

Searching for

THE TRUTH



- ◆ How RGC and ASEAN Can Help Break Logjam
- ◆ The Rights of the Defendant

"For some people, only time and love can heal them, but research and documentation helped heal my anger by moving me toward an understanding of how Cambodians could commit so many atrocities,"

-- Youk Chhang.

Special
English Edition
Fourth Quarter 2005

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An interrogation room at S-21

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EDITORIAL:

TUOL SLENG: EVIDENCE OF THE CAMBODIAN GENOCIDE

In the past five years, tourism has become one of the major income-earning sectors in Cambodia. For example, about a quarter million people now come each year to the magnificent temples of Angkor Wat. But the tourists who visit Phnom Penh see two places that are very disturbing: the Tuol Sleng Genocide Museum and what is known as the “killing fields.”

In the heart of Phnom Penh is Tuol Sleng, whose official name was S-21. The Khmer Rouge used this 240,000 square meter high school as a central-level prison and interrogation center for ferreting out enemies of the state. Only about 12 of the 14,000 people held at Tuol Sleng walked out of the prison when Democratic Kampuchea fell. Many of those who died were executed at the killing fields in the village of Cheung Ek; it is about 12 km. from Phnom Penh.

Today, Tuol Sleng has become a tourist destination. Many of those who visit it are dazed by what they see; others cry when they view the thousands of photographs the Khmer Rouge took of their victims when they were admitted and often after their deaths, various implements of torture, and the cell floors and walls, which are still stained with blood. Although it is of course not an enjoyable place to visit, it is one that we all must see in order to learn and understand why this unthinkable atrocity took place in the gentle land of Cambodia and to ask why Cambodians could do such things to their own countrymen.

I once took one of my friends from Burma to see this museum. She told me that she was so shocked she could not walk through the rest of Tuol Sleng, saying she could hardly breathe. After we left the building, she was better after a while. With tears still in her eyes, she told me that although this place was too horrible for her to finish seeing, she must return to Tuol Sleng on her next trip to Cambodia.

The museum has been open to the public since

1980, soon after the Khmer Rouge regime collapsed. Recently, some of the buildings were painted a light gray, instead of the yellow traditionally used for schools. There was opposition to this action from the public, who prefer preserving the building so that visitors can see the prison as it was thirty years ago and not nicely painted a different color. The buildings should not be renovated, although the road to the museum and its drainage system should be restored.

Now that the Khmer Rouge tribunal is about to occur, there is considerable optimism among the Cambodian people. The country’s judiciary can gain invaluable experiences from the tribunal’s international staff, and the legal system will hopefully improve. The influx of reporters, UN staff, and others will allow local people to earn additional income.

Also important is the flow of tourists into Cambodia. More visitors are expected to come and visit S-21 when the tribunal starts. Many people around the globe will be attracted by articles in the media and will come and see what really happened here nearly three decades ago, and to look at the faces of those accused of committing atrocities when they are standing in the courtroom.

Tourists are not the only ones who will pay more visits to this location; experts will come too. They will want to see, learn, and analyze the evidence against the prison’s former boss – Kaing Guek Eav (aka Duch) – who has been imprisoned and awaiting trial since 1999, and several other leaders of the regime. Thousands of documents and other materials were found at Tuol Sleng after the regime collapsed, and they are expected to be used as evidence against its former leaders.

Simala Pan is the English co-editor-in-chief of the special English edition of Searching for the Truth.

LETTERS FROM YOUK CHHANG:

HOW THE CAMBODIAN GOVERNMENT AND ASEAN CAN HELP BREAK THE LOGJAM OVER THE KHMER ROUGE TRIBUNAL

The United Nations will begin to set up its office in Phnom Penh in February 2006, in preparation for the three-year tribunal of the senior leaders of Democratic Kampuchea (most people know the regime as the “Khmer Rouge”; King Sihanouk originally coined this term to refer to Cambodian communists and other leftists). A judicial institution (the Extraordinary Chambers, or EC) will soon be formed to investigate and prosecute crimes committed by members of the former regime.

The Cambodian people have waited over 25 years to see justice done: during the reign of the Khmer Rouge; our country lost between a quarter and a third of its population – the largest death toll, in percentage terms, of all the genocides in modern history. Since 1979, not a single credible trial of the regime’s leaders has been held.

Some of the Khmer Rouge leaders have died. “Brother Number One” Pol Pot died in the jungle in 1998 and Central Committee member Ke Pauk died in his sleep in 2002. Only two former cadres are languishing in jail. One is Duch (age 59), the former head of the notorious Tuol Sleng Prison (S-21), where an estimated 14,000 enemies of the state died and only about 12 inmates survived. The other is Southwest Zone commander and Central Committee member Ta Mok (age 78), who was jailed when he refused to join Prime Minister Hun Sen’s government in the early 1990s. Both have now been charged with war crimes, genocide, and

crimes against humanity during Democratic Kampuchea. The regime’s remaining leaders have enjoyed lives of relative ease, but are ageing rapidly. Most are now in their 70s.

Many now wonder whether the Cambodian people must continue to wait to see justice done because the Royal Government of Cambodia (RGC) cannot – or will not – meet its financial obligations for the tribunal. If it does not, will the UN try to

make up the shortfall or will it withdraw from the process? It is too early to know the answer, but before the “deal is done,” a number of solutions can be explored.

In 2003 the RGC and UN agreed to share legal and financial

responsibility for the EC trials. The international community has raised enough money to cover the UN’s share for at least the first year of the tribunal. Australia, Austria, Belgium, Canada, Denmark, the European Commission, France, Germany, India, Japan, Luxemburg, the Netherlands, Norway, Republic of Korea, Sweden, and the United Kingdom have made contributions. The RGC agreed to provide \$13 million in cash and services as its contribution.

The government never indicated that money was a problem until last summer, when its representatives said the RGC could afford to contribute only \$1.5 million, and that it was seeking donors’ help in funding its portion of the costs. The response of the international community has not been heartening: the only country that has helped so far is India,



H.E. Mr. Sean Visoth



Ms. Michelle Lee

which donated \$1 million in October 2005.

On December 9, the UN appealed to donors around the world – and Japan in particular – to help the government cover its \$10.5 million shortfall. And the government has also stated that it will accept donations from wealthy individuals and from the private sector, both in the country and abroad. These statements lead to more questions than they answer. How will the money be raised? Will the process be transparent? Should the government itself pay more than \$1.5 million? And should the RGC officially approach its neighbors in ASEAN for funds?

Steps the Royal Government of Cambodia Can Take

To date, the government has spurned Japan's offer to help cover its share of the budget. Although no official reason has been given for its refusal, perhaps the government is afraid that Japan will try to unduly influence, or even monopolize, the EC process. This would be difficult given the oversight by the international community as represented by the UN. Japan is willing to help and the government should accept its offer so Cambodia can move on and see the Extraordinary Chambers begin their work.

If the government truly wants Cambodians to donate funds, making appeals through the press is not enough. It should instead make a sincere and formal request and disseminate it widely, both within the country and abroad. Many impoverished victims of the Khmer Rouge want to make small donations, but few have access to newspapers and would not know how they might contribute. Allowing them to support the tribunal gives them a stake in their justice system.

But in accepting contributions, the government also takes on an obligation to ensure a transparent process. *"People must know where their money is going and what it will fund."* The government should be prepared to have the funds' use audited and to publish the audit report. This will help the government, too, because if people have their good will

reciprocated, they will also have confidence in their elected officials.

The government should make another good-faith effort to locate funding from its own budgetary resources for the tribunal. The RCG has a contractual obligation with the UN to ante up its share of funding for the EC trials; if it does not, it will violate its contract with the UN. This would give the UN the right to stop providing further assistance.

After nearly ten years at the negotiating table, the government cannot claim that it did not know what its share would be. \$13 million is a considerable sum for a poor country, but not insurmountable in light of its annual budget and the intangible returns it could realize.

UN Deputy Coordinator Michelle Lee said in a news conference in Phnom Penh on December 13 that the UN is looking into whether the approximately \$6.9 million left in a trust fund for the Cambodian elections in the early 1990s could be used to help cover the shortfall. She cautioned, however, that the countries that gave the money – Japan, Denmark and Australia, for example – would have to agree to use this, and there are no guarantees that they would do so.

Contributing more from its own resources would have a number of benefits for the government. It would help dispel the nagging impression that the RGC is trying to stall the tribunal, and it would give Cambodia real ownership in the tribunal in the eyes of people around the world. *"Increased government funding would also demonstrate the RGC's true commitment to justice, which might encourage more countries to help Cambodia."*

Many nations have expressed concern that their contributions might be wasted because Cambodia's judicial system is seriously flawed. To alleviate such concerns, *"donors might consider contributing on a year-by-year basis."* They need not contribute the full amount up front; they could merely agree to release future installments provided the proceedings prove to be fair and transparent.

DOCUMENTATION CENTER OF CAMBODIA WELCOMES THE KHMER ROUGE TRIBUNAL STAFF

The Documentation Center of Cambodia (DC-Cam) wishes to express its gratitude to both the Royal Government of Cambodia and United Nations on making the long-awaited trials of senior Khmer Rouge leaders a reality. As the final administrative arrangements for the tribunal will begin in January, DC-Cam would like to take this opportunity to voice three concerns.

First, we encourage both the Royal Government and UN to take steps to ensure that the Cambodian people are kept fully informed on all aspects of the tribunal. The RGC has taken a good first step with its publication of a brochure about the trials last year. The survivors of the Democratic Kampuchea regime have waited over 25 years for the trials to begin and deserve to see justice done. Thus, the RGC and UN should both publicize the proceedings on the radio, television, and print, and find ways to help average citizens participate in the tribunals through attending trials, public meetings, and other means. We also urge the RGC and UN to support the work

of local and international NGOs in educating and involving the Cambodian people about the tribunal. Without the involvement of the Cambodian people, the trials will lose value and meaning.

