to bear upon the survivors were the result of their regime. So the legal proceedings at the ECCC have become the last approach to get these KR leaders to publicly acknowledge their guilt through an avalanche of inculpatory evidence. However not everyone is excited by the trial. Among the thirty people invited by DC-Cam,

Mr. Phy Phoun, revolutionary name Chiem, former Ieng Sary's messenger, told DC-Cam's team members that he was very disappointed with the charges on his former boss. Mr. Phoun, an ethnic Jaray, decided not to visit the court hearing again on the second day and instead returned to his home village in Malai District, Banteay Meanchey Province. He informed DC-Cam's team members that he had an urgent task at home.

However, it is recalled that their ideologies, policies, radicalism, and extremism are known to have inspired thousands of DK's low-level cadres to take turns killing each other and their people in every place. DK's legacy left most former KR cadres regretful and sorrowful for their acts. Mr. Chhim Phan of Malai District confessed during his interview that it was his superior's orders that forced him to kill a couple in front

of Preah Net Preah Pagoda. Mr. Chhim Phan stated: "...it was Sam Art who ordered me to kill the couple. In the meeting when the event occurred, thousands of villagers from the entire commune of Preah Neth Preah were invited to attend in order to witness the killing of the couple. The idea (known by the KR as the People's Court) was to warn others not to follow the same mistakes as the couple; otherwise they would meet the same fate. Youk Chhang, who was fourteen at the time and lived just a few hundred meters from the killing site at Trapeang Veng Village, was also called to join the meeting and witnessed the

killing with his own eyes. In the meantime, Mr. Chhim stated that after executing the order, he was so scared to recall such a traumatic event. He has lived with a great fear of personal safety after the DK's collapse. He fled along with the defeating KR forces and never returned to the Preah Net Preah District until now.

Although the People's Revolutionary Tribunal (PRT) tried in absentia the late Pol Pot, Prime Minister of DK, and Ieng Sary in August 1979, there was no specific legal measure against the low-level cadres. However, many—including Mr. Chhim Phan found themselves morally responsible for their acts. Mr. Chhim said, "...although those who suffered from that event blamed and attacked me, I would not get angry. In my mind, I did not commit the crimes by my own will ...even if a person who is tied with hot anger punches and kicks me, I would not respond at all..." Mr. Chhim said that was a kind of moral acceptance of his guilt.

Nevertheless, "superiors' orders" was a common phrase that most low-level cadres used, to some extent, to reduce the sense of guilt. Mr. Seng Chon of Kampong Chhnang Province and Ms. But Kimony of Battambang Province are convinced by this argument, but find it hard to tolerate them if they acted on their own anger or malice. This interwoven nature of crimes of low-level cadres remains ambiguous in many ways. In return, Mr. Chhim has adopted religious approaches to pray for the couple. On many occasions, Mr. Chhim Phan reiterated that he found this visit important and feels relieved as he can disclose the tremendous burden of guilt. He has never spoken about this publicly since he committed the crimes.

Conclusion

Most participants consider this trial observation trip to be beyond significant but also a responsibility, thus being favorable for building mutual understanding. Asked about a joint visit with former KR cadres, six survivors from Battambang Province decidedly said it was good and that they felt no discrimination toward those cadres.

They all stayed, ate, travelled, and observed the

court hearing together during the three-day court observation. This has been one of the most constructive visits to restore previous uneasy relations in the legacy of the DK regime. Moreover, the participants obtained the information on the trial of only "senior KR leaders and those most responsible." It helps send a message to all the people to maintain better interpersonal relations, namely between the victims and former KR cadres, in our society. Mr. Hong Huy was quoted by British Broadcasting Corporation as saying that he, "...felt no bitterness against people like Mr Phan. It was the top leaders, the people now on trial, who were really to blame."



Chuon Rin, Phan's wife, at ECCC compound

During the visit, there was a challenge facing the participants. Ms. Chuon Rin, the wife of Mr. Chhim Phan, fell down when she stepped on a cement-made stair. She stood up only to find one of her knees bleeding at the entrance of the ECCC. Rather than underestimating her injury, DC-Cam's team member sent her to a qualified and professional hospital in the center of Phnom Penh. This led to the cancelation of a post-hearing meeting at DC-Cam on November 22, 2011. Mr. Chhim said his confession now coincided with his wife's leg injury. While he felt so sorry for that, he said if he failed to do this, her condition might be worse.

