

*Searching for*

# THE TRUTH

- 
- ◆ The Pioneering New Institute and Genocide Memorial in Cambodia Designed
  - ◆ Public Comment on Proposed Changes to Civil Party Participation before the ECCC

*“Memorial architecture gives us a medium by which we can contemplate our condition and potential.”*

*-- Youk Chhang*

**Special**  
English Edition  
Fourth Quarter 2014

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Zaha Hadid, architect and director of Zaha Hadid Architects, speaks during an inauguration of the Sleuk Rith building plan at London, England.



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# THE PIONEERING NEW INSTITUTE AND GENOCIDE MEMORIAL IN CAMBODIA DESIGNED BY ZAHA HADID ARCHITECTS

## *Documentation of Cambodia*

Designs for the Sleuk Rith Institute – a new institution and genocide memorial in the Cambodian capital Phnom Penh - have been unveiled. The institute brings together a museum, research centre, graduate school, document archives and research library.

The vision of Youk Chhang, a tireless human rights activist and investigator of the Khmer Rouge

atrocities, is the Sleuk Rith Institute, founded by Chhang as a focus for reflection, healing and reconciliation as well as an enlightening educational and research facility dedicated to commemorating the lives of the past by building a better future.

During the 1970s Youk Chhang, at the age of 15, was a prisoner under the Khmer Rouge and

members of his family were victims of the regime. Through his Documentation Center of Cambodia, he has spent more than a decade amassing details of atrocities committed by the former Cambodian regime, the Democratic Kampuchea (DK), which is also known as the Khmer Rouge.

The Sleuk Rith Institute is designed by Zaha Hadid Architects and will house the Documentation Center of Cambodia's 1 million documents in its archives and, as the largest collection of genocide related material in Southeast Asia, will become a global center for education and research into the documentation, causes and prevention of genocide.

Despite the tragic history explored at the institute, Youk Chhang's research led to the search for a building that promoted reflection and reconciliation, and







also inspired and innovated. “Cambodia will never escape its history, but it does not need to be enslaved by it. Postconflict societies have to move on,” he says.

This design required a direction that breaks from some of the stereotypes associated with genocide memorial architecture. “In the context of genocide and mass atrocity, memorial architecture has tended to reflect the evil and misfortune of the historical period it represents,” he says. “In this sense, the architecture’s legacy is dark, somber, and firmly oriented to the past.”

“We were keen to create a forward-looking institution that deviates from the distress-invoking, quasi-industrial, harshness of most existing genocide memorial models. This is not to criticize or denigrate such models but, instead, to emphasize that in light of Cambodia’s rich cultural and religious traditions, we must move in a different and more positively-oriented direction.”

“The best memorials are not objects we visit once, contemplate, and file away. The best memorials evoke reflection and commemoration, but are also living, dynamic public places that engage with all generations in the community.

The Sleuk Rith Institute will not focus only on the past, but rather seek to create an institute that will also be enlightening; a place for new generations to learn from the lessons of the tragedies of the past while exploring ways to heal, and move forward. “It is this commitment, determination and belief in our future that will define us,” explains Youk Chhang.

The Sleuk Rith Institute will combine a strong educational and outreach program together with its ongoing work for social justice as well as the commemorative nature of a memorial museum.

The institute’s design is organized as five wooden structures that are separate volumes at ground level, but interweave and link together as they rise upwards; connecting the different

departments, visitors, students and staff within a singular whole. With an overall footprint of 80m x 30m at the base and 88m x 38m at roof level, the structures range between three to eight stories.

Each of these five buildings will house a different function: the Sleuk Rith Institute; a library holding the largest collection of genocide-related material in Southeast Asia; a graduate school focusing on genocide, conflicts and human rights studies; a research center and archive to influence national and regional policies and discourse; a media centre and an auditorium that can be used by the institute and the entire community.

The architecture of the ancient temple site Angkor Wat, and Cambodia’s many other remarkable Angkorian sites, builds complexity by combining and interlocking a multitude of geometric forms in a formal progression of connected enclosures.

As they gain in height and coalesce, the Sleuk Rith Institute’s five buildings define an intricate spatial composition of connecting volumes; generating a series of exterior and interior spaces that flow into each other to guide visitors through the different areas for contemplation, education, engagement and discussion.

The design connects the museum, library, school and institute at various levels, allowing different users to interact and collaborate, enhancing their understanding and experience. Yet each of the institute’s functions is also able to operate independently when required.

Constructed from sustainably-sourced timber, the primary structure, exterior shading and interior partitions give natural scale, warmth and materiality. The more complex forms have been designed and engineered to be assembled from economical straight and single-curved timber sections with established technologies.

The site is located in the grounds of the Boeung Trabek High School in Phnom Penh, south

of the city centre. The existing school buildings (now abandoned when the high school moved to its new premises) were used as a re-education camp during the Khmer Rouge regime – as were many schools in Cambodia - making this a fitting location for the Institute: building on the past to educate the future.

To accommodate Cambodia's tropical climate, the narrower lower levels of the institute are shaded by the building's form, while louvers on the upper levels keep out strong sunshine. Located at the confluence of the Mekong and Tonlé Sap Rivers, the institute's buildings will be built on raised terraces, to protect from Phnom Penh's seasonal flooding.

Visitors approach the building on causeways above reflecting catchment pools that mirror the building's form and bring light deep into the internal spaces. As with the catchment pools of Cambodia's ancient temple sites including Sras Srang and Angkor Wat, these pools and those on the upper level courtyard and terraces – will be fed by harvested rainwater and are integral to the institute's water management processes that minimize the impact on the local environment and drainage systems.

Entering through the atrium at the centre of the building, visitors are welcomed by exhibits from the Institute's collection. From here visitors are directed to the museum where exhibitions continue or to the school and auditorium. The auditorium is on ground level while classrooms and professors' offices are organized around the outdoor courtyard above and continue on upper floors.

Above the entry atrium, the Institute houses the Documentation Center archive, with offices for researchers and Institute administration on the top levels. A bridge is suspended above the atrium to connect the school and library.

The building's passive design - including

measures to reduce energy and water consumption while increasing system efficiencies, and the installation of renewable energy sources - will increase its ecological performance.

The institute's form minimizes solar gain, and the external shading system will be varied on each elevation to reduce solar gain whilst maintaining sufficient daylight levels where required. Thermal buffer zones protect the archive and exhibition spaces and further reduce energy consumption.

Water condensation from the air handling will be recovered for reuse and foul water will be treated on-site via bio-reactors or a natural plant-based wastewater treatment system that can be incorporated within the park.

The horizontal roof of the building is hidden from view to house renewable energy sources that are extremely effective in Phnom Penh's climate: photovoltaic cells for power and a solar thermal array for hot water generation. Plant and air-system heat exchangers will also be located on the roof, maximizing the area within the building for the institute's commemorative, educational, cultural and community programs.

The institute includes a 68,000 sq.m. memorial park for the entire community with sport fields, urban vegetable garden and fruit orchards, traditional meadows and a forest that will house contemporary Cambodian sculptures, many of these commemorating the women that helped to rebuild the country. The park slopes away from the building to provide further protection against seasonal flooding. The southern end of the park is landscaped to become a large retention pond during heavy monsoon rains, alleviating the city's existing flood drainage. The park's many pedestrian paths link together neighboring streets that had previously been disconnected, inviting the local community into the heart of the institute.

"Our hope is that the Sleuk Rith Institute and its Memorial Park can have a truly transformative

effect, bringing new life and a bright future to a site that holds traces of the great tragedies of the past. An inviting place where reflection, interaction and connectivity are not only its spatial expression, but also embedded within its covenant to the people of Cambodia,” says Hadid.

The Sleuk Rith Institute complex has been granted approval and is scheduled to start construction on site next year.

For further information about the Sleuk Rith Institute please visit [www.cambodiasri.org](http://www.cambodiasri.org)

### EDITOR'S NOTES

Youk Chhang is the Founder of the Sleuk Rith Institute and Executive Director of the Documentation Center of Cambodia, which was established by Yale University. The Institute's name Sleuk Rith means 'the power of the leaves'. Cambodian religious leaders have used dried leaves for centuries and scholars have used them to document history, disseminate knowledge, and preserve culture during periods of harsh rule and grave peril.

This, the first home of the Sleuk Rith Institute, will be built on the site of school buildings which have fallen into disrepair.

The Sleuk Rith Institute has official status as an accredited university – a public higher education institute in Cambodia. The building of the Sleuk Rith Institute is to be funded by donations from nation states that are committed to preventing genocide.

The Sleuk Rith Institute would like to thank the students of archeology and architecture including Prof. Kong Kosal and Prof. Karno Chhay of the Royal University of Fine Arts (RUFA), Cambodia for their support to help realise this project.

The Sleuk Rith Institute website - [www.cambodiasri.org](http://www.cambodiasri.org) has been designed by Beaconfire, a Washington DC based company that helps mission-driven organisations and enterprises craft engaging websites and digital campaigns. This website is supported by the German Federal Ministry for Economic Cooperation and Development (BMZ) by way of the Civil Peace Service of Deutsche Gesellschaft für Internationale



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**Documentation Center of Cambodia**











# FOR THE LONDON UNVEILING OF THE SLEUK RITH INSTITUTE DESIGN

TUESDAY, 7TH OCTOBER THE ZAHA HADID GALLERY, LONDON

*Youk Chhang*

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Good evening friends, honored guests, ladies and gentlemen. On behalf of the Sleuk Rith Institute, and as its founder, I want to express our appreciation for your attendance at this important event to unveil the inspiring design for the new Institute by Iraqi Dame Zaha Hadid and her architects. The name of our Institute reflects our core objectives as well as our Cambodian heritage. Sleuk rith are dried leaves that Cambodian religious leaders and scholars have used for centuries to document history, disseminate knowledge, and preserve culture during periods of harsh rule and grave peril. The term “sleuk rith” literally means “the

power of the leaves,” capturing their beauty as vehicles of knowledge and their strength in advancing social memory and human dignity.

The Sleuk Rith Institute (SRI), which encompasses a museum, a research center, and a school, will embody the past, present, and future. Continuing the work of the Documentation Center of Cambodia, the Institute will look to our time-tested initiatives and programs to improve our understanding of Khmer Rouge history and Cambodian society. In addition, with an eye to the future, we will also champion new ideas and approaches that challenge our understanding of





justice and advance our efforts in the global struggle against genocide and mass atrocity. One approach that is particularly relevant this evening relates to the field of memorial architecture. Memorial architecture is by no means a new field. One can find memorials throughout the world, both modern and ancient, which give society an opportunity to remember, reflect, and learn about history. In the context of genocide and mass atrocity, memorial architecture has tended to reflect the evil and misfortune of the historical period it represents. In this sense, the architecture's legacy is dark, somber, and oriented to the past.

Visitors often leave such memorials with a deeper understanding of the unspeakable depths of human suffering and evil, as well as a heightened recognition for the need to do more. Without a doubt, these feelings and attitudes are critical to our struggle against genocide and mass atrocity. Mankind can never expect to reach the higher order of righteousness unless individual human beings

are aware of mankind's propensity for the lower order of true evil.

However our intellectual endeavor is not confined to the past, and our struggle, for all practical purposes in Cambodia and the world, is waged in the present and future. Memorial architecture gives us the power to not only interact with time and space but also our imagination. With an eye to the past, memorial architecture can educate and memorialize, but with an eye to the present and future, memorial architecture can also inspire and innovate. Partnered with the world-renowned Zaha Hadid Architects, the Sleuk Rith Institute is proud to champion both fields of vision in its own institute design.

Words and ideas form and reform states, and subtle nuances in language and art make all the difference in the grand scheme of reconstructing a post-conflict nation. Cambodia, since 1979 (the year in which the genocidal Khmer Rouge regime fell), has come to be defined as the 'killing fields',



and the land of genocide, war, and the Khmer Rouge. Cambodia will never escape its history, but it does not need to be enslaved by it either. Post-conflict societies have to move on. Through art, music, and the vast spectrum of cultural expression, post-conflict societies must shift their definition of individual self, community, and national identity from the dominant paradigm of victims and perpetrators, to human beings that dream and work for a better tomorrow.

Our world is not a static reality, but a reality in the process of continual transformation. Post-conflict societies must not bury their past, but, in the opposite extreme, they also must not continue

on all sides by mankind's potential extremes, it is easy for post-conflict societies to oscillate like a pendulum between punishment and forgiveness, beauty and horror, and the higher and lower forms of human existence. Breaking the historic cycle of violence requires not only love, hope, and forgiveness, but also a balanced account of the past. Likewise while our past becomes our guide we must be diligent in preventing her from becoming our master.

Memorial architecture gives us a medium by which we can contemplate our condition and potential. In this sense, art can give us the common high ground by which we can connect our past with



to relive it over and over. While horror, atrocity, oppression, and evil must be interred so future generations of the 21st century know and understand the depths of human depravity, kindness, hope, forgiveness, and courage must also define our worldview. Indeed, a post-conflict society must find a common high ground between extremes if it is to ever forge a way forward. Beset

our present and future, and our dreams with reality.

The Sleuk Rith Institute sees this common ground to be an indispensable objective of a post-conflict society's transformation, and it welcomes your support in this grand endeavour.

Thank you.

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**Youk Chhang**



# THE IMPACT OF ECCC

*Youk Chhang*

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We have come a long way in forging a number of valuable instruments and policies to meet the challenge of responding to and punishing violence and mass atrocity. Recognizing that the root causes of mass atrocities often stem from the inequalities between identity groups, we have put emphasis on the legal and governmental aspects of violence prevention. In terms of punishment as well, a variety of courts have been created to shed light on the atrocious acts of criminal regimes, and punish leaders who were most responsible.

The proceedings now under way at the Extraordinary Chambers in the Courts of Cambodia (ECCC), known as the Khmer Rouge tribunal, represent one example of how Cambodia has sought to address the horrible crimes perpetrated from 1975-79. The court's work can be broken down into four cases. Case 001, which was completed in 2012, centered upon the prosecution of the notorious chief of a prison/security centre (S-21), who was sentenced to life imprisonment.

The trial court also recently issued its judgment for the accused senior leaders in the first set of charges in Case 002. Case 002, which has been broken up into separate trials reflecting different charges against the accused, holds importance in Cambodia's struggle to understand what happened and why during the horrific Democratic Kampuchea (DK) period. Finally, cases 003 and 004 continue to be investigated.

While the court still has much work to be done, we can see a number of tangible impacts on Cambodian society. One of the most significant effects has been in the form of generating discussion and raising awareness. Over 35 years after the fall of the DK, Cambodia is still suffering

from the trauma of that time period. It is difficult for the young today to relate to the crimes that were perpetrated so many years ago. Likewise, it is also difficult for victims to open up about what they experienced. While the court has been criticized for its many imperfections, no one can deny the fact that it has opened up new dialogue on the past.

But while courts hold immense importance for the overall struggle for justice, we need to be realistic in what the courts can deliver. When we scan the field of potential options for helping post-conflict societies recover, we are often drawn toward the instruments that focus directly on punishing the crimes of the past. There is a common deference to such instruments because they promise measurable results in the forms of judgments and sentences, and they also give us some understanding of what happened and why. But while courts provide enormous value by way of isolating facts from fiction and determining an individual's culpability for a specific criminal act, we would be wise to recognize that courts are limited in their jurisdiction to investigate the history and culture that precipitated the descent into violence and mass atrocity.

Discrimination, racism, bullying and the entire spectrum of inhumanity that leads up to the legitimization of violence on fellow human beings must be examined. But how do we do this? Can we put an entire society on trial? If we frame this investigation in terms of punitive or formal legal procedures, we expose ourselves to the same limitations. Rather than demand solely justice, we should also demand education.

Genocide education is the missing piece in our campaign to institutionalise a culture that



values human rights. Genocide education can be a medium for justice, reconciliation, memory and, most importantly, empathy for the individual. While genocide education is not a panacea, it is certainly a medium that deserves greater attention.