Second, given the importance of informing and educating the average Cambodian citizen about the workings of the tribunal, it is extremely important that all of the tribunal's Public Affairs Office staff be fluent in Khmer, be intimately familiar with Cambodia and its culture, and ideally are also Cambodian or of Cambodian heritage.

Third, it is not possible to emphasize how important it is that all aspects of the trial proceedings be transparent. Transparency should begin with the selection of judges and those who will head various offices and departments for the tribunal. If the Cambodian judicial system is to advance and public confidence in it is to grow, the UN and Royal Government must demonstrate that these personnel are selected in a fair and open way, and one that is free from political influence.

On June 30, 2005 the United Nations approved the newly constructed headquarters of the Royal Cambodian Armed Forces on the outskirts of Phnom Penh as the location for the Khmer Rouge Tribunal



RESEARCH AND HEALING

People often ask me why, after living through Democratic Kampuchea, I would want to return to Cambodia and document the Khmer Rouge regime. To be honest, at first, I was driven by anger and a desire to seek revenge on those who killed so many members of my family.

A few years after I began my research, I visited the village chief who was responsible for the death of my sister. He didn't remember me because I was a young boy during the regime. But I remembered him. Although he was older, his life was much the same. He still lived in a stilt house in a small village, and tended two scrawny cows. He really wasn't any better off than he was before the revolution, which the Khmer Rouge staged in order to "liberate" the peasants of Cambodia.

I visited him several times and to my surprise, found that he was actually not a bad man; he was simply a man who did bad things because the revolution had promised him a better life and society. And it also helped me to learn that revenge was not the answer, as it would not bring back what I or anyone else had lost.

Today, the challenges of doing research and seeking answers make me happy and give me strength. Research sets me free when I suddenly discover a piece of truth, no matter how small. *For some people, only time and love can heal them, but research and documentation helped heal my anger by moving me toward an understanding of how Cambodians could commit so many atrocities.*

You have to understand Cambodian culture to understand why people acted as they did during Democratic Kampuchea. Generally, Cambodians



US Secretary of Department of Health and Human Services
and DC-Cam's Director

don't do things for personal reasons – that would be viewed as arrogance. They act for their *nation*. The result is that individuals don't understand their own value, their own worth in life. They tend to think that if the government beats them, it is acceptable; it is for the sake of the nation. But the nation is formed by individuals.

And research has also led me to the desire to share what I have learned through teaching. Many rural Cambodians don't yet understand the rights and responsibilities individuals have. So I want them to know that each one of us is important. It doesn't matter what or who we are: we are all part of society and our rights have to be protected. And that no one has the right to take away your life. I want Cambodia to protect and defend these basic rights for all of its peoples.

So I have been approaching my work with a personal attitude that is much different from the one I had at the beginning: to conduct research that helps all of us see the truth, but also to help Cambodians begin to see themselves as individuals who share similar experiences. We have to become a family first and then we can become a nation. But

The cover depicts a way the Khmer Rouge killed people, and was painted by a twelve years old boy in a refugee camp on Thai border in 1980s.



I've interviewed many perpetrators and victims of indescribable crimes in the past and have concluded that no one can *fully* understand how it felt to live under Democratic Kampuchea. Because genocide cannot be described in words, most of the

victims are very frustrated when they try to explain it. Some scholars see survivors' testimonies as exaggerations – when they testify about how people were torn to pieces, how children were burned or killed by bayonets, how this or that was done to thousands of people, millions of people. I think that sometimes these stories almost take on the quality of myth, which is not constructive and can cause others to doubt the survivors.

So, in terms of seeking justice, I think that if survivors' testimony is to be constructive, the victim has to appear strong. If you are weak, it allows the perpetrator to grow stronger. If the victim cries on such occasions, it is a sign that he or she is still living in the past. But when a victim has discovered a way to find closure and freedom, he or she can contribute a lot when testifying before a court of law.

Last, *if I only have fragments of memory, I can't convey my experiences to my children and others, and if I don't pass them on, how will they ever believe what happened?* So, it is necessary to preserve the stories of survivors for future generations.

DOCUMENTATION CENTER OF CAMBODIA (DC-CAM) ♦ 6

At the Documentation Center of Cambodia, we transcribe survivors' interviews and enter them into a database we call Promoting Accountability. We're also training young Cambodians to write their country's history so that the next generation will become the guardians of that history.

It gives me great heart to know that justice and reconciliation are still important to so many people. Some might ask why we should still be focusing on Cambodia when its genocide occurred a quarter of a century ago. Shouldn't we just forget about the atrocities and move on? But we have people who are willing to face issues that are still very much a part of the reality in Cambodia. Many of the Khmer Rouge leaders are still alive and living freely in Cambodia. And they have not been judged by any court of law. Once they are, our society can begin to find real closure on a regime that is responsible for the deaths of a quarter of our country's people.

As the Royal Cambodian Government and United Nations move closer to trials of the Khmer Rouge leaders, Cambodia could hold some valuable lessons for other nations and the broader international community as well. As history has taught us, crimes against humanity like genocide can happen anywhere. One needs only to look at Rwanda, East Timor, Bosnia, Sudan and other places around the world to realize that we haven't come very far. But we also know that without the support of the international community and activism on the part of people, it is impossible to prevent genocide. Without a global perspective, there's a risk of remaining narrow-minded, which may lead to taking an extreme view; and extremism can lead to more violence.

I'm often struck by how little we have learned from the experiences of others. For example, most Cambodians know little or nothing about the Holocaust. But it is common for people who have survived genocide to be surprised when they learn that they are not alone, that others have suffered as they

have. So simply knowing that one's country was not the only one to have committed atrocities can sometimes be ironically comforting. In this way, research lets us share our experiences and bring them to others, helping survivors share a sense that they are not alone and giving impetus to those in the international community to work toward preventing genocide. And the next step, of course, is to piece together the truth about why genocide occurred and to learn from it so it doesn't happen again.

And these lessons also apply to people who conduct genocide and human rights abuse research and documentation in the field. Their work can be emotionally draining and they can sometimes feel alone. Knowing that they are connected to many others on this global issue helps lend them new inspiration. For this reason, we have initiated an "Affinity Group" with the International Centre for Transitional Justice (ICTJ) where researchers from documentation centers around the world come together and share their thoughts, knowledge, and techniques. Our members include centers working in the former Yugoslavia, Guatemala, Burma, Iraq, and Afghanistan that work together to find solutions to the constraints our members face. Each of us can bring something different based on the cultures and politics in our countries.

All of us who lived through genocide know that nobody and nothing can compensate for what has happened, and that genocide devastates a country in many, many ways. The road to healing has been a long one for Cambodia. After a quarter of a century, it is still one of the world's poorest countries, and many of the indicators of its people's well-being are sliding backwards. We need to heal before we can move on, and documenting and understanding our shared experiences is a small step in that direction.

Youk Chhang
Editor-in-Chief and Publisher

Nhean San

According to the aforementioned description,

This agreement is for:

- As citizens, we will never forget the crimes committed during the Pol Pot regime. Our anger will never be dissolved. We are committed to fulfilling three objectives:

- ◆ to strengthen the revolution.

Svay Thom Village, September 10, 1983

CONFESSION SUMMARY: TANN LIEKPHENG

Tann Liekpheng was a Cambodian student who was given a scholarship to study agriculture in France in September 1972. He finished his studies there in 1976. Like other Khmer students overseas, he then returned home to apply his new skills for the development of his country. However, Angkar accused him of betraying the revolution, arrested Liekpheng on November 11, 1977, and sent him to S-21 for interrogation. The following is a summary of his confession.

Tann Liekpheng, age 32, was born in Phsar Chas village, Sa-Kous subdistrict, Samrong Torng district, Kampong Speu province. In 1969, he attended the Faculty of Agricultural Science. The head student of the refugee association in France, Pin Samkhon, told Liekpheng about the doctrine of the free world, and persuaded Liekpheng to work with him. Samkhon then introduced Liekpheng to four professors at the Phnom Penh Faculty of Science: Kiev Koma, Phann Buoyhak, Ms. Dy Phon, and Ly

Sorarith. Kiev Koma then sent Liekpheng to join the CIA and advised him to bring in more students from the Faculty of Science.

In 1969, Liekpheng successfully convinced two students at the Faculty of Science to join him: Chhun Bora and Ao Chhunhan. He also told them to continue recruiting other students to join their force.

Liekpheng and his friends went to Tuol Svayprey, Sisovat, Yukunthor, and Tuol Kok high schools to distribute magazines and other documents a Mr. Serey had given them so they could spread the free world culture to high school students.

In early 1970, Sa Song called Liekpheng and other agriculture students to a meeting held in a hall at the Faculty of Science where Phann Buoyhak worked. In the hall were 13 people. Sa Song declared that the ordinary people and students would soon take part in a demonstration against the Vietnamese Embassy and the Viet Kong who had invaded Cambodia. Sa Song asked the students to gather more support for

the protest. Sa Song added that he would like the students to side with the new government if there was a change in power. I added the “Viet.” I didn’t know the original word (“Yiek”).

A month after the coup d’état in 1970, Sa Song summoned Liekpheng and some other students to a meeting in Phann Buoyhak’s hall. There were 12 other people in attendance who were spreading propaganda against the Vietnamese communists and Khmer Rouge.

In that same year, Liekpheng and his friends gained three more members. They trained them to act against the Khmer Rouge.

Liekpheng spurred the students to protest against the North Vietnam Embassy and Viet Kong. Moreover, he stimulated them to destroy the Hong Yu bookshop which was suspected of involvement with the Viet Kong. Liekpheng then propagandized at Monivong School in Battambang in order to make the students maintain their stance on the Lon Nol government.