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POLITICAL THEATRE AT THE KHMER ROUGE TRIBUNAL

Christian Oesterheld

During the first week of hearings at Cambodia's Khmer Rouge tribunal, Ieng Sary's international co-lawyer claimed that his client's forced presence in the courtroom was "a mockery", and the proceedings were likely to become "a sham, a show trial". Ieng Sary, former Democratic Kampuchea's foreign minister had requested to follow the proceedings from the remote participation facilities, for health reasons. The bench had refused his request, sustaining the civil party co-lead lawyers' observation that the presence of the defendants in the court room carried great meaning for their clients, 3866 civil party claimants who have—for the first time in the history of international tribunals—been accepted to the proceedings. Michael Karnavas, of Ieng Sary's defense team, sees the defendants' fair

trial rights violated. The civil parties, on the other hand, maintain that the presence of the accused at least minimally satisfies their longing for public recognition of the suffering they endured under the Khmer Rouge regime. The verdict in Case 001 against the director of S-21, the notorious "Tuol Sleng" prison, has already indicated that their hope for meaningful reparations from the court is likely to be disappointed, so the proceedings now are regarded as an end in itself where the public exposure of the defendants' alleged crimes aids the survivors' struggle to come to terms with the past. And this includes the public exposure of the defendants themselves. Together with Ieng Sary, the current case charges Nuon Chea, or "Brother No.2", and Khieu Samphan, Democratic Kampuchea's head of state,

whom the prosecution in their opening statements last week had called "thieves of time and common murderers of an entire generation of Cambodians". Victims hope for a public apology of these three elderly men. At the very least, they demand answers—which, if given at all, will unlikely satisfy the survivors.

The three defendants have been taken the floor during the three days of hearings this week, but their statements reflect little more than refusal and negationism in the face of the horrific crimes that prosecutors had recalled in their highly emotional opening statements. Having received a royal pardon and amnesty for his conviction in a People's Tribunal in August 1979, Ieng Sary insists that any further prosecution of him would fall into the legal category of double jeopardy. In a brief statement, on Wednesday morning, he requested to stay the trial until a final ruling on his defense team's appeal regarding that matter in the Supreme Court Chamber of the Extraordinary Chambers in the Courts of Cambodia (ECCC), the tribunals' official



View of ECCC courtroom

name. He announced that he is not willing to give any testimony until this issue is settled. Similarly, Nuon Chea left the trial chamber in the dark about his willingness to actively participate once the court is back in session for the substantial hearings from December 5th. Questioned about whether he will testify, his defense team declared "he will cross that bridge when he comes to it". Even Khieu Samphan, who had earlier announced that he would be ready to cooperate with the court, has become more constraint and insists that he will decide on a case-to-case basis whether and when to reply to the prosecution's accusations. He did respond to the prosecutors' opening statements, with a well prepared statement, eloquently addressing the prosecution's allegations and exposing their opening statements' weak points. Substantially he claims that his position as head of state in Democratic Kampuchea didn't carry any decision-making powers. If he had actual political authority during the regime, he asked the prosecution, then "why isn't King Sihanouk on trial here too?" Indeed, Khieu Samphan only became Democratic Kampuchea's head of state after Sihanouk's resignation from the same position in April 1976. Pointing out inconsistencies in the prosecution's opening address, as well as a suspicious reliance on tainted journalist accounts, used as evidence, he couldn't help asking the prosecutors: "Do you really believe what you are saying?" For him, much of it sounded like "a fairytale".

Legal proceedings, influential international tribunals in particular, surely have literary qualities. Stories and counter-stories are told, narratives are scrutinized and amended, and the quality and consistency of memories is renegotiated in this process. At times, courtroom communication itself makes for a good plot. In an interview with the Phnom Penh Post during the week of opening statements, the novelist and lawyer Christopher G. Moore stated that the Khmer Rouge tribunal would surely provide an excellent basis for a crime novel. Better still, one might add, the trials might fare in form of a drama script. Prominent Khmer Rouge survivor and political activist Theary Seng declared in a