It is easy for us to pay lip service to education and dialogue, but when applied to an individual country, it is much harder to transform our commitment into results. Armenia, for example, is often, even to this day, a difficult subject to raise in certain circles, and I ask why? If we are truly committed to our crusade against genocide and mass atrocity, then how can we make exception for certain countries or topics? Political and cultural sensitivities may always be a consideration in our investigation, discussion, and education of human affairs, but they must never cloud our commitment to the truth.

Indeed, how can a country profess to have the courage to take on the problems of the present and future, if it does not even have the courage to face its past?

**Education is the one and only medium for overcoming this fear.**

Of course, there have always been a variety of different peace curricula that have floated through post-conflict countries, and the study of the Holocaust has always been a critical piece in our struggle to build an appreciation of human rights. But to be truly effective, genocide education must be localized. A localized curriculum is a curriculum that works with local culture, teaching styles and, most importantly, local history. Genocide education that is imported from abroad, with foreign history, culture and pedagogy, can conjure up the same oppressive context that precedes mass atrocities.

Human rights, empathy and an appreciation for diversity are values that can only be internalised when individuals are trusted with the freedom and responsibility to learn them on their own.

Localisation is not easy. The Documentation

Center of Cambodia has struggled with implementing its own education program in Cambodia since 2004. The history of the Khmer Rouge regime has been taught off and on over the years in Cambodia.

In 2007, however, DC-Cam published a textbook on the history of the Democratic Kampuchea regime and later, in 2009, it began training teachers across the country on this history.

Since 2007, over 500,000 copies of the textbook have been distributed to all secondary schools throughout the country and over 3,000 teachers have been trained in the curriculum. It is now a required subject in all secondary education schools, undergraduate universities and the police and army academies.

The challenge of making genocide prevention a local endeavour, through genocide education, has not been easy and we still have a great deal of work to do. However, the value of genocide education, in terms of promoting justice, reconciliation and

## SIGNIFICANCE OF GENOCIDE EDUCATION

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

memory, cannot be overstated, which is why DC-Cam has begun its transition to the Sleuk Rith Institute, a permanent center for documentation, education and research.

Situated in Phnom Penh, the institute will become the permanent home of the largest collection of genocide-related material in Southeast Asia, up to a million documents archived by the Documentation Center of Cambodia. The institute's name, "Sleuk Rith", means "the power of leaves", referring to the dried leaves that Cambodian intellectuals used to discreetly document and disseminate knowledge and culture during periods

of oppression.

Human rights and history are interconnected, because to have a conversation about one inevitably requires an interpretation of the other. For genocide prevention to be truly sustainable, it must not only be universally acknowledged at the international level but also cultivated at the grassroots. Education must be the next step forward in our collective work to realise a world without genocide and violence.

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**Youk Chhang**

## CAMBODIA TRIBUNAL MONITOR

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

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

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



# A HISTORY OF THE ANGLONG VENG COMMUNITY: THE FINAL STRONGHOLD OF THE KHMER ROUGE MOVEMENT AND THE BIRTH OF PEACE IN CAMBODIA

RESEARCHED AND PUBLISHED BY THE DOCUMENTATION CENTER OF CAMBODIA AND THE MINISTRY OF TOURISM

*Youk Chhang*

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This book is a guide for all Cambodian and universal visitors to not only understand about Angkor Wat Temple, but also about what Cambodians have been through for the last 35 years and what we have been developing and reconciling.

Reconciliation is as much an individual journey as it is a collective phenomenon. In fact, if we acknowledge that reconciliation can only become tangible in the hearts and minds of individuals, we realise that it is the individual spirit, not the collective will, which holds the key to a post-conflict society's ability to overcome its past.

When I think of this, I am reminded by the relationship between the Tonle Sap and Mekong rivers. The two rivers are distinct for most of their journey; however, they converge around the Royal Palace in Phnom Penh. When the rivers merge, the

Tonle Sap does not lose its distinction.

Swollen by the rapid flood of rainwater from the Mekong, the Tonle Sap becomes a hydrological wonder—defying gravity and reversing its course to flow upland and into the Tonle Sap lake, one of the richest freshwater fisheries in the world.

Reconciliation, like the merging of two rivers, does not destroy individuality; rather, like the Tonle Sap, the convergence becomes a factor that empowers individuals in unforeseeable ways.

Whether we view our situation as individuals or as a collective body, reconciliation is essential to living a full, quality life. We can't escape our history; however, we don't have to be enslaved by it either.

History overlaps. We often forget that we are no more removed from the history of the Khmer Rouge as the generation before was removed from colonialism, war, and social upheaval that preceded them. Yet reconciliation offers us a way out. Reconciliation offers a way by which we can contribute to the collective success of our nation without sacrificing our individual endeavours. Like the Tonle Sap and Mekong rivers, we do not lose our individuality when we merge; rather, as we accept each other, we empower each other's personal way of life and contribution to Cambodia as a whole.

I hope that this Anlong Veng History book will be a special guide for the world.

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**Youk Chhang**



A family of former Khmer Rouge cadres who struggled at Anlong Veng under the administration of Ta Mok in 1994

# WORK MORE, GAIN MORE BUT SPEND LESS

EXCERPTED FROM THE REVOLUTIONARY FLAG D21388

*Sarakmonin Teav*

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This is a new slogan that our male and female revolutionary youth in the army, offices, ministries, unions, and cooperatives must strive to practically implement at work as well as on a regular daily basis in order to defend and build up our country in great leaps.

Remarkably, April 17, 1975 is the date that our Revolutionary Army and the Kampuchean people under the correct and clear-sighted leadership of the Communist Party completely and entirely liberated our home country. Likewise, we have successfully made a national-democratic revolution and built socialism in a great leap. For instance, the state took control over the economic, finance and commerce sectors in the liberated zones, assigned the low and high level of production for the cooperatives in order to destroy private ownership throughout the liberated area, number "1", and huge zone in the liberated area, number "2". We, at present, continuously make socialist revolution and construct socialism in Kampuchea. This is the precious honor that our male and female youth of this generation have liberated their nation and people. Moreover, they used their own effort to build socialism. We also have to notice that this is a heavy duty for our male and female revolutionary youth as we have strived to destroy the old regime of imperialism, feudalism, and capitalism which have been deeply entrenched in Kampuchea society for more than 2000 years.

We have to destroy those blood-suckers, their classes, political regimes, economic bases, ideologies, worldviews, personal views, and mindsets and wipe them out of our society, our revolutionary line, our people, our army, and our

male and female youth as well as from each of us as individuals. At the same time, we must build socialism, a new regime, which has never been practiced in Cambodia. Carrying this great but heavy responsibility, male and female revolutionary youth must continue to strive, tolerate all the hard work, sacrifice, and fight unconditionally. Hence, we can successfully make socialist revolution and construct socialism in Kampuchea.

We want to successfully construct socialism in Cambodia with great leaps by depending on the stance of independence/mastery/self-reliance. To achieve our goal and to strengthen our revolutionary stance as described above, our male and female revolutionary youth must focus on promoting the revolutionary saving throughout all the offices, ministries, work sites, unions, cooperatives, and army as many times as possible because saving is a significant factor in building our nation and constructing socialism in Kampuchea. We have to acknowledge that Kampuchea is a small, poor and least-populated country. To build our nation and to construct socialism, we cannot depend on our peoples' labor and national resources alone, but we also need to work hard. It is impossible to make the progress of our work at a normal speed. Aside from depending on our peoples' labor and our resources, we must work tirelessly in order to build our nation, and construct socialism at a great leap forward. It is impossible to work at a normal speed. We must rush to build our nation and to work on all the tasks. Additionally, we must focus on high revolutionary saving. Even if we strive to build and work all day and night, we could not construct socialism and build our nation



perfectly or speedily when we have wasted, misplaced, lost or used what we have gained ineffectively. Thus, saving is a factor for building socialism in Kampuchea as well.

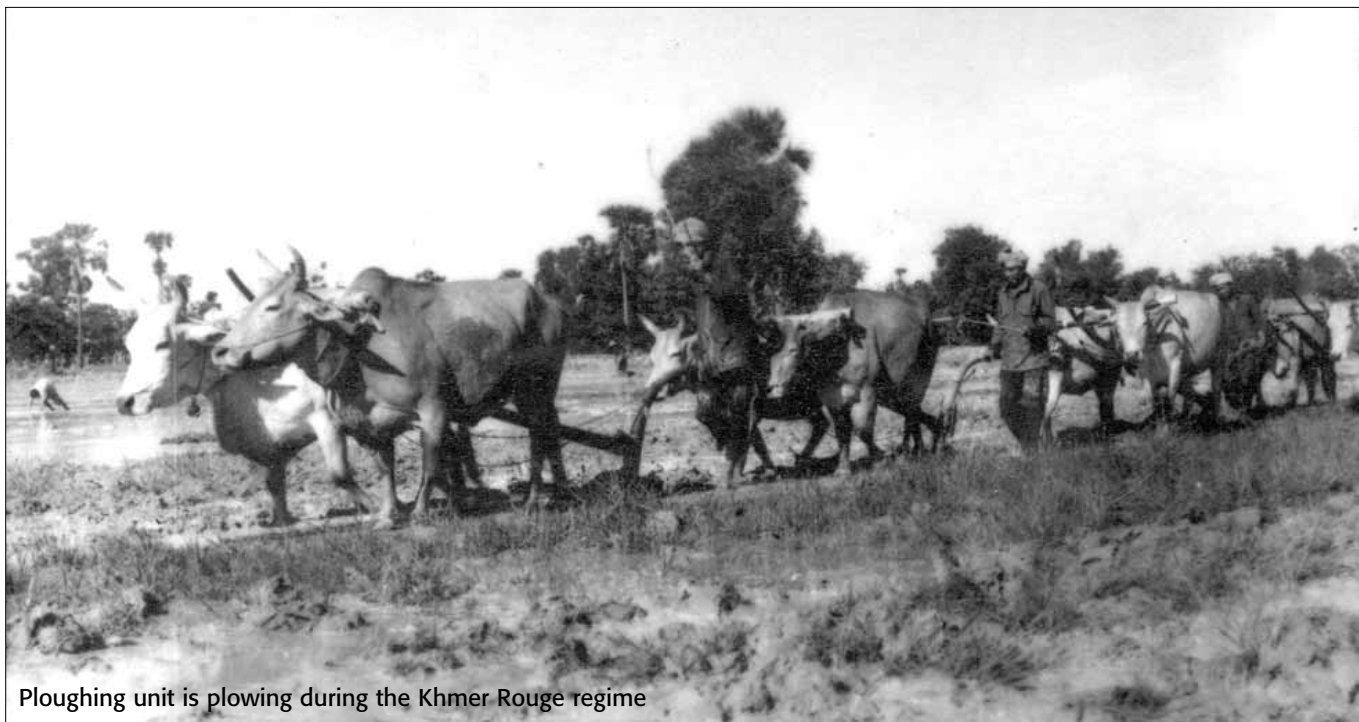
### **What should we save?**

In short, we must save everything including rice, salt, fermented fish, fresh fish, meat, vegetable, other useful materials including water, fuel, and even a single piece of thread, nail and wood. At the same time, we must strictly save time and labor by knowing how to use time efficiently to serve in the interests in building and defending our nation. We should not waste a day, an hour, a minute, or a second to think about anything that is not important or is not a duty of the revolution to defend and build our nation. We should save our labor force by assigning the scale of the tasks effectively to gain more outcomes by using sufficient labor, methods and instruments.

All in all, while carrying out small or big revolutionary duty as well as the way of eating, living, or dressing, our male and female comrades must remember the slogan raised by the Angkar which is “work more, gain more, but spend less”

everywhere and all of the time. We should use the above mentioned slogan to propagandize our revolutionary saving everywhere. We, therefore, can successfully build our nation and construct socialism in Kampuchea in great leaps. Compared to the imperialist superpowers, we are a small and poor country but we have a good base of resource. For instance, we have revolution as our resource, which is a factor in determining the leading forces of materials, technology and other fields.

If we take a look at our revolutionary movement after the countrywide liberation on April 17, 1975, we can see so many benefits. Our peasants, laborers, male and female combatants, and cadres have continued to wave the revolutionary flag, to defend, to build our nation, to sacrifice unconditionally, and to bear all the hard work in order to accomplish revolutionary duties and gain victory. Along with these major benefits, we have noticed that there are so many shortages in regard to saving. After the liberation, we have seized the spoils of war both in Phnom Penh and other provinces that were the enemies’ permanent possessions before April the 17th. We have



Ploughing unit is plowing during the Khmer Rouge regime

possessed factories, machines, fabric, automobile vehicles such as cars, motorbikes, bicycles, medicine and other materials. For military equipment, we have aircrafts, tanks, ships, boats, machine guns, hand guns, and other ammunitions. These are the revolutionary spoils of war which could be carefully maintained and be used effectively to defend and build our nation for at least 10 years. However, right after the liberation until now, people have been wasting everywhere and in general. We did not consider the weight of duties in defending and building our country as a long-term strategy. Besides wasting food consumption, we did not focus on collecting and organizing what we have for the long-term use in a collective framework. Half of those materials, consequently, were lost or broken everywhere. We are deeply regretful.

Another shortage is that our comrades in general do not take care of or value collective property. Now, the good point that we have is that in our revolutionary line, military line, our people live and work collectively. Ownership of all property and means of production is the collective possession, the state's possession, or the cooperatives' possession. Therefore, there is no private ownership. But at this point, the property and means of production have been accumulated. Thus, they are great in sum. People both in their work and daily lives do not have to worry about borrowing or lending money like when living in the regime of privatization.

Hence, we must value, and take care of and save our collective property. Since the property can be granted easily from the warehouse, people do not feel sorry when the given materials are lost or broken. As our comrades do not spend time and earn those materials by themselves, they do not value, and take care of the collective property like their private belongings. As a result, our comrades carelessly consume food, use, waste, or lose the

collective property everywhere.

Another main problem that we face is the arrangement of time, labor, methods, or other materials. Our comrades do not know how to share the tasks effectively. In some areas, our comrades still follow the practice of the capitalists. They only work during their working hours as they do not want to overwork, get exhausted and so on.

In some other areas, our comrades still use the means and methods excessively like the capitalists. Therefore, our comrades gain less but spend more. Compared to other places, people know how to share the tasks by saving and using only necessary means and methods.

In other areas, there are so many workers but they gain less outcome because the cadres do not know how to divide the tasks for the actual work force.

In some areas, our comrades strive to work all day and night but they do not know how to make work plans thoroughly.

In brief, in almost all places, we have been wasting materials, labor force, and time both in our work and daily lives. Therefore, we work less, gain less but spend more. If we continue to carry out what we have been doing, we cannot quickly achieve and build socialism in our nation. Hence, our males and females must eliminate those bad habits, promote and implement our revolutionary saving youth at all offices, ministries, unions, worksites and cooperatives. We must remember and implement the slogan "work more, gain more, but spend less". Our male and female youth must learn, propagandize our slogan everywhere and use it as a force to defend and to build up our nation in great leaps. If our male and female youth can follow this, we can achieve and build socialism in Kampuchea firmly with a great leap forward speedily.

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**Sarakmonin Teav**

# KEB SHIYET, ALIAS VAT, CHIEF OF TECHNICAL TANK OF DIVISION 377

EXTRACTED FROM CONFESSION D69016

*Chheng Veng*

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Keb Shiyet, alias Vat, a chief of technical tank of division 377 of Democratic Kampuchea was assigned by Sim Son to work as a spy and was introduced to many other teachers in spy networking, namely, Chhon Yong, a teacher at Kratie High School (arrested by Angkar); Yi Mon, arrested as a secretary of 505 zone; San, a former teacher at Kompong Cham, currently a secretary of brigade 920; Mik, a teacher; and, Sao and Sok, former teachers at Kratie High School. Then, Sim Son, Chhon Yong, Yi San, Sao, Sok and Mik created a student cooperative community, which aimed to educate and build up more forces as well as infiltrate their forces into the Khmer Rouge. This community was led by Born Nan, leader, San, deputy leader, and many other members such as Siyoy, Kin Sorn and Vat. Vat countered revolutionary activity until Angkar arrested him on 19 June, 1978. The following is a brief confession of Vat:

Vat, 32 years old, was born in Sombo village, Sombo commune, Sombo district, Kratie province. His father was Keb Yun, 65 years old, and his mother Muk Sib, 51 years old, lived in Kang Prasat cooperative. Before joining the revolution in 1964, Vat was a student, taking advance grade 6 entrance exam, at Kratie High School.