In 1971, Sa Song called 13 students to a meeting at his office in the Ministry of Agriculture. He advised the students to be more cautious about the enemy because they had secretly put bombs in the National Theater and other meeting halls. Furthermore, he warned the students not to be confused while the country was confronting the enemy and distributing donations to the refugees in camps in Phnom Penh and the provinces. This was one strategy to gain people’s support.

Early in 1972, Sa Song announced the names of the students who had won scholarships to study in France. They were Chhin Thun, Phit Phut, Heng Hamkheng, Hem Sorin, and Pheng Menglong. Liekpheng had to wait.

In the same year, he added another member: Lao Bunhak, a former student of agriculture. After some protesters were attacked, Liekpheng and other students warned students from Chamkar Daung and other schools not to hold demonstrations against

the government.

In September, Liekpheng got a scholarship to study in France. Before he departed, Sa Song called him to meet at Ministry of Agriculture and told him to keep in touch with Phann Buoyhak, who was responsible for the Khmer students studying in France.

In late 1972, Phann Buoyhak asked Liekpheng to meet him at the Cambodian Embassy in France. Buoyhak had arranged for Liekpheng to meet with other Khmer students, so that he could convince them to distribute leaflets to the foreigners, and learn about the Vietnamese invasion of Cambodia. He also wanted to appeal to the students to join the National United Front in France. Heng Hamkeng, a member of the Front, suggested that Liekpheng ask for a scholarship to study in China, which would give him an opportunity to spy on the Front there.

In 1973, Liekpheng propagandized and shared leaflets about the Khmer Rouge’s invasion and their attacks, which caused several deaths in Phnom Penh.

With support from Phann Buoyhak, Liekpheng and other Khmer students in Paris celebrated a magnificent Khmer New Year. On that occasion, Pin Samkhun made a public speech about the Khmer Rouge’s intention to eliminate national tradition, culture, civilization, and freedom in Cambodia. He suggested that all the Cambodians should be determined to act against Communism.

Early in 1974, Liekpheng and eight other students attended a meeting with Phann Buoyhak at the Cambodian Embassy in Paris. The aim of this meeting was to inform its members about a new plan for dealing with the students whose scholarships were provided by the Lon Nol government, but were supporting the United Front of Cambodia. Those who received any information about this had to promptly report it to the Embassy. Moreover, they had to convince the students in Paris not to support the United Front. At the end of this meeting, Pann Buoyhak declared that Heng Hamkheng had been

The Association of Immigrants played an important role in convincing Khmer expatriates to return to Cambodia. In June 1976, Seng Huor suggested that

In early July, Keut was moved out of K-15 and all his responsibilities fell to Try Menghuot. He was in charge of the chicken and duck farm, the worksite producing fertilizer, and a worksite that

In early August, having finished his daily duties, Liekpheng met with Chhun and other members of K-15 in the medicine man's house. Chhun noted that their work was obstructed by Try Menghuot. Trying to find a way to have Menghuot dismissed from K-15, they brought up his weaknesses, saying he was authoritarian and could bring harm to the public.

Menghuot met with Savan's unit chief later that month to determine the virtues and faults of the members. Menghuot then gave the results to the community and allowed people to make comments. Those from the Office were impressed and satisfied with Liekpheng and two other members. The community members agitated for reforming Menghuot's weaknesses. Then Savan stood up and defended Menghuot, saying that all the trouble was caused by the anxiety created by the enemy's spies. Without resolving the issue, Savan suddenly ended the meeting. Later, Chhun asked Liekpheng and other members to find a way to defeat Menghuot. He advised that Savan must also be defeated since he always protected Menghuot.

Chhun recommended that his members stir up the people at all the worksites. On September 9, Angkar's representative Sin organized a meeting to let people speak their minds. Liekpheng mentioned

that Savan was unable to solve problems. Other people then raised Menghuot's weak points. Sin concluded that all the troubles were tricks of the enemy, which wanted to cause internal conflicts in the community. He then asked all the members to join in solidarity, and appointed Hing Oun as a member of committee. This made Liekpeng and his members worried that their plan would not materialize because it would be hard to stir up the people.

Savan began investigating to find out who had caused troubles in the Office and the people's disappointment with its chief. He asked the members to point out the person who they believed to have provoked the internal conflicts until it was Liekpheng's turn. On November 12, 1977 Liekpheng was arrested and sent to S-21 security office. There he was forced by Phiang to write his confession between December 9, 1977 and January 1, 1978.

The 37-page confession of Tann Liekphen describes his activities relating to the Khmer students both in Cambodia and France, as well as his work in the K-15 Office. However, he did not discuss any acts against the revolution.

Farina So is a staff writer for Searching for the Truth and a radio broadcaster at DC-Cam.

KHMER ROUGE HISTORY AVAILABLE ON AIR

DC-Cam has produced a radio program focused on readings from its magazine *Searching for the Truth* and other books published by DC-Cam. Our program can be heard on:

- ◆ FM 102 MHz of the Women's Media Center, Phnom Penh, every Wednesday and Thursday from 7:30 to 7:45 p.m.
- ◆ FM 93.25 MHz, Kampot, daily from 7:00 to 7:30 a.m. and 7:00 to 7:30 p.m.
- ◆ FM 99 MHz, Preah Vihear, daily from 7:00 to 7:30 a.m. and 6:30 to 7:00 p.m.
- ◆ FM 103.25 MHz, Battambang, daily from 9:00 to 9:30 a.m. and 3:00 to 3:30 p.m.

Soon DC-Cam will also extend its radio program to Siem Reap. We anticipate that the program will contribute to the enlargement of people's understanding on Khmer Rouge history and the prevention of the repetition of such a regime.

For comments or questions on our programming, please contact Farina So (truthfarina@dccam.org) or Sophal Ly (truthsophal@dccam.org), or contact us at P.O. Box 1110, Phnom Penh or 023 211 875.

Kalyan Sann

Suon admitted that before 1975, he worked

However, Suon's confession revealed no plans to destroy the Khmer Rouge revolution at any of the network meetings he attended in France. Instead, they focused on the local and foreign policies of Cambodia. And the meeting with the embassy staff was to discuss starvation, overwork, the loss of freedom, the stealing of collective goods, and the conditions of families living in foreign countries.

Angkar arrested Chin Suon in November 1977 and interrogated him at least ten times. The documents were dated November 20, 22, and 23, 1977; December 8, 19, and 30, 1977; and January 2, 5, and 8, 1978. Seven additional undated documents were found pertaining to Chin Suon. The confession documents do not contain the name(s) of interrogator(s), but two documents were marked by interrogators, indicating that they were sent to the upper level and one other

Suon apologized for mistakes he had made and admired the great principles of the Communist Party of Kampuchea (CPK). In his confession dated January 8, 1978, Suon admitted that he didn't like the CIA, but he worked for it because he was convinced and given a car, a plot of land, and a sum of money by Sim Va and Samphear. He added "Working for the CIA as well as SDECE was a result of the environment of the former society, the faith of feudalism, and the traitorousness of the nation, people and revolution; however, I did not notice this mistake...Without the brightness of the Communist Party of Kampuchea, I myself still didn't realize these activities were traitorous. I would like to express my deep thanks to the party, and I would remember this until the end of my life. Bravo! The great leap forward by the Communist Party of Kampuchea!"

Kalyan Sann is the team leader of the Khmer language edition of Searching for the Truth.

On April 2, 2004 DC-Cam and the Khmer Writers' Association (KWA) announced the four winners of an essay competition for survivors of Democratic Kampuchea. Contestants submitted narrative essays on their lives during the regime or their thoughts on issues related to the Khmer Rouge.

Because of the important role this contest can play in preserving the history of the Khmer Rouge period for future generations and in giving a voice to its survivors, DC-Cam and KWA are holding another essay contest. It is open to students, survivors of Democratic Kampuchea, and other Cambodians, both those living in Cambodia and abroad. The winning essays will be announced in April 2006. The winners will be given cash awards. The winning essays will be published in *Searching for the Truth*.

Those who are interested in submitting an essay are required to write at least ten pages. Your essays can talk about your own experiences during the regime, the stories you have heard about others, and/or your own thoughts about Democratic Kampuchea.

Please submit your narrative essays by mail to KWA's office at Botum Vatey Pagoda in Phnom Pehn or to DC-Cam at P.O. Box 1110, Phnom Penh, Cambodia or email: dccam@online.com.kh. The deadline for submissions is February 28, 2005. For details please contact Mr. Sophearith Chuong at (855) 23 211 875 or by email: truthsophearith@dccam.org. Thanks!

THE LIVES OF FOUR 17-APRIL PEOPLE UNDER THE KHMER ROUGE

Pivoine Beang and Savina Sirik



Chey Phon in 1962

Chey Phon

A Former Teacher

Chey Phon was born in Prek Tameak village, Khsach Kandal district, Kandal province. He has kept five photographs of relatives who died during the Khmer Rouge regime; they were taken before

1975. He sent all of them to the Documentation Center of Cambodia to be kept as records. Below is the description of his life during the Khmer Rouge

Two of my brothers were ordained as monks and studied in the pagoda. I first lived with them at the pagoda when I was five years old because my family was desperately poor. My father died of old age during the Sangkum Reas Niyum regime, which was ruled by King Norodom Sihanouk. My mother was responsible for everything in the family. She sold mats to support our studies, but did not earn enough.

I was an outstanding student, and ranked first or second at all times. I was good at French and mathematics, and thus my classmates liked me.

My first elementary school was Prek Tameak. Then, I transferred to a school at Prek Eng. After passing the exam, I studied at the senior school of pedagogy in Phnom Penh, where Mr. Keng Vann Sakk was a general director and Mr. Son Sen was an academic director. Son Sen looked Chinese and was gentle. After I graduated, I became a school director in Srey Santhor district, Kampong Cham province. I taught many classes because the school was short of teachers.

I got married in 1962 to my cousin Pol Yem.



Pol Yem in 1960

She was born in Prek Dambang subdistrict, Muk Kampoul district, Kandal province. After 1979, she died of an illness at the age of 50.