recent statement that she had "enough of this farce that is very much political theatre", and withdrew from all participation as a civil party in the proceedings. To be sure, she was referring to repeated instances of political interference and the ultimate dismissal of proposed cases 003 and 004 at the ECCC- but beyond that her statement reflects an important aspect of the Khmer Rouge tribunal and, possibly, of international and "internationalized" legal proceedings more generally: its theatrical qualities, which in fact constitute much of the success or failure of these tribunals. Given the broad expectations towards the ECCC, its role has long extended beyond the provision of legal justice. Some hope the tribunal will contribute to national reconciliation, others see it as a model court to foster the rule of law in Cambodian society. Civil society groups have, for years, promised the survivors that the current accountability process will help them to come to terms with the past and aid their psychological healing. Before the tribunal was set up in an agreement between the United Nations and the Cambodian government, the idea of establishing a truth commission had been discussed. The absence of legal consequences would probably have made it easier to embark on a meaningful renegotiation of the Cambodian past. On the contrary, bound by clearly defined legal principles, the ECCC relies on artificial categorizations of "senior leaders" and "those most responsible" for crimes committed during a sharply demarcated time period, neglecting the historical context of three decades of civil war and the fact that dividing lines between victims and perpetrators are often blurred in the Cambodian experience. The jurisdictional limitations of the ECCC greatly inhibit a meaningful dialogue about Cambodia's past and it seems that the courtroom is doomed to become a theatrical stage where already hardened positions are reenacted. It is a drama without the benefits of catharsis.

Associations of the Khmer Rouge tribunal with a drama performance are not at all farfetched. The courtroom is in fact set up like a theatre house, with an auditorium of about 500 seats where every morning

the audience impatiently waits for the stage curtains to open. Once they are raised, the play begins, and there can be little doubt that the actors inside the courtroom are well aware that their performance is as much scrutinized by the audience behind the huge glass windows that separate the stage from the auditorium, as it is judged by their counterparts inside the courtroom. The audience routinely includes media representatives, trial observers, civil parties (who, due to their immense number, do not have sufficient space inside the courtroom), and the general public. On most days, busloads of students, monks and villagers from the provinces are brought in by NGOs or the ECCC's outreach program. Both the prosecution and the defense lawyers know that they have to win the hearts and minds of these people and they also know that most of their audience can't be reached by legal arguments alone. The opening statements have clearly reflected this awareness. The prosecution's colorful description of atrocities, aided by pictures and movie clips, which lasted for more than a day, was less pronounced in terms of legal argument than it was in reaching out to public sentiment. Responses by both Nuon Chea and Khieu Samphan similarly appealed to their "fellow countrymen's" sympathy when describing themselves as nationalists who sacrificed much for the survival of the Khmer nation, threatened by American imperialists and Vietnamese expansionists. Interestingly, it has now become common practice for all actors of this drama to directly address the audience whenever an opportunity presents itself. Khieu Samphan routinely pays his respects to Buddhist monks, a group of which is usually seated in the first couple of rows in the auditorium. Prosecutors, and more so still the defense lawyers, frequently turn away from the trial chamber and speak directly towards the public gallery. At one occasion, there was even short applause from some people in the audience after the chamber had refused Ieng Sary's request for remote participation.

So has this tribunal, in the end, become a "farce", a "show trial", as some have suggested? It certainly differs vastly from the Vietnamese organized sham

trial of August 1979, which, after a few days of hearings, concluded with a death sentence for Pol Pot and Ieng Sary in absentia. However, the current Khmer Rouge trial—as well as other internationalized proceedings—certainly differs from common legal proceedings too. In recent years, legal scholars have been busy discussing tiny jurisdictional aspects of such tribunals and political scientists have mainly raised issues of impartiality and political interference. In order to understand the broader impact of these tribunals for the societies and nations affected by them, however, it would be timely to widen the scope of analysis to international law's inherent symbolism and its performativity. After all, like it or not, these proceedings don't deal with legalized justice and accountability only. They renegotiate, constitute and, more often than not, distort history. And they are expected to satisfy the emotional and psychological needs of survivors.

The Phnom Penh based reporter Thet Sambath, himself a victim of the Khmer Rouge regime, has interviewed Nuon Chea for a period of several years, prior to his detention at the ECCC. In Thet Sambath's acclaimed documentary "Enemies of the People", the Khmer Rouge's "Brother No.2" recalls more of the hidden rationales behind his secretive regime than he is likely to testify at the ECCC. Hundreds of hours of interviews, which have not been included in the movie, are still kept by the filmmaker, inaccessible for the court after he gave his word to Nuon Chea to preserve the material for future generations, but not to publicize it during his lifetime. In a sense, Thet Sambath's long years of interviewing Nuon Chea can be seen as a truth commission en miniature. There might be some faint hope that others, lower ranking cadre and their victims, and especially those whom history forced to trot on both paths, are able to embark on this journey of uninhibited dialogue. Probably a truth commission would have served Cambodian society better than the ECCC.