In July 1970, Sim Son appointed Vat to stay at Koh Knher with Chhon Yong and nominated him to join the C.I.A. After joining the C.I.A, Vat and his partisans, Chhon Yong, Ray and San tried to stop people from producing rice surplus and forced them to build dam and dig canal in both dry and rainy seasons. Additionally, they stored rice and

medicines provided by Angkar in the warehouse instead of distributing them to the people. They also asked those people to work really hard without caring about their well-being.

From 1970 to 1975, Vat built 23 more C.I.A forces. At that time, Chhon Yong nominated Vat to center Ng-60 with Sim Son; there, he got to know other C.I.A networks, namely, Ty, San, Pheap, Leak, La, Kay and Mon. Sim Son also asked Vat to go to the battlefield in regiment 2, battalion 248, where Pheap was a secretary and Chen was an undersecretary. In the battlefield, Vat led other military youth to walk on land mines which exploded, causing 15 deaths; to put salt into fuel tanks and to pump water into tank's machine, which destroyed 6 tanks.

In November, 1975, San arranged a small meeting with Vat, Chen, Ki, Sol, Pos and Kay. San instructed them to contact Teanh, who was in the Logistics Department and continued their activities of destroying tanks, removing magazine release catches from the guns as well as hiding some bullets for revolting against the revolution in the future.

In February, 1976, Vat led his forces, Mon, Horn, Sha and Soy to continue their activities of putting salt in fuel tanks causing 3 more tanks to be broken. In April, Vat was appointed by Chen to shoot Angkar in an event of 17 April', 1976 at the stadium by giving him an AK gun. Vat hid this gun in a safe room at the stadium which no one entered and waited for instructions. However, this plan was not successful because the room was locked and

guarded by 2 of Angkar forces which prevented Vat from taking the gun.

In May, 1976, after this plan failed, Teanh produced another plan and appointed Chen to do it, but Chen nominated Vat to do it. The plan was to put salt in tanks' fuel, which destroyed around 20 more tanks, counting from January to July, 1976. In the meantime, Vat also built up 10 more C.I.A forces, Kon, military youth, Soy, military youth, Pav, team chief, Man, team chief, Ni, chief of division, Ki, military youth and Reth, military youth.

In August, 1976, Vat got instructions from Chen in division 377 to prepare 10 tanks equipped with DK 106 and 12.7 for revolting against the revolution in September 1976. Besides this, there was also other forces from brigade 31, Roeun, a secretary of brigade 450, Soung, a secretary of brigade 920; Chen and Soy, secretary and undersecretary of division 152, respectively; Sim, a secretary of Kompong Som's brigade 164; Dim, a member of brigade 170; Chkrey, a secretary of brigade 290; Tal, a secretary; and, Koun's force from



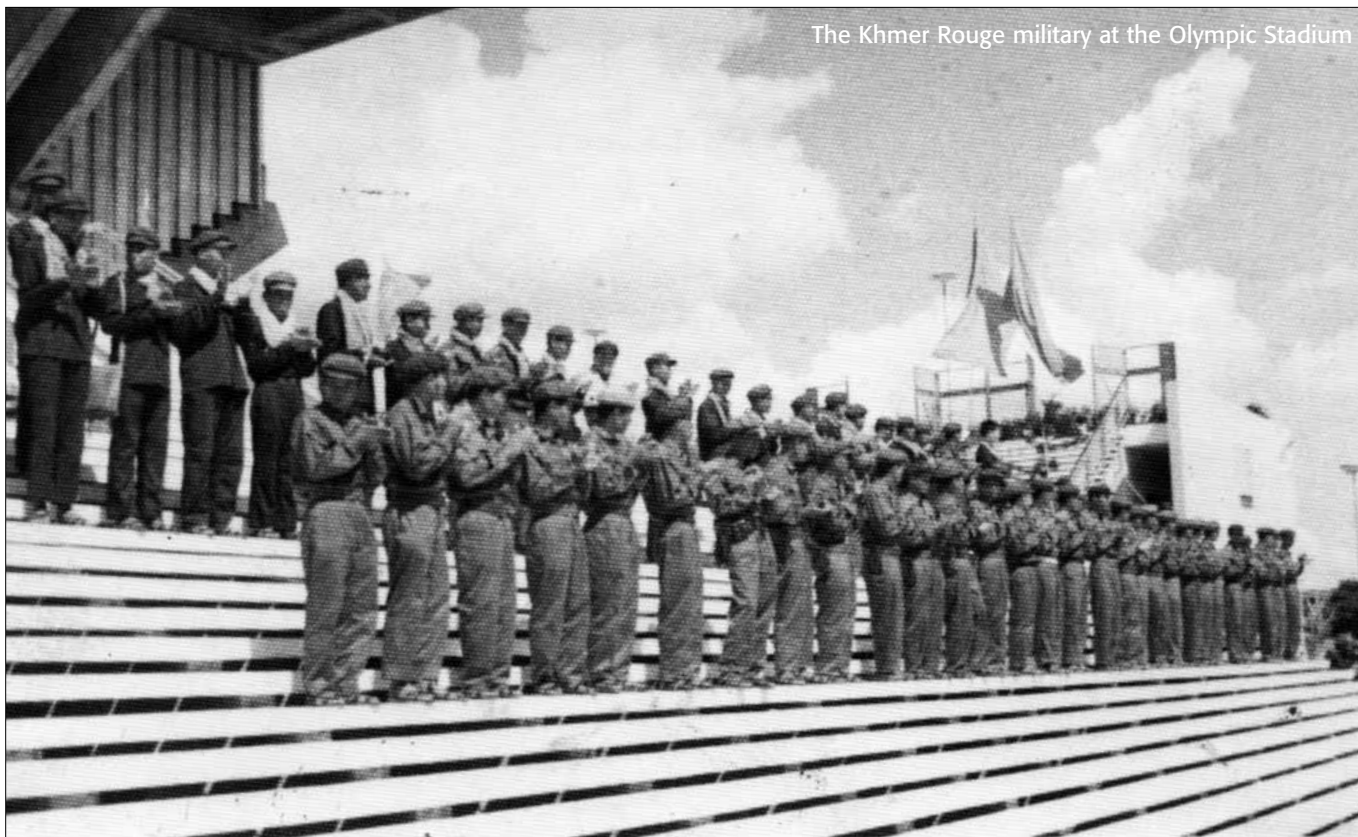
The Khmer Rouge military

the North zone, Sok's forces at Siem Reap-Oudor Meanchay, Lean's and Chekrey's forces in the East zone. In September, 1976, Vat and his partisans prepared their forces and waited to implement the plan. Nevertheless the situation had changed because Chen ordered them to stop their activities as some of their forces, Koun, Yat and Chekrey, were arrested. Chen ordered them to prepare the gun, remove bullet from the tanks and put them in the original place. After preparing all the weapons, Vat and his partisans returned back to their places.

In February, 1977, San met Chen and his partisans namely, Vat, Ty, Pos, Korn, Sol and Kay at Division 377. San told them, "In 1977, Angkar would arrange family for youth so our commands needed to have families. And in this occasion, we had a plan to poison Angkar as Angkar would join the event. We couldn't accomplish the big plan, so let us do it step by step until the revolution collapses."

In March, 1977, Vat, Chen, Sol, Chet and Sout

were assigned to examine biographies at Kratie region. When Vat's group arrived at Kratie, they met San who had arrived there 1 month before to help the Chinese specialist prepare the airport. San invited Chen and Koun to join the party that evening at his place. At 10 o'clock, Chen and Koun met San. San reported to them about his forces' activities. "My forces weren't active these days because some of them were arrested by Angkar and the rest were afraid of being mentioned, says San. On the other hand, Koun told the group that his force was very strong and he could order them to do everything. Three armed forces at Snuol contacted with the Vietnamese relentlessly and now Vietnam camped near our territory and the armed forces at Snuol were moving to Mondolkiri. Moreover, the Vietnamese were adding their forces along our border from Kompot to Rotanakiri and waiting until the rain stopped; they might invade our country in November. After Koun finished his speech, they returned back to their place.



The Khmer Rouge military at the Olympic Stadium



10th of April, 1977, when Vat returned to his unit, Chen called Vat, Sol, Post, Kay, Den and Peng for a meeting at division 377. In the meeting, Chen told everyone that secretaries at bridge 310, Nai and Reoun, and secretary 450, Soung, were arrested. We received a plan from Nat to prepare for shooting Angkar on the 12th of April, 1977, as Angkar would participate in the event at the stadium; therefore, we needed to prepare the forces once again. To achieve this plan, we needed to hide the gun in the room where we had hidden it in the last time, and Chen needed to stay with the gun until 9 o'clock. Once Angkar arrived, we would kill them. However, this plan couldn't be accomplished successfully because Angkar changed the place to Borey Kei La.

In July, 1977, Teanh, Nat, and San went to meet Chen at division 377, and Chen called Vat, Ty, Sol, Pos, Kay, Korn and Den to join them. At that time, Nat told them that in this July, there would be a family arrangement event so we needed to prepare a plan for poisoning Angkar by putting poison in hot water or coconut. The first poisoning plan was not successful because Angkar didn't eat anything, and the second plan also failed as Angkar was too busy to join the event.

In November, 1977, Angkar ordered 6 Chinese tanks and 10 M113 guns to Svay Reang and Kompong Cham with the intention of resisting Vietnamese' incursion into Cambodia. One month later, some tanks were broken and needed to be transferred back to the reserve line. Two tanks at Kompong Cham, on the other hand, were broken due to a mine explosion. At that time, Vat contacted Nat, and Nat said that we were in constant contact with Vietnam. For the city's plan, we needed to find a way to successfully kill Angkar. Therefore, Vat and Kay were responsible for this. Vat and Kay went to meet La at the Messenger Department in order to get information about Angkar, and they went to meet Nin at Kratie Commerce Department to

request a small boat for crossing to Chroy Chong Va in order to track Angkar and kill them. From the 3rd to 20th of December, 1977, Vat tracked Angkar day and night but he didn't see Angkar's boat return.

In January, 1978, Vat rode a Honda motorbike with Kay to meet Teanh at Logistic department to report about his activities. Teanh told them that if they couldn't meet Angkar at that time, they needed to wait for the plan in the city. They could only track and shoot Angkar until they had new plan of destroying the arsenal this March. Vat returned to the other side of Chroy Congva to track Angkar everyday but he didn't see Angkar's boat return from Kompong Cham.

In June, 1978, Vat went to meet Teanh at the Logistic department. When Vat arrived, Teanh said that he was at a meeting at Svay Reang on the 5th of May, 1978 in order to contact Vietnam to invade our country through Chantrea district. This aim was to make Angkar concerned about Vietnam's incursion and not have time to focus on developing the nation. Moreover, they could also arrange a plan to poison Omti1.

On 16 June, 1978, Vat rode the motorbike to meet Art at a hospital of division 377 in order to request some poison for poisoning Omti1. Then, Vat went to monitor soldiers who were undergoing tank technical training at Trapang Kroleng. At that time, a messenger of division 377 called Vat to return to his unit. When he arrived, Vat met and discussed with Kay about sending durian to Teanh for poisoning Omti1. Vat and Kay were arrested by Angkar during their discussion.

Vat was arrested by Angkar on 19 June, 1978 at division 377. His confession was a 45-page handwritten document that included a list of 78 taitors in the network. There were thumbprints of confessor, Keb Shiyat, alias Vat, and interviewer Reoun on 13 July, 1978.

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**Chheng Veng**

# PRESS RELEASE: KHMER ROUGE TRIBUNAL OPEN SOURCE DOCUMENTS

*Peoudara Vanthan*

The Documentation Center of Cambodia (DC-Cam) has the privilege to make this announcement known to the public regarding the public documents of the Extraordinary Chambers in the Courts of Cambodia (ECCC).

Since day one of the ECCC's operations, DC-Cam has acquired open source documents from the ECCC, saving and organizing them for public use. This back-up plan aims to ensure that the public will have access to the ECCC's documents even after the Court concludes its operations. DC-Cam's relevant activities include:

- ◆ Printing out hard copies of the ECCC's public documents (in Khmer, English, and French) from ECCC's website and cataloging them for the public to access.
- ◆ Saving and storing in external hard drives PDF copies of public documents (in Khmer, English, and French) from the ECCC's website and cataloging them for the public to access.
- ◆ Obtaining all pre-trial, trial, and appeal trial footage directly from the ECCC. DC-Cam also encourages the public to access these documents on the ECCC's website.

All of these documents, which include nearly one million pages of Khmer Rouge documents related to the ECCC proceedings, are now available at DC-Cam's PIR at the following times:

- ◆ Monday through Friday (except holidays) from 7:15 a.m. to 5:15 p.m.

DC-Cam is grateful to supporters of its efforts to preserve accessible documents from the ECCC's

open source collection, including the J.B. and M.K. Pritzker Family Foundation, Illinois Holocaust Museum & Education Center, Northwestern University School of Law's Center for International Human Rights, Robert Bosch Stiftung, and the United States Agency for International Development (USAID).

PIR address and contact:

#66, Preah Sihanouk Blvd., Phnom Penh, Cambodia  
P.O. Box 1110, Phnom Penh, Cambodia

Tel: (855) 23 211 875

Fax: (855) 23 210 358

Email: [dccam@online.com.kh](mailto:dccam@online.com.kh)

Website: [www.dccam.org](http://www.dccam.org);

[www.cambodiasri.org](http://www.cambodiasri.org);

[www.cambodiatribunal.org](http://www.cambodiatribunal.org); and

[www.cambodialpj.org](http://www.cambodialpj.org)

**Contact person: Mr. Peoudara Vanthan**  
**Deputy Director/Chief of Staff**  
**Documentation Center of Cambodia/**  
**The SleukRith Institute**

*Please send letters or articles to*

*Documentation Center of Cambodia*

*P.O. Box 1110, Phnom Penh, Cambodia*

*Tel: (855) 23-211-875, (855) 12-996-750*

*Fax: (855) 23-210-358*

*Email: [truthbunthorn.s@dccam.org](mailto:truthbunthorn.s@dccam.org)*

*Homepage: [www.d.dccam.org](http://www.d.dccam.org)*

## A HISTORY CLASSROOM AT FORMER KHMER ROUGE S-21 PRISON

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

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

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

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

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

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

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



# KHMER SURIN (THAI-CAMBODIAN) DURING THE REVOLUTION

*Bunthorn Som*

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Lim Vuthdy, 70 years old, is a Khmer Surin (Thai-Cambodian), born in Tonloap Village, Sangke Commune, Sa Tik District, Borey Ram Province, Thailand. Vuthdy left his house in Borey Ram Province when he was 7 years old, and came to live at Thmar Puok District, Banteay Meanchey Province, Cambodia. This was because his family had encountered drought and flooding, which made them unable to farm. Vuthdy described that there were approximately 80 families of Khmer Surin who left their home village and came to live in Cambodia with their families. They also took around 80 carts and cattle along with them. Vuthdy continued that Khmer Surin's moving was not forced by any Thai authority.

Arriving at Cambodia, Vuthdy lived in Kbal Tonsaong Village, Banteay Chmar Commune, Thmar Puok District, and his parents did farming at that time. Besides this work, his parent also did other additional work. They raised 380 cows and 80 buffaloes. At that time, Vuthdy studied at Banteay Chmar school, located in the pagoda, up to grade 9. Later, he quit studying at this school as the road condition was too harsh, which kept him from travelling to school. Then, he continued his study at Thmar Puok District.