In 1967 I taught at Prek Tameak Primary School. At that time, they were arresting

teachers who propagandized against the Khmer Rouge. Chheng Vun, my teacher, propagandized in favor of the Khmer Rouge, but I didn't join the movement. My wife and I decided to move to Phnom Penh; due to the bombardment, the situation was tense. I took a job as a security guard at the Kandal provincial office. In 1974, I asked to teach at a kindergarten in Chroy Changva. There I bought a house, a weaving loom and other things for my wife to weave mosquito nets and mats to sell.

In 1975 when the Lon Nol regime was defeated, there was an announcement on the loudspeaker saying, "We won, we are at peace, and there is no longer a war." Then I felt I wanted to return to my hometown. Along the street, the Khmer Rouge soldiers gave my family a bushel of rice. I stayed at Bakk Kheng and fished to support the family. After that Angkar evacuated me to my hometown in Khsach Kandal district, Kandal province.

When I arrived home, the villagers knew I had been a teacher, and the cooperative chief asked me about my previous job. I told them honestly that I used to teach but that I could also fish. The chief assigned me to work in a fishing unit that had three members. Had I told him that I used to be a guard with a gun at Ta Khmau, I would have been killed. I

I had to row a boat in strong winds and waves in order to fish, although I didn't want to. Sometimes I heard people being pushed into the water from the bank. Ta Lun, who fished with me, said he sometimes saw bodies in the water. When I was eating nearby the shore, I often saw corpses floating. Militiamen took people away to be killed every night. I never slept well because I felt frightened and didn't know whose turn it was. Angkar wanted to take me to be reeducated, but fortunately the villagers begged Angkar not to take me because I never caused any trouble. I myself knew I would go

My siblings and I took a photo together for



(From the left) Chey Phan, Chey Sbaong, Chey Phann and Chey Phon.

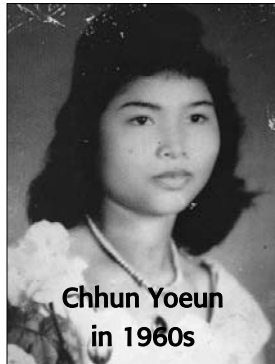
(From the left) Chey Phan, Chey Sbaong, Chey Phann and Chey Phon.

This photograph was taken in Takhmau after my marriage. The other picture was my wife; it taken when she was a student.

A Former Vendor

Chhun Yoeun was the daughter of a poor farmer living in Anlong Korng, Prey Sar subdistrict, Dangkor district, Phnom Penh with his two daughters and grandchildren. Her husband and other relatives died during the Khmer Rouge regime.

"I had two husbands. I was related to both of them, and both marriages were arranged. My first husband was a farmer who lived in my village. After we were married, he helped sell cakes at a shop near O Russey market, earning 1,300 *riels* a month, and I did the farming. However, he never gave me his salary. After nine months, I decided to divorce him because we didn't get along well.



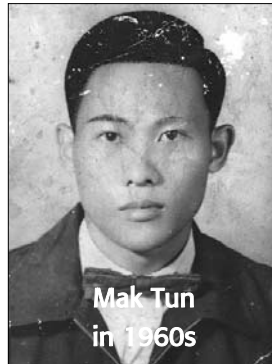
The following year, I married Mak Tun. He had been ordained and studied at Kak Khsach pagoda. He later left quit the clergy and worked on a farm. He was a kind, handsome man, but poorly educated. When he asked for my hand in marriage, it was a little different; this time I was entitled to decide whether or not I would marry him.

I was also poorly educated because my parents could not afford the school fees for their children. My mother died when I was child and my father then married another woman. By the age of 15, I joined a class designed for the illiterate in the village. I was the best of its 20 students. I had studied for a year before I got married. After my second marriage, I made cakes and sold them in Phnom Penh – palm cake and paste of fermented rice. My second husband became a taxi cycle driver. He had dinner at home sometimes, but usually he came home only once a week.

In the Lon Nol regime, the Khmer Rouge took over my village, which had suffered from the fighting between Khmer Rouge and Lon Nol

soldiers. In such a bad situation, my family and other villagers were evacuated to Thnal Bot in Chamkar Daung, where my husband built a cottage that held one bed and where we lived for three years. He quit driving and helped me sell palm juice at home and farm nearby. We had a child.

When the Khmer Rouge drove people out of Phnom Penh, my second child was just a month old. Having night blindness, it was very difficult for me to walk and carry my child at the same time. My husband was put rice and some other things on a cow cart, and drove to the Kandal Stung district office. But the Khmer Rouge militiamen told us to go to Siem Reap subdistrict. When we arrived there,



my husband set up a plastic-roofed camp for us. Four or five months later, he managed to roof the cottage with palm leaves. It took us a year to have a proper house.



**Mak Tun
in 1960s**

Angkar confiscated my rice for the commune. Because we did not have enough food, I searched for water grass, bananas, water lily, and papaya stumps to eat. Half a year later, Angkar set up collective dining system in the cooperative. I got a ladle of porridge at each meal.

Angkar assigned my family to clear forests for farming. My husband worked in a plowing unit and my job was to cook porridge for pigs and pull out seedlings. Sometimes, I transplanted rice seedlings night and day. On 10th, 20th and 30th of every month, Angkar called people to join a meeting about equality in work and to increase farming productivity. It took all day for a meeting and I could rest only at lunch time. I doubted that all the rice produced was kept in the granary. If people were starving, where did the rice go?

We lived with the base people in Siem Reap subdistrict, but because my family was new people, we were not allowed to talk. Even when I walked to

Before this happened, Choeun, the unit chief of farming, wanted to exchange his cows with those of my husband. But he disagreed, and said they were the same cows. In fact, we took the cows from home when we moved away from Phnom Penh. Angkar accused him of being a colonel-general. A month later, Angkar called him and about 80 village youths to clear forest. At about 7 o'clock in the morning two militiamen took them out of the village. I was waiting for his return, and the village chief told me not to worry about him because he would come back in 9 months and 10 days. I wished the day would come very soon. However, he never returned. Someone whispered to me that 9 months and 10 days meant my husband was

I had many pictures of my husband and me together, but relatives always came and asked for one or two photos. Now I have only two left: this one was taken when my husband had just left the monkhood and this one when I was joining the literacy class. While we were being evacuated from Phnom Penh, I hid them in my clothing bag. When I went to the work site, the militiamen often searched my house. When I returned from work, I saw that everything was messy, but they did not find them. After the collapse of the Khmer Rouge, I brought them back home. I miss my husband always. On every festival day, I bring food to the pagoda and dedicate it to him. I feel so much regret that I didn't meet him for the last time. I hope that the Khmer Rouge tribunal will seek justice for my husband.

Em Phal and her husband Sa Son were arrested by the Khmer Rouge and killed at Tuol Sleng prison. Their biographies and confessions state that Son born in Svay Rieng district, Region 24, and had been a film engineer at the Ministry of Propaganda. He was detained on May 28, 1975 at Samrong Ty village and sent to House K-05, Room 9 and finally to Tuol Sleng on February 14, 1976.

Em Phal was a soldier who became a farmer after the liberation. She had a son, and was arrested on June 1, 1975 at Rokar Kaong (Region 22) and imprisoned in the Big Room 8, House K-06. "Ask for a physical description and current address for the arrest of a person on whom the spy put the blame," Duch wrote on her biography.

I have six siblings: four sisters and two brothers. My sister was very beautiful and the tallest woman amongst the four. She was the second daughter and my mother loved her the most. I was the only one who survived the Khmer Rouge regime.

A black and white photograph of two young women. The woman on the left is Em Phal, wearing a dark, patterned top and a pearl necklace. The woman on the right is her friend, wearing a dark tank top and a necklace. They are both looking slightly to the right. The background is dark and textured.

(From the Left) Em Phal and her friend in 1972

(From the Left) Em Phal and her friend in 1972

While studying at Damrei Sar pagoda, she got to know Sa Son, who fell in love with her. The two later became lovers. He studied film technology in France for two years, and during that period, he regularly wrote letters and sent gifts to Phal.

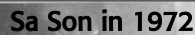
Son secretly contacted the Khmer Rouge in late 1974. He was arrested and jailed at a political prison (Prison T3) because he opposed Keo Sang Kim and Thach Chea. His detention was published in the newspapers. When he started to contact the Communists, Phal felt it was a problem. She and I often visited him in the prison and he didn't have enough food to eat or a proper place to sleep. He

When the Khmer Rouge evacuated the people from Phnom Penh, Son was released to see his wife, son, and siblings at Tik La-ak. We had only one goal – returning to our home village. Along the streets from Phnom Penh to Prek Po, the Khmer Rouge continuo-

Three or four months later, Son was arrested. Before his arrest, the Khmer Rouge told him that Angkar wanted him to have the same position he had held in Phnom Penh. Not having realized it was a lie, Son told Phal to wait at home in Rokar Kaong.

We lived in Preah Nangkoal cooperative in Stong district, where my husband planted rice, drove a cow cart and fished. The villagers there doubted he was a new (17 April) person because he knew how to farm. He was assigned to fish for the village coope-rative. I transplanted rice

I had many photo-graphs. In the Pol Pot time, the Khmer Rouge militiamen also searched for these pictures, but did not find them because my mother hid them in her bed. I have an album of photos from when I was a soldier. When the





in the Sihanouk regime. These soldiers were armed and trained to protect local communities. He also worked at the house of my aunt Ney Huoy, one of the richest families in Bos Khnaor village. After the 1970 coup d'état, my aunt and another uncle, who were merchants buying farm produce in Kampong Cham province, moved to Phnom Penh.