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EXTENDED JCE AND GENOCIDE LIABILITY AT THE ECCC IN CASE 002

Randle DeFalco

A. Introduction

The Extraordinary Chambers in the Courts of Cambodia (ECCC) was established "to bring to trial senior leaders of Democratic Kampuchea and those who were most responsible" for international and domestic crimes committed in Cambodia from April 1975 to January 1979. As the Case 002 trial phase approaches, in which the four most senior Khmer Rouge officials still living face charges of specific intent crimes such as persecution as a crime against humanity and genocide, it will be important to determine which modes of liability most accurately reflect the potential culpability of Khmer Rouge leaders for the atrocities committed during the regime's reign. Since the end of World War II, Joint Criminal Enterprise (JCE) has been utilized to convict senior officials for committing international crimes through their participation in large-scale criminal plans.

In July of 2010, the ECCC's Trial Chamber (TC) convicted Kaing Guek Eav, alias "Duch" of international crimes via JCE. Despite JCE's utility, the doctrine has been a source of much criticism and debate, especially the third form of JCE, known as extended JCE (JCE III). This criticism intensifies when the prospect of imputing genocide liability via JCE III is raised. This article provides a brief overview of this debate and analysis of some of the available relevant jurisprudence.

B. JCE Elements and Variations

The International Criminal Tribunal for the former Yugoslavia (ICTY) Appeals Chamber (AC) laid out the doctrine of JCE in its landmark Tadic Judgment. While the TC acquitted Tadic of the murders of five Bosnian Muslims because there was no evidence that Tadic physically perpetrated the crimes, the AC reversed, holding that there are many modes of liability in customary international law which hold individuals

accountable for their involvement in collective crimes, even when others physically perpetrated the crimes. The AC then articulated three types of JCE. The first category, considered "basic" JCE (JCE I), applies to common plans involving the commission of at least one crime. Different members of the plan may play different roles in carrying out the common plan, but all must share a common intent to commit the crime envisioned therein. The second, "systemic" form of JCE (JCE II), applied by the ECCC TC in the Duch Judgment, deals with common plans to run organized systems of mistreatment or abuse, such as detention



The three accused of case 002 with their defend teams in the ECCC co

centers or concentration camps. JCE III or extended JCE, which is the focus of this paper, allows courts to hold individuals accountable for crimes that fall outside the common plan to which they agreed, but were nevertheless the natural and foreseeable consequences of implementing the original plan.

Actus Reus

All forms of JCE have the same actus reus requirements: 1) a plurality of persons; 2) agreement to a common plan involving the commission of at

least one crime under the jurisdiction of the prosecuting court; and 3) a significant act by the accused in furtherance of the common plan. Courts have been clear that all forms of JCE are modes of liability that fall under the umbrella of commission and are not separate crimes, but solely "means of committing a crime." All forms of JCE allow for convictions of individuals who did not physically perpetrate the crime of which they are accused. This not only makes it easier for international prosecutors to secure convictions, but also often most accurately reflects the nature of group perpetration of mass atrocities.

Mens Rea

Each category of JCE carries a different mens rea requirement. For JCE I, all members must share an intent to commit the planned crime. For JCE II, the accused must have actual knowledge of the systemic abuses committed within an organized system and con-



ECCC courtroom

tinue to further the system with such knowledge. For JCE III, however, the accused must possess a dual mens rea comprising: 1) intent to participate in the underlying common plan and 2) subjective awareness of an objective likelihood of additional crime(s) being committed in furtherance of the original plan. The AC in *Tadic* explained, "[w]hat is required [for JCE III] is a state of mind in which a person, although he did not intend to bring about a certain result, was aware that the actions of the group were most likely to lead to

that result but nevertheless willingly took that risk." The Chamber termed this mental state "dolus eventualis" or advertent recklessness.