During 1968, Vuthdy joined the Free Khmer movement, with other youths, because of believing in the propaganda, led by Loek Sam-Oeun alias Pkay Prik. This movement intended to favor the Khmer Rouge. Later, Soeng Tau, a colonel, came to propagandize and persuaded Loek Sam-Oeun as well as Vuthdy and another 1,000 Free Khmer movement forces to join with Lon Nol.

After serving as a Lon Nol soldier, Vuthdy was

appointed to be in charge of Aur Smach, Phnom Srok, and many other locations. Later, Vuthdy and one of his friends, Lam Voeung, were arrested by Khmer Rouge militiamen at Kdan Ron (located near Siem Reap City) when both of them were riding on a motorbike, travelling to get their salary at Siem Reap Province. The Khmer Rouge took Vuthdy and Lam Voeung to detain them at their liberated zone for three months, and they asked Vuthdy and his friend to spy on the Lon Nol barracks in Phnom Srok District as they would like to attack that barracks. Vuthdy and his friend agreed to their request. However, after being released, Vuthdy and his friend reported to Soeng Tau, a colonel of the Lon Nol regime. They requested Soeng Tau to take them home as their family members thought that both of them would have been killed by the Khmer Rouge. Since then, Vuthdy came to live at his house in Kbal Tonsaong Village.

Before the Khmer Rouge militiamen liberated his village, Vuthdy secretly took His Majesty Chan Reansey, a commander in chief of Lon Nol Soldiers; Chieng Veng, a colonel; Norng Hean and some other leaders as well as 5 cars into Thailand through Samlor Cha-nganh entrance. As Vuthdy usually went back and forth through this entrance to do his business and could speak Thai fluently, they were allowed to enter Thailand. However, Thai soldiers had confiscated all weapons and cars before letting those people entered their territory. His Majesty Chan Reansey, then, went to be ordained at Phnom Dek Pagoda in Surin Province, Thailand.

After returning to the village for a while, in mid-1975, Vuthdy was recruited to be a commune

spy by the Khmer Rouge. He was also appointed to lead the female and male youths in digging canals, building dikes, and filling in the land on the damaged roads, caused by the war.

At the same time, the Khmer Rouge also assigned the elder in the village to slice bamboo and put the sliced pieces together to form as fences to prevent villagers from fleeing away.

At the end of 1975, Vuthdy led a gang of three members with three guns and a grenade to flee to Thailand, but they met Khmer Rouge at a guard station. Vuthdy shot at the Khmer Rouge and went across. Vuthdy then met with Ta Laut who had fled to Thailand, and created a Paratrooper force, consisting of just 12 members. Vuthdy served the paratrooper force for a while. He then was tasked with spying in Cambodia. He faked his identity by wearing a Khaki uniform, car-tire shoes and cap like

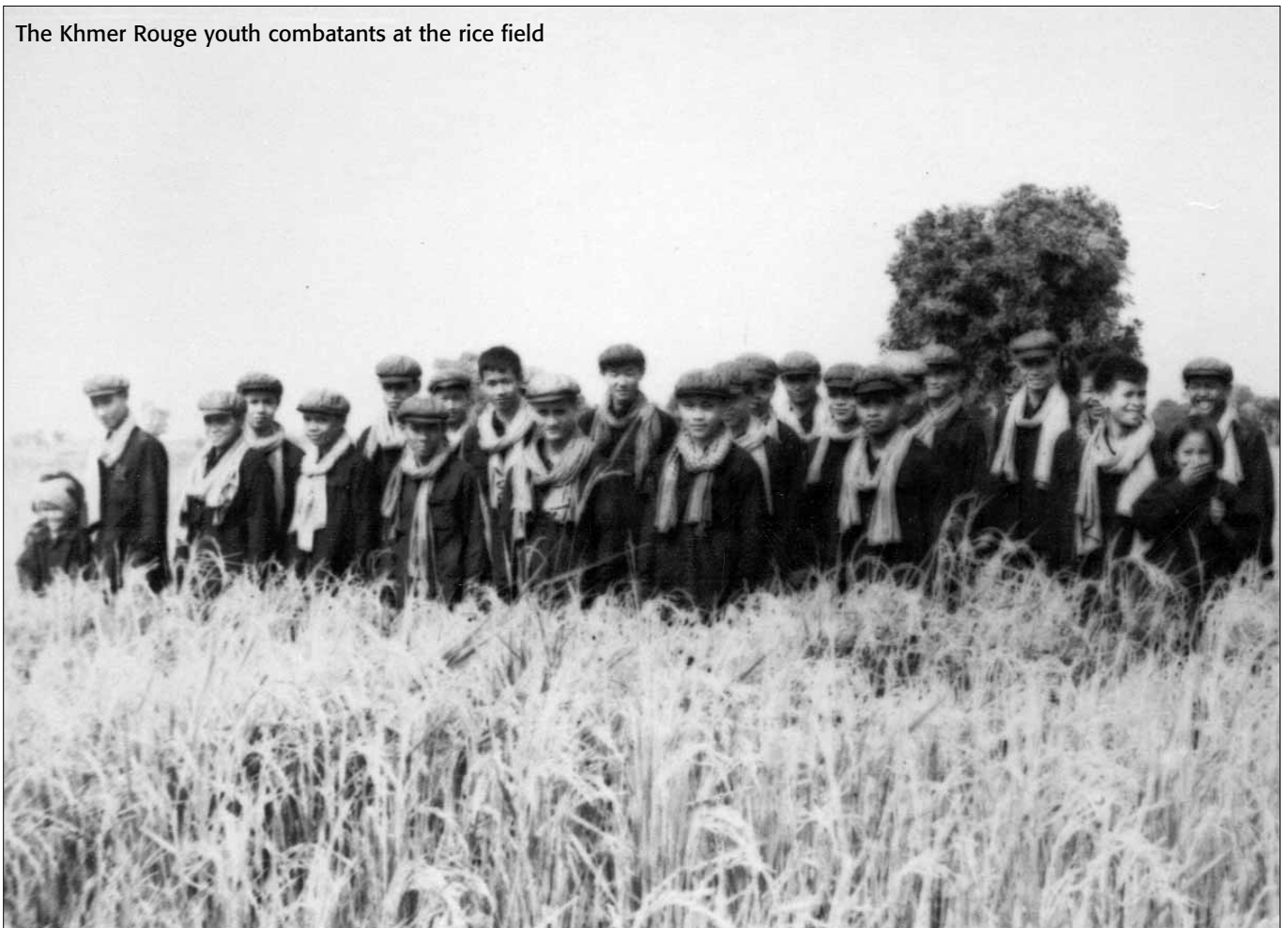
a Khmer Rouge cadre. Vuthdy entered the village and cooperative, as no one at such locations had any idea who he was. He went to those locations to ask for dried fish, rice, and food to eat.

Later, Vuthdy went to live at Site Two Camp in Thailand with Sonn San and continued fighting against the Khmer Rouge militiamen and Vietnamese soldiers. Vuthdy went to fight against Vietnamese soldiers at Banteay Chmar. He also fought at Kampong Thom Province and Kampong Cham Province. Vuthdy served as a paratrooper until 1994. He then resigned, though he was a brigadier general. Later, he returned to raise cattle and did farming with his family at Banteay Chmar Commune until today.

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### Bunthorn Som

The Khmer Rouge youth combatants at the rice field





# UNG REN, FORMER CHIEF OF REGIMENT 82 AT RATTANAKIRI PROVINCE

*Lakana Ry*

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Ung Ren, was born in 8th Village, Tang Por Commune, Tha-porng District, Kampong Speu Province. Ren is the third child among his 5 siblings. His parents were farmers. When Ren was young, he could only learn up to grade 9 “old” at Tang Por School. Having a strong interest in learning, Ren ordained in order to continue his study. He ordained at Tang Por Pagoda for 5 years; and, later, he disrobed and helped his parents with the farm work as his family’s living conditions were too harsh.

In 1968, Ren went into the jungle to join the struggling movement. At that time, the elders invited him to join the struggling movement in the jungle near Oral Mountain. Ren held the position of bullet transporter. The living conditions in the jungle were worse, sometimes they had no food or water. Ren had to bear with such hard conditions and did not return home. Due to the coup d’état to overthrown Samdech Sihanouk on March 18, 1970, as well as the proclamation from his majesty Sihanouk, asking his citizens to go into Makki Jungle to fight against Lon Nol, Ren decided to go into the jungle again. Ren served as a jungle soldier, under the control of Ta Cheng An, until 1974. He then left Ta Cheng An. Ren served as a soldier in division 14, whose members mostly came from Kampong Speu. There was also a regiment that came from the north zone. At that time, division 14 consisted of Ta Saroeun alias 05 and a unit of soldiers, controlled by Ta San alias 06. In division 14, there were 3 regiments, including regiment 81, led by Keo Saroeun; regiment 82, led by Ren; and, regiment 83, led by Dy Thin and Ler. Division 14 was in charge of the area west of the train station.

During the liberation of Phnom Penh, upon his arrival at Taing Krasang, Ren’s shoulder and leg were injured. He got treatment and rested until the victory day, i.e. April 17, 1975.

After the liberation of Phnom Penh, Ren’s regiment guarded from the Olympic Stadium to Preah Kosamak Hospital, while other regiments went to work on rice production at Poun Phnom Pagoda, located around Anlong Ka-Ngan. Later, division 14 was changed to division 801, with the official announcement at Olympic Stadium presided by Pol Pot and Ieng Sary. Division 801 forces guarded the border along Rattanakiri Province.

At Rattanakiri, all three regiments of division 801 guarded at different locations. Regiment 81 guarded at Sala Kraong; regiment 82 guarded at the Lao border, Sala Sesan; and, regiment 83 guarded at Aur Tar Mak.

In 1977, Pol Pot called the division 801, i.e. each regiment’s leader, for training, and also arranged a marriage for Ren. However, as Ren had not found anyone he was satisfied with yet, he stayed at the general office with Son Sen. After his marriage, Ren returned to Ban Lung with his wife and lived there until the Vietnamese soldiers entered. Since then, he was separated from his wife. After Vietnamese’s presence, Ren and some other forces fled to 1001 Mountain and met with Ta 05. Later, Ren was assigned by the leader as a chief of division 607 and had Nhann as his deputy chief. Ren’s division worked at Sala Visay District, Kampong Thom Province. They urged people to join and contribute to the Khmer Rouge in order to fight against the Vietnamese.

For quite a while, after the arrest of Ta Saroeun and Ta San, forces at Anlong Veng and Trapeang Prasat submitted and integrated into the royal government. Ren, then, held the position of deputy chief of Trapeang Prasat District. To date,

Ren and his family live in Trapeang Prasat District, Oddar Meanchey Province.

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**Lakana Ry**

## SEARCHING FOR RELATIVE

My name is Silvie Tanin, male, 29 year-old, born in France. My parents migrated to France in the 1970s. I came across the Documentation Center of Cambodia's website whose purpose is to find every disappeared family member. Therefore, I requested the Documentation Center of Cambodia for help.

My father is Jean Christopher Tanin (name in Khmer Thong Tan) who has been searching for our disappeared family members. However, we could not find them except for my elder brother, Christine, born in 1968.

Among the surviving relatives, I am looking for my elder brother, Tan Chrisolora, alias Pheng. He was born on March 24, 1971. He lived in Pursat Province in Tapual Village near Leach, Pursat Province. He was adopted by a couple named Chey and Peam. In mid-1976, my elder brother's adoptive family moved to another village, located about 2 kilometers to the west of Tapul Village. This information was received from my brother, Christine.

Chrisolora is one among other family members that we are not sure whether he still survives. Maybe he had changed his name, or he had no memory of his family because he was only 4 years old when we saw him the very last time. We wonder whether or not he is still alive?

At the same time, I would like to know the fate of my uncles as following:

uTan Veng was born in January 12, 1946. He held a position of lieutenant in the information office No. 5. He was taken away by Khmer Rouge in July 2, 1975 at 3 p.m. at Phnom Baset.

uTan Peou was born in 1949. He held the position of navy lieutenant. He was taken away on April 17, 1975. He was in his office when Khmer Rouge soldiers entered Phnom Penh.

uTan Kuon was born on January 1, 1959. He was working at Sopara Company in Battambang province.

uTan Chuon was born in 1952. He was a student and he disappeared when he was working in the youth unit in Tapul Village.

uTan Theng Hong was born in 1939. He was a seller.

uSeng Kien Pao was born in March 5th, 1952. He was a student and was sent to one hospital to cure his illness in October, 1975 in Udong Village situated in the north of Phnom Baset Village. We got separated after the forced evacuation.

uNorg Kuon That was born in 1942. He held a position of lieutenant of ship service. He was taken away by Khmer Rouge on August 3, 1978 at 6 p.m in Tapul village.

Please read the attached documents in French that my father has been searching on and some photos of my elder brother. Thanks in advance to the Documentation Center of Cambodia for helping us. I hope the Documentation Center of Cambodia would help or guide us to contact anyone who knows anything related to whom we are searching for.

# FORMER CHILD DAM WORKER CHOOSE EDUCATION AS A HEALING METHOD

*Sovann Mam*

Chum Kiri District is a district among seven districts of Kampot Province. During the Khmer Rouge Regime, Chum Kiri District was categorized into the Southwest zone, which was Ta Mok's Zone. Under the control of Ta Mok, Romlech Dam was expanded and became the widest dam in Chum Kiri District. Thousands of innocent people were forced to raise the dam and lost their lives from



Nget Kimly

exhaustion, starvation, and diseases. Today, Romlech District has become a tourism site and is used as a huge reservoir to store water, flowing down from the mountain. The residents here

are using the water from this Romlech reservoir as the irrigation system, which favors their rice production.