In the same year, my father led a group of rioters to demonstrate against the coup, which removed King Sihanouk from power. When the procession reached Prek Kdam, the Lon Nol soldiers shot off one of his ears. After that, the Lon Nol soldiers chased him. He fled and hid in the forest, and then served in the liberation army for a short period of time. I brought some medicine and rice for him when he was hiding in the jungle. When the situation calmed down, he returned to the village.

My Family and the Evacuation

In 1976 when I was sixteen years old, Angkar put me into child's mobile work brigade in Lvea Leu. My father was assigned to raise pigs. His eyes were impaired and he had to work until night. In the dry season, he fell into a waterless well about 4

There, I was assigned to thresh rice, clear forests, excavate hills, etc. One night while I was threshing rice, I saw a Land Rover come out of the

The Vietnamese army had not yet liberated my region completely, so I tried to hide from the Khmer Rouge. It was only when the Vietnamese troops liberated the whole country that I was able to come back to the village and live with my family.

Please send letters or articles to
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Fax: (855) 23-210-358
Email: dccam@online.com.kh
Homepage: www.dccam.org

Sophal Ly

Teng, for example, was a reconnaissance chief during the regime. All of the villagers in Sre Changhab

Soeur Klim, age 45, began working for the revolution in 1976 when he was 15. At that time, Angkar sent him to work under Yi and Kuon in Kratie province for a month. In late 1977, he was moved to work as a combatant in Division 920 of

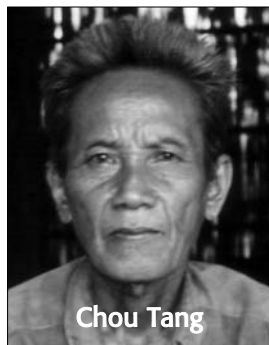




Soeur Klim

Soeur Klim

Kan and Chou Tang said that they were ordered to build houses. Angkar allowed them to visit their homes every two or three months. Angkar also sent them to build dams at O-Krieng and other places. Kan said that during the regime he cultivated and harvested a large amount of rice, but he still ate watery porridge every day. In the harvest season, he saw trucks coming and driving off with the rice. The Khmer Rouge cadres told people that the other collectives had no rice. The trucks were sometimes driven into the forest and vanished.



Chou Tang

were prohibited from speaking their language. Only Khmer was permitted. In addition, the religious rule that does not let the Cham eat pork was also eliminated. My small house was occupied by two families: Cham and Chinese.”



Kov Khen

Kov Khen, age 74, said that many new people died during that time because they complained and could not endure the work. Not many Changhab villagers were killed. Most of them died of disease because there was a lack of proper

medicine.

On December 20, 1978, the Khmer Rouge planned to cook Khmer noodles and put poison in them in order to kill the people in Changhab collective. This plan failed because the Vietnamese soldiers chased the Khmer Rouge out. Khen accidentally learned of this plan while he was walking to the rice fields. "One day I heard the high-ranking Khmer Rouge having a meeting outside the village. On the 30th, they said, we should keep a thousand beautiful Khmer women to breed with Chinese men. The rest of people would be poisoned. If the Vietnamese soldiers had not arrived in 1979, we would all have been killed."

As the Khmer Rouge soldiers were fleeing from the Vietnamese, they took people with them, saying that those who did not escape would have their throats cut by the Vietnamese. In Changhab, some people were very frightened and decided to go with the Khmer Rouge, while others returned to their homes. Chou Tang said that he escaped to Sambo district, and met his family at Kampong Pnevov. After giving up his weapon to a Vietnamese soldier, he brought his wife and children back to his village. When Khen was running to O-Kach Pruol, he met a Vietnamese soldier who told him to return home.

After 1979, the Vietnamese appointed a chief



Keo Nan

When recollecting their past during the Khmer Rouge regime, the Mil always said that they do not want to see or hear of this time again. What they want is only peaceful lives like the ones they have today. If people come to promise them something better than this life, they would not listen.

THAN BAN'S LIFE



Than Ban

After the 1970 military coup d'état that overthrew King Sihanouk, Paris quit school. Than Ban started to work with one of his friends named Sophea Keth, who was a people's representative in Kanh Chreach district. His tasks were to gather people from three

districts to demand that King Sihanouk be reinstalled on the throne. Sophea Keth was responsible for rallying people to demonstrate in Prey Veng district, while Ban was to bring in people from the districts of Kanch Chreach and Sithor Kandal.

On June 20, 1970 the demonstration was to stop in front of the National Assembly in Phnom Penh, demanding to see General Lon Nol and demand the return of the King to Cambodia. Forty trucks left Prey Veng district for Phnom Penh. As soon as they reached the provincial town of Prey Veng, soldiers of Lon Non, Lon Nol's brother, blocked their way and fired at the protesters.

Sopheha Keth was gunned down at the scene, and many others were also killed. Than Ban and another driver told the people to retreat. After that, Ban was under investigation and watched closely by Lon Nol's soldiers. They accused him of leading a demonstration against the new government. Afraid, Ban decided to hide in the forest with other resisters, leaving his siblings at home.

Two weeks later, Paris went to look for Ban in the forest. But when she could not find her brother, she returned to the village. Afraid that Lon Nol's soldiers might assault Paris, Than Ban asked his friend Sung, who was the district secretary of Kanh Chreach, to take care of her.

Three months after Ban went into the forest, Sung took Paris and two of her friends to work at the district office. Sung assigned Paris to work on logistics and care for his household.

After things calmed down, Ban returned to his home village. Angkar then assigned him to the job of handling subdistrict economics and supplying food to soldiers. Ban traveled to various districts, seeking to purchase rice, pigs, chickens, and salt, and supply them to battlefields near and far.

Paris visited her house in 1972, and brought a pair of shoes made from rubber tires and some clothing for her brother. Paris told Ban that she and her friends Ton and Soeun were working with Sung at the district administrative office. After she had visited for four days, she returned to her office, bringing Ban's two children along with her.

After the Khmer Rouge's victory on April 17, 1975 Than Ban was accused of having links to Prince Botum Chan and was removed from his office. He then began working in a cooperative as an ordinary citizen.

After four months, Angkar sent Paris to work in Phnom Penh. She was made a deputy director of Chib Tong, a shoe factory located in Tuol Kork. In 1976 Paris was allowed to visit home. She had

stayed for only two days, and returned to Phnom Penh. After that, she disappeared.

During the Khmer Rouge regime, Ban tried to seek information on his beloved sister, but never received any. He thought that she might have been killed at

the time the Khmer Rouge arrested and smashed along with cadres working in the West Region's ministries and offices.

Ban lived with other villagers in the cooperative until Vietnam liberated the country. Even after 1979, Ban still looked for his sister in various provinces including Banteay Mean Chey, and yet no information was found.

Ban regrets that he had devoted his life to serving the Khmer Rouge revolution with the hope that King Sihanouk would return to power. He wants the Khmer Rouge leaders to be brought to justice as soon as possible; otherwise, their deaths would let them get away with their crimes.

Vireak Sarin is a member of DC-Cam's Promoting Accountability Team.



Sokoeun Kong

and the living were to grab their guns and continue to fight. Food, ammunition, and all military equipment were provided by the United States.

In Saroeun's home village in Baray district, his brother-in-law Dith Sam On and other schoolteachers were armed to help protect their compounds. When the situation became more serious, the teachers hid their arms in a pond behind Saroeun's father's house. Some fled to Phnom Penh, while others ran off to other provinces. When the revolutionary forces found the hidden weapons, Dith Sam On was called for re-education. He has since disappeared. At the time, Saroeun was unable to contact his home.

On 17 April 1975 the Khmer Rouge emptied the city of Phnom Penh. Saroeun, his children and niece made their way to Kampong Speu province in a car that was confiscated by the Khmer Rouge. After living in Kampong Speu for three months, Saroeun was called to be re-educated and was never seen again. Later his son and three daughters also lost their lives due to malnutrition and disease. After that, his wife became mentally unstable; she chanted Buddhist dharma constantly. She also died during the Khmer Rouge regime. Saroeun's mother and other relatives were sent to Boeng Bei in Battambang province, where most of them died.

Dith Kim Song, Saroeun's sister, is the only family member who survived the regime. One photograph of Saroeun also survived; it was left with his niece Pich Thach. The picture shows Saroeun with his soldiers in front of Preah Vihear temple when they were delivering food to soldiers who were fighting the Thais in an attempt to reclaim the temple.



Sokoeun Kong is a DC-Cam staff member who works on the Victims of Torture Project.

Som Rithy

told her child that Angkar had taken him to be reeducated. Feeling compassionate towards the two little kids, I put them in the cart so they would not have to walk. Because it was getting hotter and we were hungry, we decided to take a short break for lunch at Toek Vil village. Along the way, we met several black shirted soldiers on motorbikes who asked about our former jobs. I gave them the same response. At about 5 p.m. we arrived at Kha-nat village.

While we were resting under a big tamarind tree, two Khmer Rouge soldiers appeared, asking me to repair a broken motorbike. After I fixed it, they told me not to leave because Angkar was preparing shelters for people. Two days passed before we were allowed to move our possessions and go to a house.

A week later, a Khmer Rouge cadre named Sal came to rule Kha-nat village. He called people to come for a meeting and hear Angkar's plan. The plan was that people needed permission from the official authority in order to travel; otherwise, they would be responsible for the consequences.