C. JCE and ECCC Law

Article 29 of ECCC law specifies the modes of criminal liability that fall within the Court's jurisdiction, stating: "any suspect who planned, instigated, ordered, aided and abetted, or committed the crimes referred to in [the statute] shall be individually responsible for the crime." Article 29 also provides for superior responsibility. The definition of genocide under Article 4 of ECCC law includes additional modes of liability applicable solely to genocide: attempts, conspiracy and participation. While neither article 4 nor 29 explicitly mentions JCE, the ECCC Pre-TC (PTC) has ruled, following the lead of the ICTY AC, that JCE is a form of "commission" available under the Court's jurisdiction. However, while the PTC held that JCE liability is generally available at the ECCC, the Chamber overturned the Co-Investigating Judges by ruling that JCE III was not part of customary international law in 1975 and is therefore unavailable to the prosecution at the ECCC. In the *Duch* Judgment, the TC agreed with the PTC that JCE is a form of commission under Article 29 of the ECCC law and that general JCE liability falls under the ECCC's jurisdiction and convicted *Duch* of crimes against humanity and grave breaches of the Geneva Convention of 1949 via JCE II. The TC nonetheless reserved judgment on the applicability of JCE III and will likely examine both the availability of JCE III at the ECCC in general, and its applicability to genocide charges, during Case 002.

D. The JCE Genocide Controversy

Of the three forms of JCE discussed above, JCE III is by far the most controversial and oft-criticized, as it can impute "commission" liability for the reckless acts of an accused. This lowered mens rea standard appears incongruous with the crime of genocide, which requires the commission of specified acts, such as killing or causing serious harm, committed with the special "intent to destroy, in whole or in part, a national, ethnical, racial or religious group." The ICTY TC in *Stakic* explained that genocide "is, in fact, characterized

and distinguished by a 'surplus' of intent." Despite this apparent incongruity, international tribunals have proclaimed genocide convictions under JCE III possible, but nevertheless, have yet to enter a single conviction for genocide via JCE III.

E. Genocide and Specific Intent Crimes Under Other Modes of Liability

International criminal tribunals have entered convictions for genocide under modes of liability other than JCE III that similarly lack a specific intent requirement, such as superior responsibility and aiding and abetting. Nonetheless, such modes of liability represent an explicitly lesser degree of individual culpability than convictions obtained through JCE, as JCE is considered a form of "commission" whereas superior responsibility and aiding and abetting are lesser, indirect forms of liability that remain explicitly subordinated to commission via JCE. Therefore, the analysis underlying such convictions cannot be transposed directly onto the framework of JCE III. Nevertheless, the reasoning underlying such convictions does help to provide an overview of the factors considered by judges when deciding when individual liability predicated on genocide is appropriate.

1. Superior Responsibility

Under the doctrine of superior responsibility, a superior (civilian or military) of an organization is vicariously liable for the crimes of his or her subordinates when the following elements are established:

- 1) The existence of a superior-subordinate relationship;
- 2) The superior knew or had reason to know that subordinates were about to or had committed a criminal act; and
- 3) The superior failed to take necessary and reasonable actions to prevent the criminal acts or investigate and punish the subordinates for committing criminal acts.

The mens rea of superior responsibility is actual knowledge or reason to know. Actual knowledge can however, be established through circumstantial evidence. The "reason to know" alternative requires that the superior have "some general information in

his possession which would put him on notice of possible unlawful acts by his subordinates."

When applied to genocide, superior responsibility liability does not require specific intent on the part of the accused; however, the subordinate physical perpetrator(s) of the genocidal acts in question must have acted with genocidal intent. Thus, ultimately, a conviction for genocide under superior responsibility does not circumvent the specific intent to requirement, but simply limits the requirement to the physical perpetrators. This is reflected in the very nature of superior responsibility, which technically results in a conviction for failing to prevent or punish genocidal acts of subordinates, rather than actual commission of genocide by the accused.

2. Aiding and Abetting

Aiding and abetting is a type of complicity that it is a lesser form of liability than commission, both due to the limited role of an aider and abettor and the lower mens rea required. In this regard, aiding and abetting liability is similar to that of superior responsibility and courts have not hesitated to find accused guilty of aiding and abetting genocide. Aiding and abetting liability specifically requires that an accused provide practical assistance to the physical perpetrator(s) of the imputed crime and that this assistance have a substantial effect on the ultimate perpetration of such crime. The accused does not have to share the intent of the principal perpetrator, but merely must intend that his actions assist the perpetrator in the commission of the crime. This mens rea appears similar to the *dolus eventualis* required by JCE III, but importantly, aiding and abetting, unlike JCE III, is not a form of commission. This distinction is illustrated by the Krstic case, wherein the ICTY AC set aside the TC's conviction for genocide via JCE I and downgraded Krstic's liability to complicity in genocide via aiding and abetting, predicated on Krstic's apparent lesser degree of culpability when compared to the original architects of the Srebrenica genocide, such as Slobodan Milosevic or Ratko Mladic.