Talking about her experience in building this dam, Nget Kimly, a 49-year-old teacher, wearing long sleeves, a dark blue shirt and dark red skirt, described her unforgettably painful childhood experience as follows:

Before the Khmer Rouge came to power in 1975, she was the youngest child of a poor farmer family in Angkor Chey District, Kampot Province. After the Khmer Rouge's victory over the Lon Nol government, the Khmer Rouge entered her village and called all the villagers for a meeting in order to instruct them about their political leading plan,

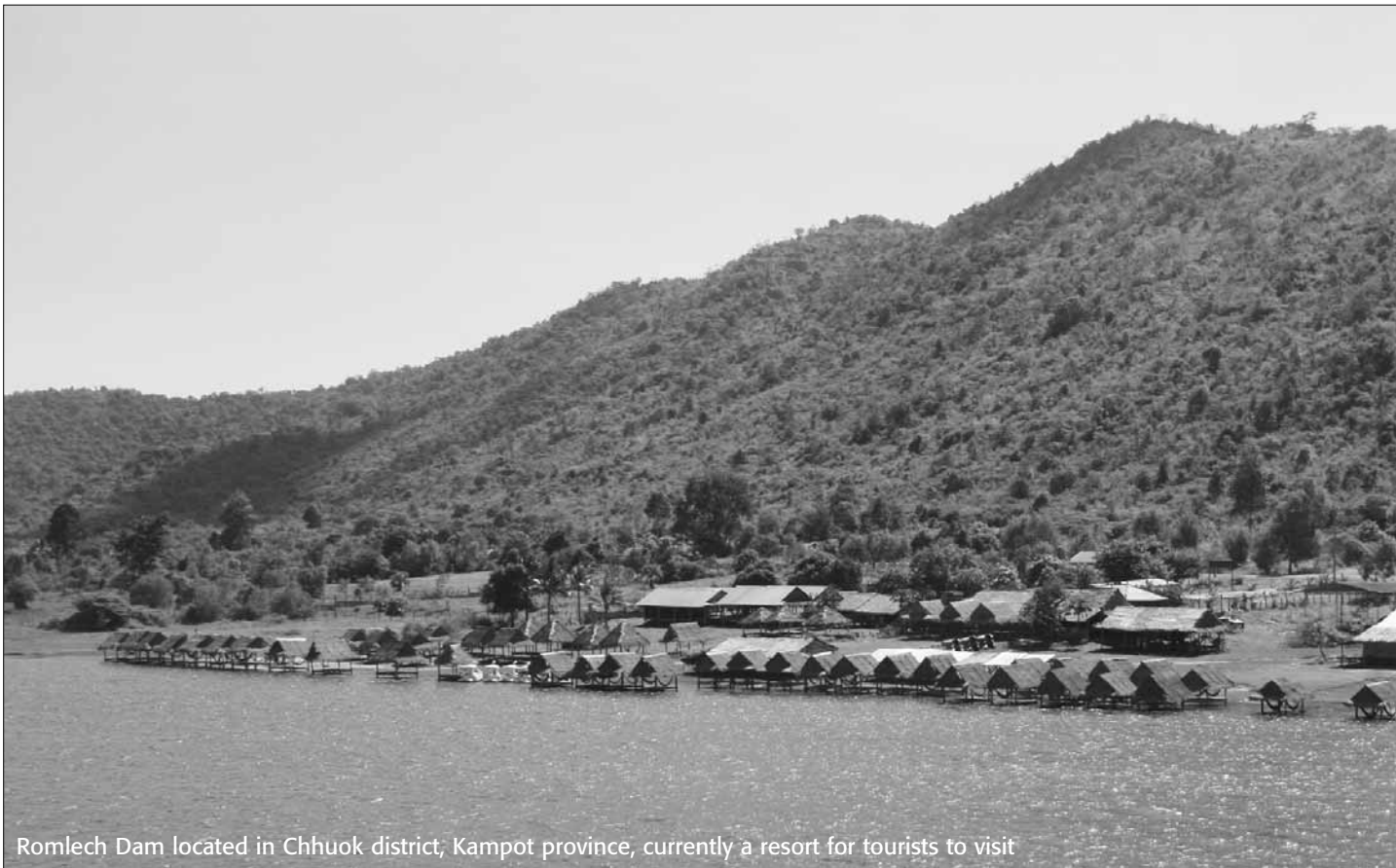
following "The greatest and the most wonderful" leading way. After the meeting, the Khmer Rouge evicted her parents and other villagers to work in a cooperative at Prey Pdao Dam, while she was recruited by Angkar to serve at the childrens unit and worked at Romlech Dam. Children who were recruited to join the children's unit with her were mostly the base people's children who came from every village in Angkor Chey District. There were more or less 50 children in the unit, which was under the control of Pok, an approximately 20-year-old adult. Regarding the living conditions in this childrens unit, children had to work, eat and sleep together. They were not encouraged to think or care about their parents or relatives.

At the age of 11, during the dry season, Kimly, as well as other children of the same age, had to carry earth under the hot sun; it was unbearable. Ten thousands of people were working, which forms an image as if a huge group of ants were working. Individuals were working on his/her own without caring about other people. S/he carried earth and dug up the earth. It was unbelievable that Cambodian's prosperous civilization, customs and traditions, as well as friendliness and helpfulness, were all destroyed by the Khmer Rouge. At the dam constructing worksite, no one dared talk to one another. They did not even dare to greet each other. What is more was that the smile which Cambodians used to welcome one another was replaced by a sad and nervous facial expression toward each other. Instead of having conversations, they had better use hoes to dig the earth. At Romlech Dam worksite, most of the people were April 17th people, whom the Khmer Rouge

evacuated from Phnom Penh. The working conditions here were too harsh for the base people. Because Chum Kiri District was surrounded by mountains, to build Romlech Dam, the Khmer Rouge used the mountain's base as the dam's border and forced people to raise the land up. With emotional pain, Kimly complained about her working conditions at Romlech Dam. "The work was so hard for me as I was just a thin small child. I had to carry earth every day", Kimly said. The everyday assigned task to the children in this unit was to get up at 6 am and prepare the earth basket to carry earth. They carried earth until 11 am; then, they took a rest and had lunch. They started working again from 1 pm to 5 pm. They, then, returned to their unit. Each child was assigned by the controller to raise one meter height of the dam per day. In case they could not succeed in it, they would get no food to eat for that day. If a child was absent, the number of tasks will be multiplied with

the number of days s/he was absent. Kimly continued that at the dam worksite, there was not any doctor. Hence, whenever one was severely ill, the unit chief would ask Kimly's mother to take him/her to her house to cure. This was because her mother was the one who boiled the Khmer medicine for them to drink. After having recovered, children would be taken back to work.

After the lunch break, children were gathered to be taught about revolutionary poems. Four or five Khmer Rouge cadres were the teachers. They educated children to respect, love and work hard for Angkar. Among all the children, Kimly was the smartest one; she could memorize the poems faster than others. Thus, she was usually called to say out loud the poem to children who were homesick or missed their dead parents. They believed that by doing so, children in the unit would be happy and forget about their parents and relatives. Listening and repeating the poem, the



Romlech Dam located in Chhuok district, Kampot province, currently a resort for tourists to visit

children would be able to memorize the poem. Kimly was not so different from her other members, as always, they were not allowed to visit their relatives. Whenever they missed their parents, they had no choice but to cry.

Every day, after work, Kimly and workers were required to join a meeting regarding their daily living. This meeting was a method which the Khmer Rouge employed to effectively sharpen people's mindset. This meeting indirectly changed people's friendship. They lost faith in each other. They kept criticizing one another. The living conditions of the dam workers was pretty awful. They had to live with terror. They also suffered from exhaustion, lacked food and caught incurable diseases. Their lives were so fragile. One would become the target of Angkar if s/he dared complain or go against Angkar. As one event shows, three or four Khmer Rouge took a dam site worker, an April 17th person, to be beaten with a rifle just because s/he had broken a

hoe. Sometimes, people were beaten to death by the Khmer Rouge. Their corpses were then carried away by other Khmer Rouge comrades. Kimly stated that, day to day, especially at night, the Khmer Rouge took away new people, between seven to ten persons, from the village for no exact reason. People who were taken away never came back. The Khmer Rouge used a soft approach to take people to be killed. They said, "Angkar takes you to be re-educated". "Re-educate" means that death is coming, during the Khmer regime.

Though the Khmer Rouge regime ended almost 30 years ago, we observe that most of the survivors from the Khmer Rouge regime have endured mental problems, such as "Bak Sbat" (a term of mental illness, coined by Dr. Chhim Sothea, a psychiatrist at TPO), depression, and other sorts of serious mental difficulties, which cause the serious impact on their current daily living. Some victims intend to not remember their experience by not going to the location where they lived during the regime. They somehow do not want to be reminded of or tell about their painful experiences to others. Fear remains with them. They live with the grief of losing their parents, spouses, children, relatives and other beloved ones. To Kimly, working at Romlech Dam had taken away her childhood which was in need of the parents' love, nutritious food, entertainment and education. Instead, she had to live with the suffering of separation. Every single image and bitter memory of her work at Romlech Dam worksite led Kimly to choose the profession of a teacher at Hun Sen Ang Chak High School to be a way of healing. She believes that education could be an effective method for reconciliation as it enables her to share her painful experience during the Khmer Rouge regime to the next generation. It is also a way to prevent such atrocity from reoccurring again.




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**Sovann Mam**



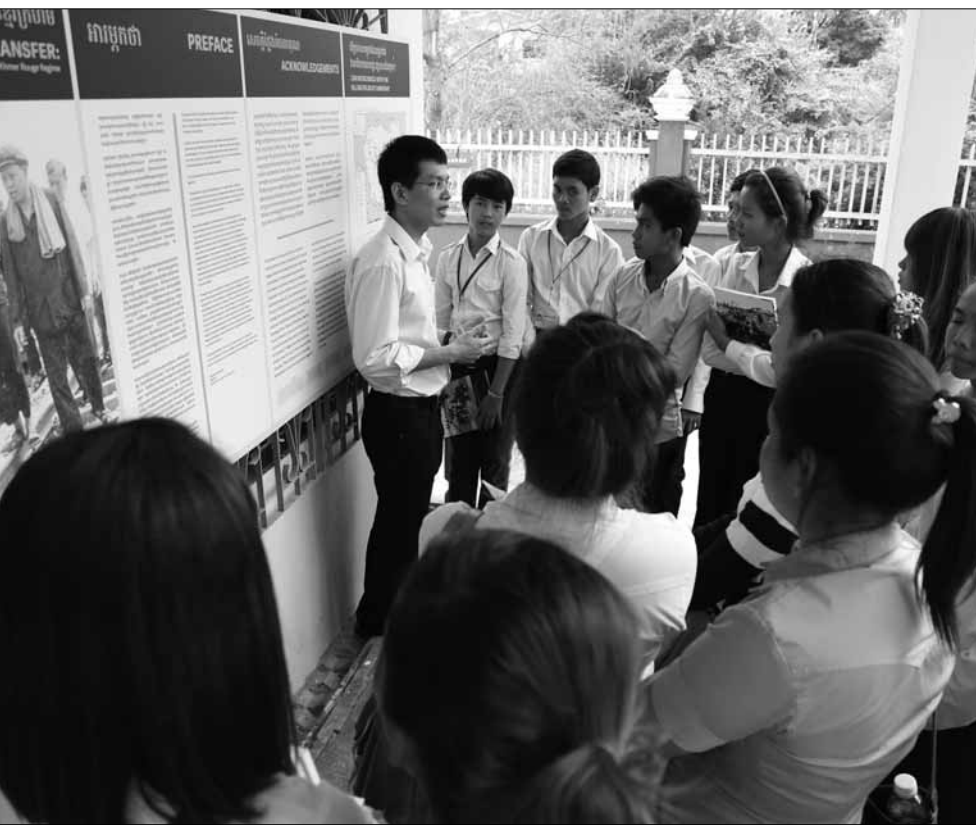
# The inauguration of 'Takling about Democracy' High School, Chum Kiri District, Kampong



# Democratic Kampuchea' slogan at Ang Chek Pot Province on December 9, 2014



# The inauguration of the 'Force Transfer' document at Svay Rieng province and Kratie province





# During the Khmer Rouge Regime Exhibition Province from December 5 to 18, 2014









# PUBLIC COMMENT ON PROPOSED CHANGES TO CIVIL PARTY PARTICIPATION BEFORE THE ECCC

*Andrew F. Diamond*

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## Introduction

The Extraordinary Chambers in the Courts of Cambodia's (ECCC) scheme for survivor participation has been hailed as groundbreaking and unprecedented, due in large part to the recognition of certain survivors as "civil parties" who were to be treated as full parties to the proceedings. Substantively, however, this scheme did not even survive the first trial intact. With an eye towards the second case, for which pre-trial proceedings are already underway, the Chambers are seeking to further restrict the role of civil parties and their lawyers, particularly in light of the large number of survivors seeking civil party status. They are doing this through the revision of the ECCC's Internal Rules governing civil parties. The Rules and Procedure Committee is set to discuss the draft Rules during the first week of December and, if accepted, the plenary will decide on adoption shortly thereafter.

According to an ECCC Plenary Session press release, the proposed rule changes will focus on "promot[ing] greater efficiency in trial management." Although almost all observers recognize that better civil party organization and management is essential for the much larger Case 002, the revised Rules should not be used as a Trojan horse, where in the name of judicial management, the rights of civil parties are undercut to such an extent that they could no longer in good faith be properly considered "parties" to the proceedings. In such an instance, to gut the role of civil parties and their lawyers while not acknowledging that fact would seriously undermine the very credibility of the Chambers itself.

Under Cambodian law and in other civil law jurisdictions, persons qualifying as "civil parties" are afforded certain minimum rights, rights that both survivors and their lawyers must also have before the ECCC. If the Chambers fail to retain these rights under the revised Rules, the ECCC will not only distort the precedential value of its survivor participation scheme for future internationalized tribunals, but also mislead the survivors about their role in the proceedings. This legal sleight of hand would be unconscionable as these participants are survivors of one of humanity's worst crimes.

## The Legal Rights of Civil Parties

The ECCC is the first internationalized tribunal to explicitly provide for civil party participation. "Civil party" is a legal term of art. Although the basket of rights it includes varies among jurisdictions, a tribunal cannot just declare certain victims to be "civil parties" in the proceedings while not affording them the concomitant rights that accompany this role. Notably, while the International Criminal Court (ICC) provides for enhanced victim participation, its scheme purposefully does not rise to the level of civil party participation, as victims before the ICC are not recognized as parties to the proceedings. Additionally, the Special Tribunal for Lebanon, which is heavily influenced by civil law, provides that "[a]lthough [victims] do not have the same right as the parties civiles (private complainants) of the civil law system – such as to seek compensation – they may exercise a number of procedural rights (for instance, receiving documents filed by the Parties, calling witnesses upon authorization of a Chamber, examining and cross-examining

witnesses, filing motions and briefs.” Given that these international tribunals provide for survivor participation that intentionally does not rise to the level of civil party participation, it would seem only logical that the ECCC’s civil party participation scheme must at least provide survivors the rights contained in those lesser survivor participation schemes. However, as discussed below, there are concerns that with ECCC civil parties may in fact have fewer rights.

Admittedly, the rights of civil parties—and more broadly, survivors—do not exist in a vacuum. In criminal proceedings, the court must balance survivors’ rights with the need for a fair trial that preserves the rights of the accused. Additionally, the proceedings should proceed as expeditiously as possible. These three competing interests often operate in tension with each other, where the expansion of one interest serves to restrict another. This is especially true for the ECCC, as it oversees proceedings potentially involving thousands of civil parties. The ongoing tension between these competing interests that have led to departures

from Cambodian practice prompted Judge Lavergne to ask, “[h]ow far can one go without breaching the spirit of the law, or fundamentally distorting the meaning of the involvement of Civil Parties before the ECCC and the purpose of the trial as a whole, characterized by the coexistence of two interrelated actions, namely criminal and civil actions.”

With the adoption of more restrictive civil party rules, there is a concern that the ECCC will pass that point. To combat these concerns, the revised Rules must at a minimum preserve the attorney-client relationship—and its attendant rights—while also continuing to guarantee the right of survivors to participate in the proceedings as “parties.” A failure to do either would so undermine the rights of survivor-participants that they could no longer properly be considered civil parties.

#### **Attorney-Client Relationship**

As parties to the proceedings, civil parties currently have a right under the Internal Rules to be represented by counsel. For this right to be robust and meaningful, it must continue to include the



Civil Parties and victims at S-21 Security Center receive *the Duch Verdict* textbook of Kaing Guech Eav alias Duch, former chief of S21 Security Center or Tuol Sleng prison

necessary elements of any attorney-client relationship: the right of the client to hire an attorney of his/her choice, the client's right to fire his/her attorney, the obligation of the attorney to represent the client's interests, and the authority of the client to determine the objectives of the legal representation and participate in deciding the means of carrying them out. A failure to include these necessary elements in the revised Rules would so severely undermine the right to counsel as to leave serious questions as to whether the Chambers are paying anything more than mere lip

being glorified paralegals, confined to non-substantive tasks, and prohibited from advocating to the court behalf of their client. If this proves to be the case however, there must be a clear reciprocal relationship between the lead counsel and each civil party with clear language as to the co-lead counsel's obligation to the individual civil parties, and not just the consolidated group as a whole. For example, the ICC has specifically stated that "[t]he common legal representative shall be responsible for both representing the common interests of the victims during the proceedings and for acting on



People attend the hearing from the Khmer Rouge Tribunal officials

service to this fundamental principle of the rule of law.

According to the ECCC press release, beginning at the trial stage civil parties will be consolidated into a single group and the group's interests as a whole will be represented by the co-lead counsel. It further states that civil party lawyers are to provide support to the co-lead counsel. Under this scheme, however, it is unclear who will represent the interests of individual civil parties. It is essential that civil party lawyers are not relegated to

behalf of specific victims when their individual interests are at stake." Such language in the revised Rules would help allay concerns that the civil parties' individual interests are being subjugated to the overall interests of the single consolidated group.