In the morning, about 50 families were assigned to move south of Kha-nat village. They took a cart path near Kok Khmaoch. Building shelters was quite difficult because we had to barter clothes, tobacco, and other materials with the base people for bamboo leaves, sugar palm leaves, wooden columns, and other construction materials to build our huts. Day by day, there was less and less food. Not long after that, Angkar declared that it would collect people's possessions and turn them into community property, and they would create a cooperative dining hall. Angkar appointed all the base people to watch over the 17 April people. It also assigned people to cultivate rice, build levees, dig channels, clear forests, uproot tree trunks and plant yams. Angkar directed us to work for a yield of

One day, a man who had returned home without informing Angkar was beaten and tied to a

Later the militiamen put me in a small stone cell that was large enough for only two prisoners. It held a jar and a steel helmet for containing excrement and urine. Three days later, the Khmer Rouge put another prisoner in my cell. His name was Sim, a district chief of Chikreng, who was accused of betraying the revolution. In the morning, the militiamen would take him out for interrogation. Every prison guard had keys, a stick, ax, metal pipe, hammer, a walking stick with a knife hidden inside, and electric wire twisted in bundle. At noon, they brought him back to detention, and a moment later the guard would

A few days later, the guard unlocked my shackles and ordered me to fix motorbikes. He led me to a court where

One evening while I was working, a young Khmer Rouge soldier got out of an A-2 truck and asked me, "How long have you studied fixing motorbikes?" "I have had this skill since 1968," I responded. He then asked, "Did you ever join the army?" "No, never," I said.

I was then moved to a big cell that held 50 prisoners. In the morning, the militiamen took me out to repair a C-90 motorbike that belonged to the son of the region chief.

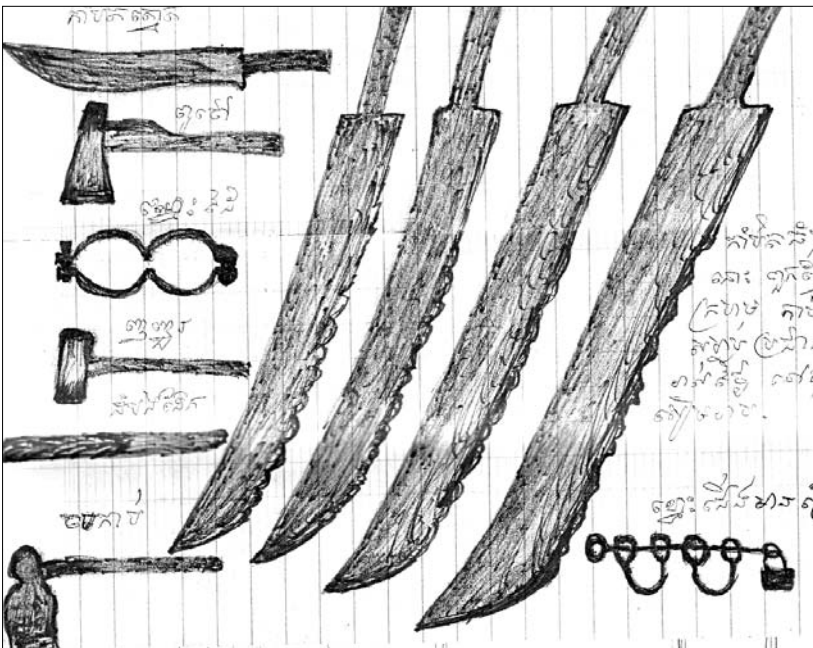
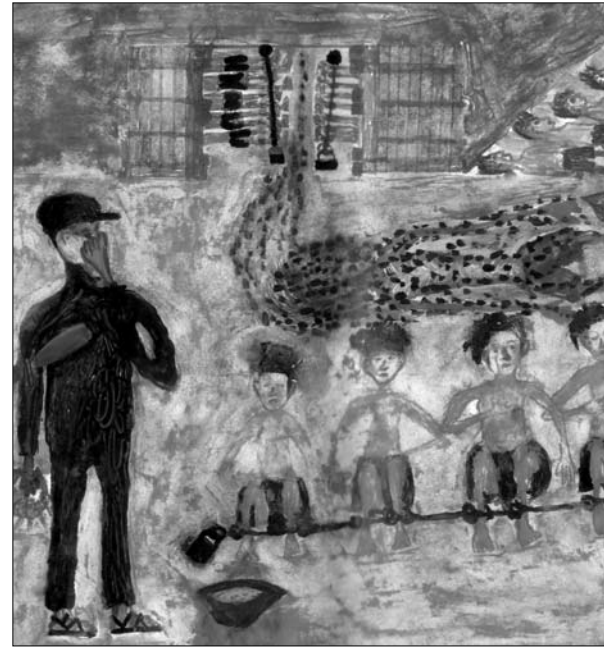
I was completely desperate and thought that I could never come back home and meet my family. I ate anything I could find, including, crickets,



Paintings by Som Rithy

One day, near Thaom Yuth pagoda, a young Khmer Rouge cadre brought me a bicycle to paint. A lot of Khmer Rouge cadres watched me. Seeing that I was doing a good job, they brought more bicycles for me to paint.

And one day, another prisoner and I were carrying a pot of porridge that was hung from a pole when a guard named Sam pushed the other prisoner. The pole lurched forward, and I fell down. The boiling porridge, which had just been taken from the fire, burned my legs, arm, and torso. Because we had no medicine, I collected rotten banana tree trunks, soaked them in lubricant, and applied the



If a prisoner intended to escape, the guards would beat that person to death. I once witnessed a guard beating a boy. "Why did you run?" he asked. "I miss my parents so much," answered the boy. The guard savagely hit him on his back and said, "Your mother was killed, you son of traitor!" The boy, too, was murdered the following night.

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Another day while I was working near the forge, a Khmer Rouge soldier named Prunh ordered a worker to temper iron and make two knives with large round handles. Prunh said, "The previous knives were kind of difficult to use. This time, you have to make it properly; otherwise, you will die." On hearing this, I became very frightened.

In addition to repairing motorbikes, I carried pots, distributed helmets the prisoners used as food containers, collected human waste for making fertilizer, and buried dead prisoners. Because I worked near the detention center, I saw the trucks bringing new prisoners and taking the old ones out. On average, 200-300 new prisoners come in every day, and about the same number were taken away. Sometimes the Khmer Rouge took the prisoners out twice a day. They were beaten by the guards each time they were interrogated.

Some prisoners died in their bad-smelling cells, and others committed suicide by biting off their tongues, suffocating themselves, plunging into deep wells, and cutting their veins. Not a single day had passed without prisoners committing suicide. Every evening, I had to go from cell to cell to ask whether there was dead person inside and how many had killed

themselves. The corpses were not wrapped; their wrists and ankles were tied to a pole to be carried away. The bodies were buried in Thoama Yuth pagoda or an area to the west of the pagoda. We dug holes that could hold 5 to 10 corpses. After we buried the bodies, we asked the guard for permission to pick water convolvulus and bring it home for making soup.

The detention center had about 60 of Khmer Rouge soldiers as guards. They would count and record the number of prisoners regularly. Those young

soldiers cursed, beat and did whatever they wanted to the prisoners. Having been in prison for almost 2 years, 28 prisoners and I were released and sent to Memai Bridge, about 55 kilometers from Siem Reap province. Before leaving, the prison chief had advised me to try my best to fulfill Angkar's assignments so that I did not return to prison. Moreover, he gave us 12 pigs. As the truck drove out of the detention center, I began to feel as if I had come back to life again. A week after I started working at the bridge, I heard that my wife, daughter and mother-in-law had been moved and were living about 4 kilometers away.

On January 7, 1979, a Vietnamese tank came and we began walking. It took us five days to reach Siem Reap. Then I left for my home village in Battambang in order to see my family. When I arrived, my mother rushed to hug me and burst into tears. Only two of my siblings were alive. My father was killed by the Khmer Rouge. My elder brothers Da and Tha died of hunger. My youngest brother Nareth had his throat cut by the Khmer Rouge. When the first cut did not kill him, he struggled to crawl out of the grave. But the Khmer Rouge saw him and cut him again until he died. My sister-in-law became a widow with five children after the Khmer Rouge murdered her husband. They poured gasoline over my sister-in-law Ton and set her on fire, leaving her three children orphans.

I managed to survive because I was skilled at repairing motorbikes. I would like to appeal to the Cambodian people not to be misled by communism. I would like to declare to all Cambodian compatriots that I cherish democracy. I would like to ask both the national and international courts to find justice for me as well as for the three million innocent Khmer citizens who died during the regime. Please make the Khmer Rouge tribunal a reality as soon as possible.

Som Rithy submitted this article to Searching for the Truth.

Say Suokia

My father told my mother that the militiamen were looking into his background. He thought that he might not be able to see his unborn baby. He said that if he ran away, he could survive, but Angkar



would kill his wife and children. So he decided to stay to make his family safer.

Three days later, while he was hammering barbed wire to make it into nails, two militiamen dressed in black and carrying M-16s walked toward my father. "Angkar knows that you used to be an engineer, so Angkar would like to invite you to be an instructor since Angkar needs people with skills to help build the country." When he heard this, my father's expression changed. He looked straight at his friends and said, "Goodbye everybody." His friends were sad, but dared not speak a word because they knew that no one ever came back when Angkar took them away. Without wasting a minute, the two militiamen walked him about for 100 meters, and tied his arms to his back tightly.

My 16-year old cousin Say Sok and I secretly followed my father. From our hiding place in the bushes, we watched. I wanted to run to him, but my cousin grabbed my hands and filled my mouth with grass to prevent me from shouting out. They walked my father until they reached his cousin's house. He asked the militiamen to let him have a drink there.

Next, the militiamen walked my father to the national road and tied him to a big tree. Then they called a man named Chhin who was about my father's age and used to live in the same village. After the two men were walked for about 700 meters, the Khmer Rouge collected Chheang Chhuon, who was living in the same subdistrict. He had been a customs officer during the Sihanouk regime (today, he is my father-in-law). The militiamen took the three men to the west; after that I no longer followed them.

My mother did not know what had happened, so she secretly cooked some rice and boiled a pigeon she had raised for a family meal. When she learned about my father, she fainted. Twenty days later, she gave birth, and a week later, Angkar sent my family to Banteay village, Chikmar subdistrict, Traing district, Takeo province. My mother hoped she would meet her other children there, but was disappointed, as they had been moved to another unit.