The ICTR has also convicted individuals for aiding and abetting genocide. For example, in the Ntakirutimana

case, the ICTR AC examined ICTR and ICTY precedents, particularly Krstic, in evaluating the individual criminal liability of Elizaphan Ntakirutimana, the pastor of the Seventh Day Adventist Church at the Mugonero Complex in Ngoma, Kibuye, who led Hutu militias to a group of Tutsis in hiding. Ntakirutimana was convicted of aiding and abetting genocide; however, the TC held that an aider and abettor of genocide must possess genocidal intent. On appeal, the AC affirmed the conviction, but noted that the accused need only be aware of the principal perpetrator(s)' genocidal intent.

F. JCE III and Specific Intent Crimes Generally

Although JCE III has never been successfully applied to genocide charges, both the ICTR and ICTY have imputed liability for other specific intent crime, such as the crime against humanity of persecution, via JCE III. Persecution is similar to genocide in that the accused must not only intend to commit the underlying act, but must also intend to discriminate against the victim on the basis of race, religion, or politics. As with genocide, it is persecution's specific intent that is the crime's defining feature. The mens rea required for persecution however, is still considered less stringent than specific genocidal intent.

In Popovic et al., the ICTY TC convicted several Serbian officials of committing persecutory acts against Bosnian Muslims in connection with the Srebrenica massacre via JCE III. The convictions were predicated on the Chamber's finding that a JCE to murder Bosnian Muslim males at Srebrenica existed and that additional discriminatory killings and mistreatment of Muslims in the area were foreseeable to the accused. The TC held that "[f]or an accused to be found criminally responsible pursuant to third category JCE for a specific intent crime, the Prosecution needs to establish that it was reasonably foreseeable to the accused that the extended crime would be committed and that it would be committed with the required specific intent." Thus, the Popovic et al. Judgment appears to lay the foundation for future genocide convictions via JCE III.

G. JCE III and Genocide Charges to Date

The ICTY AC has explicitly held in the Brdjanin

case that JCE III is like any other mode of liability and therefore there exists no reason not to allow genocide and other specific intent convictions under aiding and abetting and superior responsibility, but not under JCE III. This holding has been affirmed despite various challenges in cases at the ICTY and ICTR such as Milosevic, Rwamakuba and Karadzic. Thus, in theory, at the ICTY/R the issue of genocide convictions via JCE III is a settled question.

Nonetheless, international courts appear reluctant to truly grapple with the issue of whether an accused can "commit" genocide via JCE III and most often simply refer to the Brdjanin AC holdings on the issue without further discussion when such issues arise. Moreover, scholars have repeatedly criticized the notion of JCE III both generally and specifically its potential application to genocide charges, arguing JCE III is a possible means of bypassing necessary proof of genocidal intent.

H. Conclusion

As Case 002 proceeds, it is becoming increasingly clear that the ECCC Trial and Supreme Court Chambers may have to flesh out the applicability of JCE III to genocide charges. The Court may even follow in the footsteps of the PTC, and reject JCE III as a mode of liability altogether. While this approach would satisfy critics of JCE III, it would also firmly set the ECCC apart from the ICTY/R on the issue of JCE III. The TC may instead follow the Popovic et al. approach and utilize inferior modes of liability where JCE III could possibly apply to genocide charges. If confronted squarely by the question of JCE III genocide liability; however, this option may not be available and the ECCC could be forced to take up the issue head-on if the prosecution pushes the point aggressively. In such a case, the ECCC may do what other courts have thus far shied away from, and grapple with the challenges and complexities of JCE III's interactions with genocidal intent.

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TREASURED DOCUMENTS

Putheavy Pov

Nine months after working as a volunteer at the Documentation Center of Cambodia (DC-Cam), I have learned about what happened during the Democratic Kampuchea (DK) regime (1975-1979) through reading the history textbook, *Searching for the Truth* magazine, other DC-Cam's publications, and family tracing pages. When I read the family tracing page of *Searching for the Truth*, I never forget that my mother told me that she had an uncle named Pol Choeun who disappeared during the DK regime and she believes that her uncle is still alive and will return home one day. As I read the DC-Cam documents, I never thought that I would know the fate of my grandfather Pol Choeun because I thought that he had not been taken to S-21 prison and subsequently finding information about him would be hard. If he had been taken to S-21 prison, there was some possibility that his name or biography could be found.