The revised Rules must also contain a mechanism for the raising or settlement of strategy disputes between a civil party lawyer and the co-lead counsel. Such disputes will inevitably arise between lawyers, in particular when they represent

clients with different interests and goals. To provide no dispute resolution mechanism in the revised Rules would ignore the certainty that legitimate disagreements will arise. Notably, the ICC provides that if the common legal representative cannot “fairly and equally” represent the interests of one or more groups of victims, the common legal representative will inform the Trial Chamber “who will take appropriate measures and may, for example, appoint the Office of the Public Counsel for the Victims to represent one group of victims with regard to the specific issue which gives rise to the conflict of interest.”

Likewise, there must be an incentive for the ECCC co-lead counsel to take into account dissenting opinions from the civil party lawyers. If a civil party lawyer vehemently objects to a certain decision made by the co-lead counsel, there must be choices available beyond continuing on as a civil party lawyer despite this objection or quitting. Given that civil party lawyers, like all legal counsel, are obligated under national and international ethics codes to represent their client’s views and interests, this would put them in an impossible situation.

Moreover, the rights of the civil parties themselves must be protected. Civil parties must also be allowed throughout the proceedings to hire counsel of their choosing, as well as fire their counsel, and determine the objectives and means of implementing those objectives. This is essential because many of the survivors in Case 002 come from different ethnic or religious backgrounds, may have experienced their injuries at different times, different locations and at the hands of different people, and are likely to have different objectives for their participation and desire differing forms of reparations. These varying and potentially divergent interests must be represented if there is to be true civil party participation under the revised ECCC Rules.

## Right to Participation

Under the ECCC Internal Rules as originally drafted, once a civil party joins the proceedings, “the Victim becomes a party to the criminal proceedings.” As a result, the civil party is entitled to “[p]articipate in criminal proceedings against those responsible for crimes within the jurisdiction of the ECCC by supporting the prosecution,” as well as to seek “collective and moral reparations.” This right to meaningfully participate in the proceedings as a party carries with it certain rights, such as the right to call, examine and cross-examine witnesses, to be questioned as an interested party, and to request investigative action, among others. In order to still be considered “parties” to the proceedings, these rights must remain intact.

Because the co-lead counsel are intended to take the lead in representing all civil parties, civil party rights most likely will have to be exercised through the co-lead counsel. This could render many of these rights illusory. For example, one of the key participatory rights afforded to civil parties in civil law jurisdictions around the world, including Cambodia, is the right to request investigative action. Previously, this right could have been exercised through the civil party lawyers. It is now unclear what impact the creation of a co-lead counsel will have on this right but presumably it would have to be exercised through the co-lead counsel. However, the co-lead counsels are responsible for the interests of all survivors within the consolidated group. Thus, if one group of survivors wishes to request investigative action, but the co-lead counsel feels that this action could run counter to the overall strategy, then the co-lead counsel could refuse to request investigative action, undercutting the right entirely. Again, the presence of a dissent mechanism is vital to provide substance to the exercise of these rights.

As Judge Lavergne noted in a dissenting opinion, civil parties in domestic jurisdictions “may

participate throughout the legal proceedings, the common purpose of which is to ascertain the truth concerning the accused's criminal responsibility, which might also be the basis of his or her civil responsibility." This dissent was to the mid-2009 decision by the Trial Chamber that eliminated outright the right of civil parties to participate in sentencing proceedings and severely undermined their right to cross-examine certain witnesses. The ECCC so ruled despite the fact that both international tribunals that allow victims to participate in proceedings, though not as civil parties, provide victims with the right to participate in sentencing proceedings. Although individual changes to the Rules may not be decisive, in combination with this recent decision, a revised Rules scheme that does not preserve such fundamental civil party rights as the right to request investigative action would suggest that ECCC "civil parties" are no longer "parties" to the proceedings.

### Conclusion

If new civil party rules are adopted that do not preserve the attorney-client relationship and a genuine right for civil parties to act as "parties" in the proceedings, it is unclear what role, if any, survivors will continue to have before the ECCC. To preserve their meaningful role, as originally envisioned, the Chambers must ensure that it does not strip away too many civil party rights, all in the name of judicial management of the case. While the Chambers have every right to do this, if they are to end civil party participation, they should be honest with the survivors. As two observers have written, "[i]f civil party participation is replaced by representation of victims' collective interests...the Court must explain to applicants that their participation rights have been eliminated." Likewise, as stated by Youk Chhang, Director of the Documentation Center of Cambodia, in the September 2009 edition of *Searching for the Truth Magazine*.

It is true that many civil parties do not fully understand the meaning of the term "civil party" and the scope of their role in the proceedings; however, it would be disrespectful for the Court to hide behind this outreach failure. If the Court wants to limit civil party rights, it has an obligation to explain the full legal implications both to the public at large and to the applicants before a final plan is adopted.

Given the immense suffering and trauma experienced by these survivors, it is the very least the Chambers can do.

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**Andrew F. Diamond**

## SEARCHING FOR LOST FAMILY MEMBERS

My name is Nhan Sy. I am living in No. 476G, Sangkat Tonle Bassac, Khan Chamkamorn, Phnom Penh. I am searching for Leah Tieng Hav, male, born in Kampong Speu in 1948. Tieng Hav was a physics and chemistry teacher at Angkor High School located in Siem Reap Province. In November 1975, Tieng Hav and his wife, Kouch Saiy Tieng, were evacuated to Nam Tau Commune, Phnom Srok District, Battambang Province.

In December, 1975 Khmer Rouge soldiers took away scholars from various villages in Phnom Srok District and brought Tieng Hav and his wife to Prasat Village, Preah Net Preah District, Battambang Province (currently in Banteay Mean Chey Province).

If anybody has known or heard the aforementioned name, please contact me through the address of the Ministry of Land Management, Urban Planning and Construction or email [nhansy04@yahoo.com](mailto:nhansy04@yahoo.com) or call 012 958 546 .



# A RESPONSE TO DEFALCO: THE PROPER INTERPRETATION OF “MOST RESPONSIBLE” AT THE ECCC

*Michael G. Karnavas*

## 1. Introduction

The Extraordinary Chambers in the Courts of Cambodia (“ECCC”) was established to bring to trial the “senior leaders of the Democratic Kampuchea and those who were most responsible” for crimes and serious violations of Cambodian law and international humanitarian law committed from 17 April 1975 to 6 January 1979. The meaning of the terms “most responsible” and “senior leaders” is contentious because they are not defined in the ECCC’s founding documents, the Law on the Establishment of the Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed During the Period of Democratic Kampuchea (“Establishment Law”) and the Agreement Between the United Nations and the Royal Government of Cambodia Concerning the Prosecution Under Cambodian Law of Crimes Committed During the Period of Democratic Kampuchea (“Agreement”). These terms are critical to the cases that come before the ECCC because they define who will ultimately be tried.

In the first case before the ECCC (“Case 001”), former Khmer Rouge prison chief, Kaing Guek Eav (alias Duch) sought an acquittal on the basis that he was not covered by the terms “senior leader” or “most responsible,” and therefore fell outside the personal jurisdiction of the ECCC. The Supreme Court Chamber found that Duch fit within the Court’s personal jurisdiction, which it found limited to “senior leaders of the Khmer Rouge who are among the most responsible and non-senior leaders of the Khmer Rouge who are also among the most responsible.” It found that the terms “senior leaders” and “most responsible” were not

jurisdictional requirements, but were meant to guide investigatorial and prosecutorial policy. Yet, the Supreme Court Chamber failed to define “most responsible.”

DC-Cam legal advisor Randle DeFalco published an article in which he considers the meaning of “most responsible” in relation to Cases 003 and 004 at the ECCC. DeFalco concludes that the presumed suspects in Cases 003 and 004 fall within the meaning of “most responsible,” and that the only legitimate course of action is to proceed to trial. DeFalco arrives at his conclusion by analyzing the Supreme Court Chamber’s Judgment in Case 001, the applicable law of the ECCC, and international criminal jurisprudence and procedure from the various international criminal tribunals. DeFalco identifies two major criteria – the gravity of the crimes and the level of responsibility of the accused – and surmises, based on the jurisprudence he reviewed, that there is a “theme” of a “preference for prosecution.” He then looks at the allegations against the presumed suspects in Cases 003 and 004 and concludes that these suspects fall within the meaning of those most responsible.

While DeFalco’s basic approach to determine the meaning of “most responsible” is sensible, he commits several errors in order to reach his pre-determined conclusion. He errs by assuming that any potential discontinuation of Cases 003 and 004 would be the result of outside influence, and not legal principle, by failing to consider relevant contextual information in the ECCC’s negotiation history and by making faulty comparisons to other tribunals where no meaningful similarities can be

drawn. Most importantly, DeFalco fails to recognize that the point of judicial investigation is to determine whether there is sufficient evidence to proceed to trial.

DeFalco's analysis is flawed and the consequence of a result-determinative analysis. DeFalco's analysis is based on the argument that the presumed suspects in Cases 003 and 004 must be tried because they are alleged to be "most responsible," and if they are not tried by the ECCC, they will escape criminal responsibility. DeFalco's pre-determined conclusion colors his analysis of the meaning of the term "most responsible" and whether the presumed suspects in Cases 003 and 004 fit within that term. This article will address the errors in DeFalco's analysis and will explain that the term "most responsible" was intended by the ECCC's founders to be narrowly construed.

## **2. DeFalco's flawed arguments: facilitating a confirmation bias**

As a point of departure, DeFalco explains the controversy surrounding Cases 003 and 004. He then summarizes the Supreme Court Chamber's decision on personal jurisdiction in the Case 001 Judgment, but does not find it to be helpful in defining the terms. DeFalco decides to look to the negotiating history surrounding the establishment of the ECCC and its applicable law, but finds that the terms were never defined by the Royal Government of Cambodia ("RGC") or the United Nations ("UN"). He then finds direction in Article 12(1) of the Agreement, which states that:

[t]he procedure shall be in accordance with Cambodian law. Where Cambodian law does not deal with a particular matter, or where there is uncertainty regarding the interpretation or application of a relevant rule of Cambodian law, or where there is a question regarding the consistency of such a rule with international standards, guidance may also be sought in the procedural rules established at the international level.

Correctly finding that Cambodian law "provides scant guidance," DeFalco moves on to consider jurisprudence and procedure from the Special Court for Sierra Leone ("SCSL"), the International Criminal Tribunal for the former Yugoslavia ("ICTY"), and the International Criminal Court ("ICC"), from which he identifies two major criteria: the gravity of the crimes, and the level of responsibility of the suspect. DeFalco concludes that "from an overview of practice at the SCSL, ICTY and to a lesser extent the ICC, ... [g]enerally, it is clear that individuals qualify as 'most responsible' when implicated in serious crimes." After setting out the allegations against the presumed suspects in Cases 003 and 004 based on leaked documents purported to be the Introductory Submissions in the two cases, he concludes that the suspects fall within the meaning of "most responsible." He asserts that any failure of the cases to go to trial should be viewed as a product of bad faith or unsound professional judgment.

## **Controversy Surrounding Cases 003 and 004**

Cases 003 and 004 have been controversial because there is disagreement as to whether the suspects involved may be considered "most responsible." Initially, the Co-Prosecutors disagreed about whether to open investigations into Cases 003 and 004, because they disagreed as to whether the suspects may be considered "most responsible." The Pre-Trial Chamber was unable to reach a supermajority in adjudicating the Co-Prosecutors' disagreement, which resulted in the opening of judicial investigations in both cases. The Co-Investigating Judges closed the judicial investigation in Case 003 in April 2011, without charging any suspects.

On 9 October 2011, Co-Investigating Judge Siegfried Blunk resigned, stating that although he would not allow himself to be influenced by government pressure, he did not want allegations to call into doubt the integrity of the proceedings in

Cases 003 and 004. Reserve International Co-Investigating Judge Laurent Kasper-Ansermet replaced Judge Blunk in November 2011. However, the Supreme Council of Magistracy refused to approve his nomination. One month after taking up the position vacated by Judge Blunk, he unilaterally reopened the judicial investigation in Case 003. This move was not recognized by his national counterpart, Judge You Bunleng. Judge You Bunleng asserted that Judge Kasper-Ansermet lacked the legal authority to resume the judicial investigation into Case 003.

monthly Court Reports issued since that date have referred to ongoing investigations in both Cases 003 and 004, including several field missions and witness interviews.

DeFalco appears to be convinced that there is government influence and that the Co-Investigating Judges are not doing their job properly. Rather than immediately jumping to the conclusion that there has been and continues to be government interference, DeFalco should have neutrally considered the matter.

First, the two Co-Prosecutors disagreed as to



In March 2011, Judge Kasper-Ansermet resigned because he felt unable to perform his work due to what he considered obstruction by Judge You Bunleng. Former ICTY prosecuting senior trial lawyer Mark Harmon was sworn in as the new Co-Investigating Judge on 26 October 2012. In February 2013, Judges You Bunleng and Harmon issued a press release appearing to contradict each other as to whether Case 003 remained open or had been closed. Judge Harmon stated that the investigation remained open, and the ECCC's

whether the suspects were "most responsible," with the National Co-Prosecutor explaining that she had "thoroughly examined" the material and that she maintained that the suspects in Case 003 were not senior leaders or those who were most responsible during the period of Democratic Kampuchea. Such a disagreement is understandable even without any supposed government interference, simply because the meaning of the term "most responsible" is undefined by the Court's founding documents and

is a flexible term. Moreover, as discussed *infra*, the drafters intended the scope of the term to be quite narrow.

Second, after judicial investigations were opened, both Co-Investigating Judges, National and International, closed the judicial investigation in Case 003 without charging any suspects. International Co-Investigating Judge Blunk, who possessed international law experience and had worked as a judge at the Special Panels for Serious Crimes in East Timor, after having worked as a judge in Germany for 26 years, explained that “[f]or Cases 003 and 004 we have conducted an in-depth analysis of the origin and meaning of the term ‘most responsible’ and developed a set of criteria based on the ECCC Law, and the jurisprudence of international tribunals, especially the one for Sierra Leone because its jurisdiction was limited similarly to persons who bear ‘the greatest responsibility.’” When Co-Investigating Judge Blunk later resigned half a year after the Case 003 investigation had been closed, he stated that he did so not because the government had interfered with his work, but because there could be public perception that it had done so. He explained that he had even initiated contempt of court proceedings against the Cambodian Minister of Information for stating that Cases 003 and 004 could not proceed.

Finally, Co-Investigating Judge Harmon continues to actively investigate Cases 003 and 004, in contradiction to DeFalco’s claim that the cases “languish” in the investigative stage where they risk being “shuttered.” The Co-Investigating Judges have not yet charged any suspect, indicating that they have not yet found “clear and consistent evidence” that the suspects are senior leaders or among those most responsible for crimes within the Court’s jurisdiction.

Instead of undertaking a neutral analysis of the controversy, DeFalco seeks to confirm his pre-determined conclusion by starting with the

assumption that failure to bring Cases 003 and 004 to trial is a result of government interference. He fails to recognize that the Co-Investigating Judges may have had legitimate disagreements as to whether the suspects are most responsible, or that evidence to support the International Co-Prosecutor’s allegations may be lacking. Reasonable judicial minds can reasonably disagree in interpreting the law and assessing the facts.

### **The ECCC’s Negotiation History**

DeFalco very briefly considers the negotiation history of the ECCC and finds that the term “most responsible” was never defined by the RGC or the UN. He finds that the precise identities of suspects to be tried at the ECCC or the specific number of people to be tried were never specified. While DeFalco is correct that a review of the negotiation history does not resolve the lack of clarity in the term “most responsible,” his review of the negotiation history is quite superficial. A closer look reveals that the term “most responsible” was included in the ECCC’s personal jurisdiction to ensure that Kaing Guek Eav alias Duch could be prosecuted.