After three months in Banteay village, my mother received word that my elder sister Say San had broken both legs when a mound of fertilizer she was digging collapsed. They sent her home to heal. In the meantime, I was moved to a worksite along the Vietnamese border.

In 1979, when the Khmer National Liberation Front overthrew Pol Pot's regime, my family members were separated. After January 7, 1979 I heard an old woman say that my mother and siblings were alive. So I decided to return to my home village and we eventually reunited.

As a widow with eight children, my mother had a lot of hardship in her life. Sometimes she would rather sit and watch her children eating than eat herself. She was never negative toward her family.

In 1985, I studied at Angkor Chey senior high school. The school director offered to take me to visit Praphnom village in Kampot province, whose mass graves hold the bodies of thousands of innocent people. I brought packages of food to offer to the monks. I wanted to pray for my father, who probably lost his life there.

I saw the committees collecting the skulls and bones and neatly piling them. The committee, school director, and students held a ceremony to show their respect to the spirits of their families and other guiltless people who died during the Khmer Rouge regime. The brutal cadres pulled out people's fingernails, electrocuted them, broke their skulls with hoes, stabbed them with bamboo or knives, and removed their livers. Then, after the school director spoke, I gave a speech about the tragedy of the Khmer Rouge genocide, which massacred good citizens, patriots, government officials, scholars, professors, students, engineers, and monks. Then the committee began placing food in the monks' bowls. Seven monks were asked to pray and to the souls of dead who had reincarnated.

During Democratic Kampuchea, I lost five relatives:
my father, father-in-law, grandparents, and uncle.

Say Suokia is a survivor of the Khmer Rouge regime and reader of Searching for the Truth.

Gabriel Kuris

Introduction

In the case of the Khmer Rouge Tribunal, however, belief in defendant rights may be secondary to feelings of anger and impatience. Many people feel, understandably, that those accused of being most responsible for the crimes of the Khmer Rouge do not deserve the chance to speak another word.

Why Defendant Rights are Important in the Khmer Rouge Tribunal. Both Cambodian domestic laws and the International Covenant on Civil and Political Rights (ICCPR, see below) guarantee certain rights to defendants. Likewise, the laws governing international and mixed tribunals contain clear provisions on defendants' rights (see, for instance, Art. 21 of the ICTY Statute and Art. 66 and 67 of the ICC Statute). But why should those accused before the Khmer Rouge Tribunal (KRT) be allowed to defend themselves in fair trials, when the Khmer Rouge allegedly failed to deliver fair justice? Why should we presume defendants innocent when we believe they were members of a regime that committed unspeakable crimes? Below are a few reasons why defendant's rights are especially important in the Khmer Rouge Tribunal.

Second, defendant rights are necessary to make the KRT **legitimate**, both within Cambodia and abroad. If the trial appears biased or unfair, the KRT may be dismissed by the rest of the world. Within Cambodia, an unfair trial would open more room for doubt and thereby allow those convicted to maintain their claim of innocence. However, after a fair trial, those convicted will be more likely to accept their wrong doing, which may ultimately help to heal the wounds of society. In the same way, a legitimate, fair trial is beneficial to the victims as they can feel sure that the correct people have been convicted after a proper testing of the evidence.

Sources of Defendant Rights. There are three major sources of law for defendant rights in the KRT. The first two are the laws establishing the tribunal, particularly the **ECDK Law**, Articles 33 to 35, and the

UN-RGC Agreement, Articles 12 and 13. The third source is the **ICCPR** (Articles 14 and 15), which is binding because Cambodia signed and ratified the Covenant, and because the ECDK Law and the UN-RGC Agreement require that the Tribunal follow it.

The ICCPR is the most fundamental of the sources of law that govern the rights of the defendant before the KRT because its list of defendant rights is more comprehensive. Further, the rights guaranteed in the ICCPR have been interpreted and clarified extensively over the past few decades by the UN Human Rights Committee (HRC).

Besides these sources, some of these rights are also set forth in the Cambodian Law on Criminal Procedure of 1993, the UNTAC Law of 1992, as well as in the Constitution of the Kingdom of Cambodia of 1993.

Presumption of Innocence

Article 14 (2) of the ICCPR provides that “Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.” Similar expressions appear in Article 13 (1) of the UN-RGC Agreement and Article 35 of the ECDK Law. The UNTAC Law, Article 25 on Presumption of Innocence, also sets forth: “All suspects, indicted and accused persons benefit from the most complete presumption of innocence.” This right also appears in the 1993 Constitution, Article 38.

The right to be presumed innocent implies, as follows:

1. The judges or court in charge of a criminal case shall process the case in accordance with the presumption of innocence.

They must assume, at all stages of the criminal proceedings, that suspects or accused persons are innocent until proven guilty. The presumption of innocence may be violated by judges or a court if the burden of proof is put on the suspect or defendant during the proceedings or if they present someone as guilty of an offense before he has been proven guilty.

The burden of proof rests with the prosecutor.

In Cambodia, the prosecutor may submit to the court evidence of a criminal offense by any means in order to convince the judge of the guilt of an accused person (see Art. 125 of the Cambodian Law on Criminal Procedure). In case of doubt, the accused must be found not guilty in accordance with the ancient principle in *dubio pro reo*. Note that the HRC General Comment No.13 specifies that “No guilt can be presumed until the charge has been proven beyond a reasonable doubt.”

The presumption of innocence will be violated if a judicial decision concerning a person charged with a criminal offense reflects an opinion that he is guilty before he has been proven guilty according to law.

2. Public officials must refrain from prejudging the outcome of a trial.

Public officials include ministers, military and police officers, and all other public authorities.

As the HRC General Comment No. 13 states: “It is, therefore, a duty for all public authorities to refrain from prejudging the outcome of a trial. For example, a public statement by a representative in the National Assembly implying that a defendant ‘deserves punishment’ would violate this right.”

Public authorities can inform the public about criminal investigations in progress. But they should do so with all the discretion and circumspection necessary if the presumption of innocence is to be respected.

The 1979 Trials of Khmer Rouge Leaders

The apparent violation of the right to be presumed innocent was one of the most sharp and serious criticisms of the 1979 Khmer Rouge Tribunal. There were many criticisms of this Tribunal, some of which have been disputed. But the trials clearly failed to meet international standards for the presumption of innocence. The defendants were declared guilty even by the Tribunal’s title: “The People’s Revolutionary Tribunal Held in Phnom Penh for the Trial of the Genocide Crimes of the Pol Pot-Ieng Sary Clique.” The judge presiding over the trial exposed his belief that the defendants were guilty by stating the day before the trial: Trying the Pol Pot-

Thus, despite the evidence against Pol Pot and Ieng Sary, the trial was widely perceived as an illegitimate “show trial,” and its verdict of guilt was never enforced. If public officials do not carefully respect the presumed innocence of defendants, the upcoming KRT might be widely perceived as illegitimate like the 1979 Tribunal.

Article 14 (1) of the ICCPR guarantees defendants the right to a “fair and public hearing by a competent, independent, and impartial tribunal established by law.” This right is echoed by Article 33 of the ECDK Law and Articles 12 (2) and 13 (1) of the UN-RGC Agreement.

Article 10 of the ECDK Law lists many qualifications that the KRT's judges must meet, including high moral character, spirit of impartiality, integrity, and experience in international law. However, many critics have called into question the ability to find competent, independent, and impartial Cambodian judges for this mixed tribunal, because the Cambodian judiciary has been widely criticized as corrupt and ineffective. UN Secretary General Kofi Annan stated in this regard in March 2003 that: "I cannot but recall the reports of my Special Representative for human rights in Cambodia, who has consistently

Generally, judges are presumed to be competent, impartial, and independent until proven otherwise. In the *Prosecutor v. Akayesu* case, the ICTR Appeals Chamber (judgment of 1 June 2001, para. 91) determined that judges can only be proven biased or incompetent on the basis of adequate and reliable evidence reaching a “high threshold.” The Court wrote, “In the absence of evidence to the contrary, it must be assumed that judges of the International Tribunal can disabuse their minds of any irrelevant personal beliefs or predispositions.”

Equality of arms does not mean equality of resources, as the ICTR and ICTY have both concluded. Rather, equality of arms means that the court must treat both sides in a manner ensuring procedural equality and grant both sides adequate time and opportunity to prepare their case.

Public Access. Article 14 (1) of the ICCPR contains the right to a public hearing and public verdict. Article 12 (2) and 13 (1) of the UN-RGC Agreement and Article

The most likely reason the KRT might close a hearing is to protect certain witnesses. The Court might allow a witness to testify privately if his testimony

None of the KRT's laws specify how counsel will be freely provided to defendants who are **indigent** (too poor to afford their own lawyer). Thus, the KRT's judges will have to look to the procedures followed by Cambodian courts. In Cambodia, the president of the Court's registrar must determine and certify that a defendant is indigent; but no standard is provided. If a defendant is found indigent, the president of the trial chamber will ask the Bar Association to appoint

Cambodia has few criminal defense lawyers with experience and practice in international criminal law. Furthermore, many of these lawyers might be unwilling to represent defendants before the KRT. Thus, the Tribunal might need to hire foreign counsel to assist the Cambodian lawyers provided to indigent defendants, which would be permitted under Article 21 (3) of the UN-RGC Agreement. Defendants could even argue that they have the right to foreign counsel to ensure equality of arms, since the prosecutorial team will certainly include foreign lawyers experienced in international law.