One day, things changed and what I found was contrary to what I had previously thought. When I was reading DC-Cam documents, I spotted my grandfather's photograph, biography, and confession left behind from S-21 Security Prison. S-21 was the central and largest prison of DK where approximately 14,000 prisoners were photographed, tortured, forced to confess, and executed. My grandfather was one of them.

After I read my grandfather's confession and biography and saw his photo, my tears began to drop.

It was a very emotional confession. He was my mother's uncle, my grandfather, and I felt much empathy toward him although I had never met him. I began to think about what he had done wrong that caused the end of his life at S-21. Everyone knows that it was the most inhuman prison of the Khmer Rouge. A question arose of whether I should tell this news to my mother who always believed that her uncle is still alive.

My mother's name is Nuon Makara. She has six sisters and one brother. Her father is Pol Meng and her mother is Nhem Lim. She was born in Prey Veng Province.

After the collapse of the Khmer Rouge regime in 1979, my mother, her parents, and her siblings began to search for her uncle everywhere via the state magazines and publications and she had visited S-21, known as Tuol Sleng Museum in order to search for him. But they could not locate him.

My mother and her parents were helpless and hopeless. Finally she went

to a fortuneteller in order to predict whether my grandfather was alive or dead. The fortuneteller said at my grandfather is still alive and that he will return home one day. Upon hearing this, my mother was very happy and she has always believed that she would meet her uncle one day.

In August 2010, my mother met with another fortuneteller who said that my grandfather is still alive and he will return home in December 2011. My mother



Pol Choeun who was killed on March 13, 1978

felt excited again and she began to count down until December 2011.

As December 2011 came, I found the photo, biography, and confession of my grandfather which was contrary to my mother's expectation that his is still alive. Actually my grandfather is dead. I cannot hide this from my mother. I want to reveal the truth to my mother. I brought a photo and a confession of my grandfather to show my mom and other family members. They were shocked to get those documents and it was clear to them that my grandfather, whom they had been waiting for more than three decades, had died.

My mother did not know much about the fate of my grandfather. She knew that my grandfather had joined the Khmer Rouge revolution in April, 1970, a month after Lon Nol disposed Prince Sihanouk, when he was twenty-five. In late 1976, he visited home once and then he never came home again. According to my mother, my grandfather was kind, helpful, and friendly.

Pol Uong, a younger brother of my grandfather Pol Choeun, felt depressed and sad when he read his brother's confession. Pol Uong said with a shocked voice, "Why did my brother's life end at this notorious

and inhuman place?" I could not apologize to the Khmer Rouge leaders. I do not believe that my brother betrayed the [Khmer Rouge] revolution because we were farmers and we never had any intention to overthrow the Khmer Rouge government."

"The Khmer Rouge leaders made their own assumption in order to arrest and kill someone who was against their political lines," echoed Pol Uong.

According to the record from S-21, my grandfather was killed on March 13, 1978. My mother and her siblings will conduct a Buddhist ceremony for my grandfather on March 13, 2012 to bring his soul to a peaceful world.

Currently the prosecution of the Khmer Rouge leaders is in progress at the Khmer Rouge Tribunal. I hope that the Khmer Rouge Tribunal will speed up its process and will reveal the truth of what happened to my grandfather and other people who died during the Khmer Rouge regime. I hope that my grandfather's soul will receive justice.

Putheavy Pov is a volunteer at the Documentation Center of Cambodia.



MY FATHER'S STORY DURING THE KHMER ROUGE REGIME

Dalin Lorn

My father often told me about his experience during the Khmer Rouge regime. Once I had time to ask him a lot about his experience from 1975 until that regime collapsed in 1979. With tears in his eyes, my father managed to tell me everything he could recall. He told me that he feels more relieved because he believes that the Khmer Rouge tribunal, which is in progress now, will deliver justice to him and to the other survivors and that the trial is healing his mental wounds.