A review of the negotiation history reveals that “most responsible” was intended to mean Duch. Prior to Duch being placed into custody in April 1999, whenever referring to the personal jurisdiction of the proposed court, the RGC mostly referred to the prosecution of senior leaders. The UN also similarly referred to “leaders” until its Group of Experts issued a report proposing an international tribunal similar to the ICTY and ICTR be established that should “focus upon those persons most responsible for the most serious violations of human rights during the reign of Democratic Kampuchea. This would include senior leaders with responsibility over the abuses as well as those at lower levels who are directly implicated in the most serious atrocities.” The Group of Experts pointed out that the available documentary

evidence “appears quite extensive for some atrocities, most notably the operation of the interrogation centre at Tuol Sleng [S-21, where Duch was Chairman]. For other atrocities, documentary evidence that directly implicates individuals, whether at the senior governmental level or the regional or local level, is currently not available and may never be found....” This indicates that even the Group of Experts had Duch in mind when proposing this language.

The Group of Experts’ recommendations concerning establishing an ICTY/ICTR style of tribunal were not accepted, nor did the RGC or UN ever state that its recommendations concerning personal jurisdiction were accepted. Following the Group of Experts’ mission to Cambodia, the Group Chairman Sir Ninian Stephen stated at a press conference that only “top leaders” would be prosecuted. In March 1999, the Group of Experts’ report was submitted by the UN Secretary-General to the General Assembly and to the Security Council. However, according to historian Stephen Heder, “[c]ontradicting the carefully qualified text of [the UN Group of Experts] report, [the UN Secretary-General] claimed they had concluded there was sufficient evidence to justify legal proceedings against Khmer Rouge leaders, omitting mention of any other potential suspects.”

Following the Group of Experts’ mission to Cambodia, Duch came into the public eye in April 1999 and began giving interviews. He was placed into the custody of a military tribunal in May 1999. According to Heder, Prime Minister Hun Sen was compelled to place Duch in detention “to shut him up.” It was at this time that the phrase “most responsible” was added to RGC and UN discussions of the Court’s jurisdiction, to ensure that Duch could be prosecuted by any future tribunal even though he was not considered to be a senior leader. According to the UN Special Representative for Human Rights in Cambodia, Thomas

Hammarberg, a source DeFalco failed to consider, “[Duch] had no leading position in the party but is regarded as highly responsible for the mass killing. If he were not indicted, there would definitely be questions.”

According to Heder’s earlier 2003 article, during negotiations, the UN Office of Legal Affairs:

suggested several forms of words that might be appended to the basic limitation on ‘senior leaders’ to cover Duch, such as those ‘who, because of their special functions or duties, were most responsible for crimes and serious violations;’ or were ‘most notorious perpetrators of crimes serious violations;’ or – as it had originally suggested – who were ‘most responsible for crimes and serious violations.’ In communications to UN member states, [the UN Office of Legal Affairs] now talked in terms of a trial of ‘senior leaders of the Khmer Rouge et al,’ while Hun Sen reminded Special Representative Hammarberg that the ‘et al’ must not include anyone who – like Chea Sim, Heng Samrin and himself – could be credited with having ‘helped to overthrow the genocide.

As long as the wording used would cover Duch, the UN appears to have been unconcerned about the exact language used in the statute that would govern the Court. In talks between the RGC and the UN held in July 2000 on, inter alia, the scope of personal jurisdiction, “the UN delegation underlined that the issue was a political one, which the Cambodian authorities had to decide upon.” The UN commented on Article 1 of the draft Establishment Law that “the formulation of this article is a political decision to be taken at the national level.”

Even after the “most responsible” language was included in the draft Statute, in discussing the draft at a parliamentary meeting, Senior Minister in charge of the Council of Ministers Sok An stressed that the law aimed “to try a small targeted group,” a “group that is not widespread,” defined “distinctly

and obviously to the smallest number,” and which excluded “all the lower ranks and the rank-and-file” from prosecution. “Other members of Hun Sen’s Party declared that except for senior leaders, everyone else ‘who used to serve in the Democratic Kampuchea regime,’ including political and military cadre and combatants, need ‘not worry at all’ about being prosecuted.”

DeFalco limits his analysis to an overview of the conclusions reached by Heder (in a recent article on the issue) and former United States Ambassador-at-large for War Crimes David Scheffer

worked as an analyst for the Co-Prosecutors in 2006, which at the time was investigating the surviving “candidates for prosecution” that Heder had identified in his book just two years earlier. In December 2006, Heder transferred to the Office of the Co-Investigating Judges (“OCIJ”) to work as an investigator – essentially to investigate the Introductory Submission he assisted in drafting (a profound conflict of interest ignored by the OCIJ). After either resigning because he was unhappy with a decision to close the investigation into Case 003, or having his contract terminated, he wrote The



Meas Muth

concerning how personal jurisdiction was addressed during negotiations to create the ECCC.

DeFalco’s reliance on Heder’s recent article on the negotiation history is problematic, given Heder’s underlying motivation in writing on this topic. Heder is co-author of the book *Seven Candidates for Prosecution: Accountability for the Crimes of the Khmer Rouge*. This book was republished in 2004, during the ECCC’s establishment and in anticipation of the Co-Prosecutors’ preliminary investigations. Heder then

Personal Jurisdiction of the Extraordinary Chambers in the Courts of Cambodia as Regards Khmer Rouge “Senior Leaders” and Others “Most Responsible” for Khmer Rouge Crimes: A History and Recent Developments, in which he summarized at length the negotiations for the establishment of the ECCC and concluded that “the most reasonable interpretation, legally speaking” of the ECCC’s personal jurisdiction is that it should include mid-level CPK leaders. This conclusion is at odds with his earlier writings, which had analyzed



the negotiations surrounding the establishment of the ECCC, and had concluded that the intention on both the RGC side and the UN side was to try “senior leaders-plus-Duch.” His more recent argument as to the meaning of “senior leaders” and “most responsible” must be considered as an effort to promote the thesis of his book and widen the jurisdiction of the Co-Investigating Judges.

DeFalco simply skims the negotiation history as summarized by Heder and Scheffer and fails to consider the drafters’ intent concerning the truly narrow scope intended by the term “most responsible” – a consideration that assuredly would have resulted in an undesired conclusion.

### **Cambodian Law**

After concluding that the negotiation history is unhelpful in defining “most responsible,” DeFalco turns to Cambodian law, and correctly determines that “Cambodian law provides scant guidance.” However, he errs by concluding that “a comparative analysis of Cambodian and ECCC procedural law governing investigatory powers suggests that discretion to dismiss charges against individuals who could likely be successfully prosecuted for serious crimes should be construed extremely narrowly, as such a power is not explicitly provided for in either body of law.” This misunderstands the extraordinary nature of the ECCC, as a specially constituted court of limited duration and limited jurisdiction.

Unlike normal Cambodian courts, the ECCC was intended to prosecute only “senior leaders and those who were most responsible” because it would not be practical to prosecute the otherwise potentially huge number of suspects. Comparing investigatorial discretion to dismiss cases in regular Cambodian courts to investigatorial discretion at the ECCC is comparing apples to oranges. Furthermore, it is ridiculous to assert that investigatorial discretion should be construed narrowly because “such a power is not explicitly

provided for” when Articles 1 and 2 of the Establishment Law and Articles 1 and 2 of the Agreement do clearly limit the Court’s personal jurisdiction to senior leaders and those most responsible. If this is not considered to be a jurisdictional limitation on the Court, it must at the very least, as the Supreme Court Chamber found, guide investigatorial discretion.

### **International Jurisprudence and Procedure**

DeFalco next turns to a consideration of international jurisprudence and procedure from the SCSL, ICTY, and the ICC. DeFalco’s basic criteria for determining who may be considered “most responsible” are correct, according to OCIJ, Trial Chamber, and ICTY jurisprudence. These are: a. the gravity of the alleged crimes and b. the degree of responsibility of the individual in question. The error DeFalco makes is in his attempt to distill “themes of International Personal Jurisdiction Jurisprudence” from the international jurisprudence he considered.

Based on the jurisprudence he reviewed, DeFalco surmises that there is a theme in international jurisprudence of a preference for prosecution. He reasons that “only the ICTY has declined to prosecute a suspect based on finding him not amongst those ‘most responsible’ and this finding merely resulted in the suspect’s prosecution in domestic courts.” If DeFalco is referring to the fact that the SCSL did not find that any suspects should not have been prosecuted because they did not bear “greatest responsibility,” this, of course, depended on a myriad of factors, such as which suspects were chosen for prosecution and whether the suspects’ ever challenged their prosecution on the grounds that they did not bear “greatest responsibility.”

The fact that the SCSL did not find any suspects or accused to fall outside the meaning of “greatest responsibility” says nothing about whether the suspects in Cases 003 and 004 should

be prosecuted or investigated at the ECCC. Furthermore, the ICTY's decisions to refer cases to national courts were not made based on any "preference for prosecution" but because of the UN Security Council's completion strategy for the ICTY. Had the cases not been referred to national courts, they would have been prosecuted at the ICTY because the ICTY does not have a limited personal jurisdiction.

DeFalco states that unlike cases at the ICTY which are referred to national courts through the Rule 11bis procedure, the suspects in Cases 003 and 004 "would escape potential criminal liability altogether" if they are not prosecuted at the ECCC. He finds this to be "a major departure from the core principle of individual criminal responsibility that defines [international criminal law]." DeFalco asserts that because someone is suspected of a crime, there is a principle of international criminal law that that person must be prosecuted, regardless of any jurisdictional limitations on the courts. Not so. DeFalco provides no legal authority supporting his assertion, which, by all accounts, is grounded in emotive and evasive rhetoric.

There are alleged to have been many thousands of persons in Cambodia who bear some responsibility for the crimes that occurred during the Khmer Rouge period. DeFalco seems to believe that a "core principle" in international criminal law is violated by the fact that these persons have not been prosecuted, and as such seems to argue (at least by inference) that the ECCC should not have a limited personal jurisdiction, but should have jurisdiction over all persons.

Had the RGC and the UN intended to ensure that no person could "escape potential criminal liability" they would not have restricted the Court's jurisdiction to senior leaders and those most responsible. DeFalco's argument does not relate to the meaning of "most responsible." Instead it takes issue with including the term "most responsible" in

the Court's founding documents. This is a policy-driven argument, grounded in situational ethics. Judges are not politicians in robes. They have no remit to decide where the RGC and the UN should have set the jurisdictional contours on who is to be prosecuted at the ECCC. The objective to hold individuals accountable for crimes must not be confused with the criteria set by the applicable law to do so. As the United States Seventh Circuit explained:

Knowledge of objectives is helpful, often vital, in interpreting and applying rules. But objectives must not be confused with criteria. Where certainty is at a premium, sound law-making requires the setting forth of clear and definite criteria rather than general directives to decide each case in the manner that will maximize the attainment of the law's objectives. The latter approach, carried to the extreme, would reduce all law to an admonition to do what's right.

Given the agreed objectives and criteria by the RGC and UN in setting the jurisdictional contours of the ECCC, judicial restraint in interpreting who or what constitutes "most responsible" would be salutary.

DeFalco's Conclusion that the Suspects in Cases 003 and 004 are "Most Responsible"

Finally, DeFalco goes through the allegations against the individuals he believes are suspects, based on documents he found on the internet purporting to be leaked copies of the Introductory Submissions in Cases 003 and 004 and on some allegations made in Heder's book *Seven Candidates for Prosecution*. DeFalco concludes that based on the allegations: "trials in both cases appear to be the only defensible course of action at this juncture and any other outcome should be viewed as a product of bad faith or unsound professional judgment." He asserts that if the cases are dismissed, "such action would deeply compromise the already fragile integrity of the

ECCC as a legal institution.” DeFalco does not have the benefit of reviewing the material cited in the Introductory Submissions or the material gathered during the several years of judicial investigation, unlike the Co-Investigating Judges. Yet, he presumes to know the only legally sound result that the Co-Investigating Judges could reach.

The allegations made in the Introductory Submissions are mere allegations made after preliminary investigations. The International Co-Prosecutor was required to determine, after only a preliminary investigation, that the suspects were “most responsible” before he could file Introductory Submissions naming them. The International Co-Prosecutor’s opinion was disputed by his national colleague, and apparently also by Co-Investigating Judges You Bunleng and Blunk (at least in relation to some of the suspects), since they concluded the Case 003 investigation without issuing charges. The point of the judicial investigation is to determine whether there is sufficient evidence to support the allegations made in the Introductory Submissions. The International Co-Prosecutor’s preliminary determination cannot simply be accepted without a full judicial investigation. For the Co-Investigating Judges to fail to conduct a full investigation and to reach their own conclusion as to whether any suspect can be considered “most responsible” would be an abdication of their judicial functions.

Furthermore, in concluding that the suspects in Cases 003 and 004 are “most responsible,” DeFalco makes faulty comparisons. DeFalco compares the allegations in Cases 003 and 004 to the ICTY Luki , Miloševi , and Deli cases, which were not referred to national courts by the ICTY because the accused in those cases were considered to be “most responsible.” He also points out that at the SCSL, the Prosecutor brought charges against twelve accused, even though, according to DeFalco, the “greatest responsibility” language in the SCSL Statute is narrower than

“most responsible.”

As the ICTY, SCSL and ECCC deal with completely different factual scenarios, no meaningful comparison may be made between cases at the different tribunals. Perhaps Milan Luki was considered “most responsible” for certain crimes that occurred in the former Yugoslavia and perhaps these crimes were less grave than those that allegedly occurred in Cambodia. This tells us nothing about whether the suspects in Cases 003 and 004 are “most responsible” for their alleged crimes. Perhaps there were twelve people who bore greatest responsibility for crimes that occurred in Sierra Leone. This also tells us absolutely nothing about how many people may have been “most responsible” for crimes that occurred in Cambodia.

The only legitimate comparison to determine whether the suspects in Cases 003 and 004 are “most responsible” would be to compare the gravity of their alleged crimes and their alleged level of responsibility to that of those who were convicted in Cases 001 and 002. DeFalco failed to make this comparison.

### 3. Conclusion

The legal definition “most responsible” is malleable. For example, in the ICTY Luki case (in which International Co-Investigating Judge Mark Harmon was the senior prosecuting lawyer), the prosecution argued that the case should be referred to a state court “[d]espite the obvious gravity of the crimes...” Luki , who preferred to be tried by the ICTY rather than at the BiH State Court (and serve his sentence in a BiH prison), argued that “the level of responsibility of the accused and the gravity of the crimes charged are incompatible with transfer.” At trial, obviously, the parties’ positions were reversed. This brings to mind a quote by English Judge Lord Atkin, which has quoted by Judge David Hunt at the ICTY:

I know of only one authority which might justify the suggested method of construction:

“When I use a word,” Humpty Dumpty said in rather a scornful tone, “it means just what I choose it to mean, neither more nor less.” “The question is,” said Alice, “whether you can make words mean so many different things.” “The question is,” said Humpty Dumpty, “which is to be master – that’s all”.

Because the term “most responsible” is malleable, it is especially important to consider the ECCC’s negotiation history and the intent of the drafters of the Court’s founding documents. As discussed above, they considered the term to have a very narrow scope. Whether the suspects in Cases 003 and 004 will fall within this narrow scope will depend on the results of the judicial investigation, not on the mere allegations made by the International Co-Prosecutor or the pre-formed opinion of DeFalco.

DeFalco’s analysis is based on the argument that the suspects of Cases 003 and 004 must be tried because they are alleged to be “most responsible,” and if they are not tried by the ECCC, they will escape criminal responsibility. The errors in DeFalco’s analysis were the result of the result-oriented approach DeFalco took in drafting his article. He cherry picked through relevant material to ensure a desired result.

DeFalco pre-determined that the suspects in Cases 003 and 004 are “most responsible” for crimes within the jurisdiction of the Court and set out to write his article in an attempt to demonstrate this and to encourage the Co-Investigating Judges to indict the suspects. DeFalco likely took this approach because he is a legal advisor to DC-Cam, an organization created to verify a pre-determined conclusion that genocide and crimes against humanity occurred in Cambodia. Because it was written by an advisor to DC-Cam, DeFalco’s article cannot be considered a neutral analysis of the law. It is a polemic, intended to influence the Co-Investigating Judges toward a desired result.

Considering DeFalco’s position and purpose, the greatest flaw in his argument is perhaps unsurprising. The problem with DeFalco’s logic is obvious: the judicial investigation is being conducted for the purpose of determining whether there is sufficient evidence that the suspects committed the crimes alleged and whether they are among those most responsible for the commission of crimes. It is only once this investigation has been completed and the evidence analyzed that such a determination can be properly made.

DeFalco’s conclusion is based on emotional reasoning masquerading for rational legal analysis. In failing to objectively assess the law, DeFalco displays a profound lack of appreciation of the basic tenants of the Rule of Law, including the principle of the presumption of innocence<sup>85</sup> and the procedural system in place at the ECCC.

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**Michael G. Karnavas**

## LOST RELATIVES

My name is Elfa Wong, from Hong Kong. My mom came to Hong Kong from Cambodia in the 1970s, before the massacre. But somehow, her parents, sisters, and brothers were lost during the tragedies because they did not get out from the country. My mother went back to Cambodia in 1998, trying to find her family, posting in newspapers, but nothing was found. I would like to get any more information about my mother's family during that period. My mom's relatives who remains in Cambodia after she left: 1. Guok Mou Heng/Guo Wu Han, 2. Guok Mou Qeng/Guo Wu Qing, 3. Guok Mou Hein/Guo Wu Xian, 4. Guok Ka Gim/Guo Qiao Jin and 5. Guok Ka Eg/Gui Qiao Yu.

If anyone have information about the above names, please contact me at: elfa226@gmail.com. Thank you.

# WHAT GOES AROUND, COMES AROUND

*Pheana Sopheak*

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The survivors of the Khmer Rouge Regime, especially those who were the 17 April people, would never forget the violent evacuation on April 17, 1975. Most of the evacuees encountered so much suffering in this forceful evacuation. One of the 17 April people, Loek Sok, who suffered at that time, was delighted to have the senior Khmer Rouge leaders sentenced. The verdict fulfilled her demand.

Loek Sok was born in a farmer family. In 1962, she moved from her hometown, which is in Prey Takoy Village, Pong Tik Commune, Damnak Chang-eu District, Kep Province, to Phnom Penh. There, she lived near the central market. When reaching 22 years old, in 1973, she wed her husband. Then, they had eight children. The spouses worked hard together to afford their living. She sold cake, while her husband served as a waiter and did other jobs. Their efforts paid off; they could live quite well and be able to send their oldest son to study until grade ten. Not long after, the war erupted. One day, a bomb was dropped near her house, which almost put an end to her and her family's lives. After That, they had to live with worrying.

On April 17, 1975, at around 7 a.m., the Khmer Rouge trucks entered Phnom Penh. They announced that to promote peace, the people must leave Phnom Penh, and they would be allowed to come back two or three days later. Hearing that, Loek Sok packed her bag for leaving. She had taken only a few necessary things. She, her husband, and her four children stayed together during the evacuation. Pochentong was the destination where they were told to be evacuated to. Instead of what had been told, they were evacuated further and further. During the evacuation, due to being too naïve and packing only a few things, they suffered a lot. They had no rice to eat, and they had to sleep

wherever they could find a place.

After a long, hard journey, they eventually arrived at Pong Tik Commune. Because they were 17 April people, they were severely mistreated. There was not even a mat for them to sleep on, and they were starved. Moreover, they were sent to do dam work. A small cottage was built for them to live in. She felt very sorry for herself and her family. At about seven months after their arrival, because of depression and starvation, her husband got sick and passed away. She had to live with the pain of losing her beloved husband. In 1976, she was assigned to carry earth, dig canal at Veal Vong, where there was a killing field, and at Prek Tanen. The working conditions were harsh. Having no choice, she had to bear it until the collapse of the regime in 1979. During this regime, she lost five children and her husband. Currently, she does farm work to earn her living. At the same time, she collects food given by the pagoda in prayer.

Indeed, the Khmer Rouge Regime has brought her so much suffering, especially during the evacuation from Phnom Penh. Her beloved family members were killed. Consequently, she supports the court decision of imprisoning the senior Khmer Rouge leaders, Noun Chea and Khieu Samphan, who stood behind the violent evacuation. She stated, "Their hands are stained with blood. Life imprisonment, at least, brings them "Shame". It lets them be notorious within the Cambodian history and for the rest of their lives." Her family and another two million Phnom Penh evacuees have faced the same fate under their notorious leadership. That is why she has always believed that what goes around, comes around.

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**Pheana Sopheak**

# JUSTICE WILL BE SERVED FOR VICTIMS OF THE KHMER ROUGE REGIME

*Layhu Tuon*

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After the Victory Day, April 17, 1975, some leaders of the Lon Nol regime were immediately murdered after Khmer Rouge took over Phnom Penh. At that moment, thousands of Lon Nol generals and soldiers became the Khmer Rouge's target for killing for various reasons. Obviously, Tith Sinoeun, a former Lon Nol soldier, is still alive because he hid his identity.

As a 23-year-old youth, Sinoeun became a Lon Nol soldier, training in Svay Sisophon, Banteay Meanchey Province. After finishing the training, his commander transferred him to be stationed at Luong Pagoda located in Dak Bat Village, Pursat Province. In 1974, Sinoeun and 26 members of his group were chosen by the Angkar to learn about artillery at Kampong Speu Province for 6 months. After the training was done, his unit sent him to be stationed at Trapeang Cheung until the Victory Day, April 17, 1975.

After the Khmer Rouge entirely took over the country, Sinoeun headed back to his hometown at Bakan District, Pursat Province. Meanwhile, there was a call from the Khmer Rouge for all former Lon Nol soldiers to register their names and to pay respect to the leader. Moreover, the Khmer Rouge lied and said they would grant back the same rank and position in order to rebuild the nation. Many of the former soldiers believed that false propaganda and registered their names, following the call. According to Trial Observation Booklet on Prosecution Process no. 21, there is an article related to a witness, a former Khmer Rouge cadre, who told the court about the murder of former Lon Nol soldiers at Tuol Po Chrey. He said "at that time, I got an order from the colonel to inform Lon Nol

soldiers in every unit to gather for a meeting at Pursat provincial hall. After the meeting, Lon Nol soldiers, around 10 trucks, were sent to be executed at Tuol Po Chrey."

Later on, the Khmer Rouge started to ask people to re-identify themselves and used the same lie which was about appointing them to their previous position. Despite many calls, Sinoeun tried to hide his real identity and worked hard in the village as usual. In the middle of 1975, the Angkar knew that Sinoeun used to be a former Lon Nol soldier. However, he knew in advance, faked an illness, fled to a village where nobody knew him and lived in fear.

In late 1976, the unit chief sent Sineuon to carry rice sacks in a warehouse at Ka Ngaok Meas Pagoda (currently Wat Ka Ngan pagoda, known as Ka Ngaok Meas Pagoda) located in Pteas Sre Village, Svay Loung Commune, Kandeang District, Pursat Province. At that pagoda, the Khmer Rouge defrocked the monks and the monasteries were used by the Khmer Rouge as warehouses to store ploughs, carts, etc. In late 1977, Sinoeun changed to Kandeang cooperative with a role of measuring the land for people to dig. It was very hard in that cooperative. Sinoeun saw Khmer Rouge soldiers. Many people died at the work site due to starvation and illness. Because of starvation, some people stole potatoes, corn or whatever they could eat, although they knew that they would be severely punished or killed for such actions.

In 1978, Angkar changed Sinoeun's job from measuring the land to a soldier at the special unit where Ta Phon was a unit chief. Sinoeun was a logger at Kravanh Mountain, zone 7 and cut the



trees to make carts and ploughs. In 1979, when Vietnamese soldiers came to liberate, Sinoeun as well as other people had freedom and headed back to their hometown. On his way back home, he met a group of Vietnamese soldiers and they intimidated him and wanted to shoot him because they thought that he was a Khmer Rouge soldier. Sinoeun raised his hands and screamed "I am Cambodian!" There was a Vietnamese soldier who could speak Khmer and heard that; consequently, they freed him. Sinoeun was reunited with his family at his hometown at Kandeang Village, Sya Commune, Bakan District, Pursat Province. Currently, he lives in Pteas Sre Village, Svay Loung District, Kandeang District, Pursat Province.

Even today, Sinoeun is curious about what was his mother and his relatives mistake and why did the Khmer Rouge kill them although they were

innocent? It is a tragic experience and a memory that cannot be forgotten.

After hearing the verdict in August, 2014 of the Khmer Rouge Tribunal on case 002/1, in which the Khmer Rouge senior leaders, Nuon Chea and Khieu Samphan will serve a life-sentence, Sinoeun was very satisfied because he was a victim of the Khmer Rouge regime and it was very painful. Compared to the pain he experienced from that cruel regime, one-life sentence was not enough, but he, at least, felt relieved.

Finally, Sinoeun showed his appreciation to the Khmer Rouge Tribunal for the spirit of finding justice for him, as well as other victims who have been waiting to hear the results of the prosecution for many years.

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### Layhul Tuon



The Khmer Rouge military fighting at the battlefield

# A FORMER CHIEF OF MOBILE WORK BRIGADE, CHEANG BOREY ALIAS CHAN MALY

*Sarakmonin Teav*

Cheang Borey's hometown is in Stung Treng District, Stung Treng Province. She had voluntarily joined the revolution in 1972. At that time, she had noticed the participation of young people in her village, who had also been educated and propagandized by the Khmer Rouge. She was initially involved in the Stung Treng D6 regional department, where she performed the role of a teacher of art, specializing in musical dancing and stage performing.

At that time, Ta Bot and Ta Nai were the chiefs of the region while Ta Nai Saran alias Ya was the zone chief. Working in Stung Treng Department of Art, Borey then moved to Kaphon to join Siem Pang mobile unit as a chief of the mobile work

brigade until the invasion of the Vietnamese in 1979. In her brigade, there were 100 members, who were obliged to build dikes and dig canals. Additionally, the brigade members also assisted the local people in doing cultivation.

To escape from the Vietnamese army, Borey's mobile brigade members fled to Mum Bey region, located along the Lao border; their journey at that time was very difficult. Moreover, they could take only a sack of rice and a little salt. Once that rice ran out, they had to eat boiled manioc with leaves. Unfortunately, along the way to Siem Pang, Borey's husband alias Net, who was a chief of battalion number 801, was shot by the Vietnamese army.

After arriving at Mum Bey, 1001 region,

Chheang Borey at her house at Trapeang Prasat district, Oddar Meanchey province.



Angkar reorganized brigade 802 in which Ta Chorn (dead) was a chief. "There was a lot of food such as rice, noodles, canned fish and cheese delivered by cars to this region. In every ceremony, Angkar distributed glutinous rice, beans and grease to everyone, yet the difficulty we met was when we had to hide in the jungle to escape from the Vietnamese ", said Borey.

In the meantime, in 1001 region, Borey was a chief of mobile work brigade of division 802, which had over 100 women in it. Their obligation was to deliver bullets and rice to the pioneers.

Attacked violently by the Vietnamese military, the Khmer Rouge, as well as Borey's brigade, fled to Thailand. Due to their fear, they went further into Thailand, which made the Thai people block the

way and sent some of them back to the border. Then, Borey went to sanctuary K-7 at Chong Angkor in Sisaket, Thailand. In 1992, Borey came back to Trapeang Prasat which was controlled by Son Sen. Borey stayed there until another shooting occurred; then, she fled to Chokron and Osvay. After the killing of Son Sen and his family, there was a fight between Ta Mok and Pol Pot. Eventually, Ta Mok commanded the military to arrest Pol Pot.

After the war was over, Borey returned to live in Trapeang Prasat where there was no proper house, school, pagoda and hospital; moreover, kids had to learn at home. Now, Borey is a member of the district council.

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**Sarakmonin Teav**

## SEARCHING FOR ELDER BROTHER

My name is Lim Kieng, now 43, born in Phnom Penh. I am currently living in Ampeou Dieb village, Chrouy Neang Nguon commune, Srey Snom district, Siem Reap province. My father is Lim Chea Thai (deceased), and my mother is Muy Chou (deceased). Including me, I have six siblings: Mr. Lim Sreng (disappeared), Mr. Lim Khim (disappeared), Ms. Lim Kieng (Me), Mr. Lim Pheng (died of disease in Khmer Rouge regime), Mr. Lim Uy (died of disease in Khmer Rouge regime), and Mr. Lim Sak (died of disease in Khmer Rouge regime).

I am searching for my two brothers—Lim Sreng and Lim Khim—who disappeared. The three of us (Lim Sreng, Lim Khim and I) were traveling home in 1979 but lost our way and were separated. We departed from Sraeng Bridge to return to our home. When we arrived in Kralanh district, my two brothers—Lim Sreng and Lim Khim—searched for an ox-cart for me to ride because I was crippled from birth. I was on the ox-cart when my two brothers went to search for food. They did not return after a long wait. Since then I never saw my brothers again. Later on, I met a middle-aged woman who pitied me and adopted me where I currently reside in Ampeou Dieb village, Chrouy Neang Nguon commune, Srey Snom district, Siem Reap. I won't be able to recognize my brothers because we were separated since I was nine, but if you happen to have met or know either Lim Sreng or Lim Khim, please contact me at 097 413 4145 or contact the Documentation Center of Cambodia at #66, Preah Sihanouk Blvd., Phnom Penh. Tel: 023 211 875.

# FOUND A FRIEND IN A CONFESSION

*Sothida Sin*

On 17 October, 2014, Tang Sim traveled a long distance from abroad to the public information room of the Documentation Center of Cambodia for the purpose of finding his old friends, Nhek Veng Huor, Mey Sakorn and Vong Sophano who died during the Khmer Rouge regime. Wearing brown trousers, a white striped shirt with short sleeves and with a sad expression, Tang Sim went and sat in the public information room. After meeting me and spending so much effort on searching those names in DC-Cam's database, he was able to find his friend's name Nhek Veng Huor in the confession document number D170014.

Tang Sim recalled that he was a navy man in the Khmer Republic and his hometown was in Sangkat Seven, Khan Chroy Chongva, Phnom Penh. Nowadays, he lives in California, in the United States. Before the Khmer Rouge regime, he went to Chav Pon Nhea Yat High School.

In 1970, he worked as a navy man, and in 1974, at the age of 21, he went to study in the United States with support from Khmer Republic government. First, he studied English Literature in Texas, the United States with his close friend, Nhek Veng Huor. He still remembers that when the Khmer Rouge took control of the country in 1975, the American government made an announcement to all Cambodian students in his generation to stay in the United States and become refugees. Among

all those students, there was also Veng Huor who wanted to come back to Cambodia because his parents and brothers and sisters were all in Cambodia. Sim, on the other hand, didn't come back to Cambodia because all his family members stayed in The United States.

Sim continued that along the way to Cambodia, Veng Huor traveled by plane to China, and then to Cambodia with another 36 intellectuals and ex Lon Nol military men. Since then, he didn't know his friend's fate at all. In late 1979, Sim received some information from abroad, claiming that his friend died in Toul Sleang Genocide Museum. However, the reason behind this is unknown.

Sim also said that when he goes back to The United States, he would bring all this information to his friends and relatives, because he has been searching for this valuable information for over 36 years. Moreover, a ritual ceremony will be held for the soul of his friend. Sim also added that to him, his friend's story seems as if it had just happened even it had occurred more than 30 years ago. All these events remain memorable to him, and his friend's confession will become a priceless document and evidence for Cambodia people.

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**Sothida Sin**



## ***READING SEARCHING FOR THE TRUTH ONLINE***

*Searching for the Truth Magazine, both English and Khmer, has been published since January 2000. All copies are available at [www.dccam.org/Projects/Magazines/Magazine\\_Searching](http://www.dccam.org/Projects/Magazines/Magazine_Searching). For more information, contact Som Bunthorn at 023 211 875 or [truthbunthorn.s@dccam.org](mailto:truthbunthorn.s@dccam.org)*





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

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



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

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

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Photo by Phat Pisot

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