My father name's is Sen Vath and my mother name's is Tang Muoy Cheng. They live in Pursat Province approximately two hundred miles from the capital city of Phnom Penh. Before April 1975, when the Khmer Rouge got victory, my father's family lived in Sampov Meas District of Pursat Province. When the Khmer Rouge came in, my father's family, which consisted of eleven members, was evacuated to Phnom Kravanh District which was about 300 miles from his home district. My father said that on the way to the new place, my father saw Khmer Rouge soldiers who were guarding along the road checking people's luggage in search of any valuable property.

After several days of travels, my father's family reached Ta Ang Village, Tades Commune, Phnom Kravanh District. There the Khmer Rouge village chiefs assigned my father's family members to live and work in separate units. My father said that his parents tried their best to hide the family's identity, but unfortunately, the village chiefs found out that some of the members of my father's family were former teachers. After learning about this, those who were former teachers were separated to work at other places. "The village chief kept spying on my family. We were very cautious when working," said my father. At the age of fifteen in 1975, my father was forced to work in a mobile unit which had approximately 100 people and the unit was supervised by a chief named Neang who was a Cham Muslim. My father said that he was forced to dig a

canal, built a dam and grow cotton trees and that Neang was very mean and he always forced people to complete the work without thinking about the consequences. Although my father got sick, he never dared to ask permission to take a break or to sleep at home.

My father said that once Angkar moved him to thresh rice in a cooperative which was pretty far from his village. There he met his father by coincidence after the two had never met for months. However he did not dare to talk to his father. The two just cried inside. Later his father secretly gave him a letter which read that "Dear son, now your sister is very sick and I have not visited her yet. This is because I am sick too. My body got swollen, so please go to visit her." After reading the later, my father said that he ran to meet with her.

At one point my father's grandfather, Seoun, died of diarrhea and at the time he did not have food to eat. Soon later, my father's older sister, Reaksmey had a fever and then Angkar sent her to a communal Kampong Domrei hospital. Because the medical staff at that hospital did not pay much attention to her, she died, according to my father.

One day my father received additional bad news that another sister of his had also died. My grandmother asked the chief of cooperative to visit her daughter after she heard the news that her daughter had died. Then she asked a man in the unit who was good at rowing a boat to take her to get her daughter's body. My father said that at the time my grandmother cried a lot because she could not spend time to take care of her daughter. Later my father's older brother, Sokha, died due to fever and malnutrition.

The situation was not getting better. My father was forced to work hard. Once my father was deprived of food rations and worked from morning till dawn.

In around 1977 the cadres from the Southwest Zone came to supervise his villages and the old cadres were gone. The new cadres were more strict. They

killed people who were from Svay Rieng Province because these people were accused of being associated with Vietnamese traitors. My father said that one lady who had studied with him was killed after Angkar learned that she was of Vietnamese descent. My father also said that his friend named Pol committed suicide by hanging himself because he learned that he was the next to be killed because he was a former government soldier.

In around 1978 Angkar appointed my father to herd buffaloes in the other villages far from his house where he worked for about five months. Once he saw the chief of militia polishing a machete and later my father learned that the machete was stained with blood. Most people said that the chief of militia was the killer.

After the Vietnamese soldiers came in January 1979, my father reunited with his family again, but some had died. Although that regime ended more than three decades ago, my father cannot forget his experience. In 1985, my father married my mother. I

was born in 1990.

Dalin Lorn is a volunteer at the Documentation Center of Cambodia.

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 there 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 grand-parents about what happened, are important to preventing genocide both in Cambodia and the world at-large.*

LOOKING FOR A LOST HUSBAND

70-year-old Pol Kalang, who lives at N° 6B, Street 286, Sangkat Tuol Svay Prey II, Phnom Penh, is looking for her husband, Dul Tier, alias Noeu. Dul Tier is a former teacher in Ba Plong Secondary School, Prey Veng province. Dul Tier and Kalang were separated in 1970 when Dul Tier won the first prize in volleyball and was sent



Pol Kalang



Dul Tier

to Phnom Penh and then to the United States by Prince Norodom Sihanouk. About one month later, there was a coup to overthrow Prince Sihanouk and Pol Kalang lost contact with her husband. Three years ago, Pol Kalang heard that Dul Tier returned to Cambodia and searched for her in her hometown in Prey Veng province.

If anyone knows his whereabouts, please contact Pol Kalang via above address or mobile phone number 078 906 296 or 017 876 509 or contact the Documentation Center of Cambodia at 023 211 875.



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 Kok-Thay ENG Tel: 012-955-858

Email: truthkokthay@dccam.org

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