Related to equality of arms and the right to have adequate time and facilities is the defendant's right to call and examine witnesses. This right is provided in Article 14 (3) (e) of the ICCPR, which reads as follows: "[A defendant has the right]... to examine, or have

There are only a few exceptional circumstances where international criminal or mixed tribunals have allowed the identity of a witness to be kept secret from the defense (e.g., if the victim reasonably fears retribution from the defendant). In such cases, the ECHR considers that "conviction should not be based either solely or to a decisive extent on anonymous

The European Court of Human Rights hold that the “right to remain silent under police questioning and the privilege against self-incrimination are generally recognized international standards which lie at the

Right to Free Assistance of an Interpreter. The

The Extraordinary Chambers shall exercise their jurisdiction in accordance with international standards of justice, fairness and due process of law, as set out in Articles 14 and 15 of the 1966 International Covenant on Civil and Political Rights, to which Cambodia is a party. In the interest of securing a fair and public hearing and credibility of the procedure, it is understood that representatives of the Member States of the United

Article 13

The United Nations and the Royal Government of Cambodia agree that the provisions on the right to defense counsel in the Law on the Establishment of Extraordinary Chambers mean that the accused has the right to engage counsel of his or her own choosing as guaranteed by the International Covenant on Civil and Political Rights.

Article 33

international level.

Article 34

Article 35

- ◆ to be informed promptly and in detail in a language that they understand of the nature and cause of the charge against them;

- ◆ to have adequate time and facilities for the preparation of their defense and to communicate with a counsel of their own choosing;
- ◆ to be tried without delay;
- ◆ to be tried in their presence, and to defend themselves in person or with the assistance of counsel of their own choosing, to be informed of this right, and to have legal assistance assigned to them free of charge if they do not have sufficient means to pay for it;
- ◆ to examine evidence against them and obtain the presentation and examination of evidence on their behalf under the same conditions as evidence against them;
- ◆ to have free assistance of an interpreter if the accused cannot understand or does not speak the language used in the court;
- ◆ not to be compelled to testify against themselves or to confess guilt.

ICCPR

Article 14

1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgment rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

2. Everyone charged with a criminal offense shall have the right to be presumed innocent until proved

guilty according to law.

3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:

- (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;
- (b) To have adequate time and facilities for the preparation of his defense and to communicate with counsel of his own choosing;
- (c) To be tried without undue delay;
- (d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;
- (e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
- (f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;
- (g) Not to be compelled to testify against himself or to confess guilt.

4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.

5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.

6. When a person has by a final decision been convicted of a criminal offense and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated

7. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

1. No one shall be held guilty of any criminal offense on account of any act or omission which did not constitute a criminal offense, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed

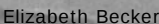
2. Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.

John D. Ciorciari

It is important to distinguish between these two terms. The tribunal is an institution; it is a special court that is being created within the Cambodian legal system. Its official name is the “Extraordinary Chambers” and it includes two parts—a trial chamber that will hear criminal cases and an appeals chamber that will have the power to review the trial court’s decisions. The Extraordinary Chambers are not a normal criminal court. They are being established for the specific purpose of putting certain former officials on trial for abuses they allegedly committed in Democratic Kampuchea (DK) between April 17, 1975 and January 6, 1979. While the “tribunal” is an institution, criminal trials refer to particular legal processes to decide whether an accused individual is innocent or guilty. Several trials of former DK officials are likely to occur in the tribunal. Scholars and journalists often refer to the upcoming “Khmer Rouge trials,” but it would be more precise to call these “trials before the Extraordinary Chambers.” The Extraordinary Chambers will not necessarily be the only court to hear cases against former members of the Khmer Rouge organization. For example, former Khmers Rouges could be put on trial in a foreign country

The term Khmer Rouge can be useful as a shorthand way to describe DK officials and cadres, members of the Communist Party of Kampuchea (CPK), and other Cambodians who professed loyalty to Pol Pot and other former DK leaders during the period after 1979. From a scholarly or legal perspective, however, it is more accurate to refer to individuals specifically as officials or cadres of the DK regime, members of the CPK, or supporters of particular rebel factions after 1979. The Extraordinary Chambers will only hear cases for crimes committed by former DK officials. Using the term Khmer Rouge Tribunal is therefore somewhat misleading. That term implies that the tribunal's jurisdiction extends to a broad range of individuals once affiliated with the Khmer Rouge organization. In fact, the tribunal will only be able to try a small number of "Khmers Rouges" who occupied influential official posts in Democratic Kampuchea.

DOCUMENTATION CENTER OF CAMBODIA (DC-CAM) ♦ 45



DOCUMENTATION CENTER OF CAMBODIA (DC-CAM) ◆ 46

Sean Visoth and Michelle Lee

As soon as all members of the UN delegation arrive, a site visit will be made to the premises designated for the Extraordinary Chambers in Kambol and a number

of specialist meetings will be held to make concrete plans for entering the operational phase of establishing the Extraordinary Chambers in the near future.

The principal remaining obstacle relates to securing the total funding required for the operations of the Extraordinary Chambers over three years. At the present moment the \$43 million on the United Nations side of the budget is almost fully subscribed, but the Cambodian side still lacks \$10.8 million. The Cambodian Government is appealing to other governments for urgent action to help meet this gap through bilateral contributions. A number of countries have indicated that they are considering how they can make a favorable response to this appeal, and we are hoping that this issue will be resolved within the coming weeks.

We are happy to be here and ready to start work. We know this will be a challenging task, but one that

we are determined to carry out to the very best of our abilities. I have been able to recruit key members of the start-up team from among the very best in the United Nations system, and I have selected them especially for their extensive experience in their specific field and in other mixed and international tribunals. We intend to share the very best practices, and to work hand in hand with our Cambodian counterparts with the intention of leaving behind a positive legacy. But we are also aware that we have much to learn from Cambodia's rich and ancient cultural traditions.

Joint press statement dated 9 December 2005 by His Excellency Sean Visoth, Executive Secretary of the Royal Government Task Force and Director of the Office of Administration, and Ms. Michelle Lee, Deputy Director of the Office of Administration

A CAMBODIAN JUDGE'S VIEWS ON THE TRIBUNAL

Terith Chy

When thinking about the atrocities committed in the 20th century, the Khmer Rouge regime stands out as one of the worst. Some 30 years ago, the Khmer Rouge changed nearly every social system in Cambodia – education, religion, markets, and more – in an attempt to make it the world's most advanced communist country in a matter of days. To achieve their agrarian revolution, they moved all of the people in Cambodia's cities to the countryside to farm. There, they endured untold hardships, including overwork, malnutrition, forced separation from their loved ones, and execution.

No one living in Cambodia between 1975 and 1979 could escape, from the king to ordinary people. One of them is Seng Sivutha, who is now a judge on the appeals court; he was 13 when the Khmer Rouge took power.

Life under the Khmer Rouge

Less than a day after the Khmer Rouge came to power on April 17, 1975 they began to empty the

cities. Vutha's family was relocated from Phnom Penh to the village of Thmey in Rolaing Ken subdistrict, Kandal Stung district, Kandal province.

Like other Cambodians, Vutha was assigned to work in the fields. "I was sent out to tend cows, plant tapioca, and make fertilizer from tree leaves," he said, adding that he met his parents and sister often during 1975 and 1976.

But starting in 1976, his situation changed when he was assigned to work in a mobile unit far from his home and family. Once every three to six months, Vutha was allowed to visit home. He was only able to visit his father twice before he passed away. In all, Vutha lost 21 relatives during the Khmer Rouge reign, including his father, uncles, aunts and cousins.

Education

Right after the Vietnamese invaded Cambodia in 1979 and overthrew the Khmer Rouge, people began rebuilding their lives. Most people headed back to the place where they were living before 1975.

When he first arrived in Phnom Penh, Vutha saw that education was vital for his future as well as for the reconstruction of the country. Despite many difficulties (like other Cambodians, Vutha's family had no financial resources, and the education system had been destroyed during the regime, and lacked teachers, facilities, and materials), Vutha managed to finish high school in 1987.

He was able to fulfill his dream of acquiring higher education in 1988, when he was awarded a scholarship from the Ministry of Education of the Republic of Kampuchea to study law in Ukraine, and was awarded a master degree's in law in 1994. He also attended a number of training programs on international law, international criminal law, international humanitarian law, and combating terrorism.

Career and Challenges

With an academic background in law and extensive understanding and experience in local and international law, Vutha, who has been involved in legal work for more than 10 years, is now a judge on the appeals court. "With deep interest in the legal area and through legal study and research, I developed a justice-motivated sense, and want to do everything for the sake of social justice," he said.

Being in a position to decide who is innocent and who is guilty is a huge responsibility that presents considerable challenges. For example, the Cambodian public has little understanding of the country's laws, which is a challenge for both Judge Vutha and for justice as a whole.

But Judge Vutha views such challenges as a motivation for his work. When asked about what inspires him in his job, he said, "Because I love my people. I will do my best to protect the rights of my people. Delivering justice to everybody, as stated in the country's laws, is the main motivation for me."

Personal Views on Extraordinary Chambers Issues

The perpetrators of atrocities worldwide have been tried for their crimes, including those in Europe and Japan after World War II, Rwanda, the former

Yugoslavia, Sierra Leone, East Timor, and recently, Iraq. In Cambodia, however, the perpetrators of a regime that claimed nearly two million lives have been living freely for nearly three decades.

The negotiations between the United Nations and Cambodian government on the establishment of the Extraordinary Chambers for prosecuting senior leaders and those most responsible for crimes committed during the period of Democratic Kampuchea lasted nearly eight years. Most of the obstacles to the tribunal have now been removed, and the UN and Cambodian government are screening and selecting candidates to serve on the Extraordinary Chambers. Once this process is complete, the tribunal will begin.

Time: The outcome of the trials and the amount of time they will take are not certain. Many legal issues will likely be raised that might prolong the trials, as they have in other nations. The International Criminal Tribunal for Rwanda, for instance, began in 1995 to try the perpetrators of a genocide that took nearly one million lives within 100 days. Ten years later, the trials are still being held. And the trial of Slobodan Milosevic in the former Yugoslavia began in 1999 and shows no sign of ending. Who knows what will happen in the trials of the former Khmer Rouge leaders?

"It would not be an easy task to gather evidence and launch an investigation into a crime committed 30 years ago," said Judge Vutha, expressing his concerns about the possible length of time it might require to prosecute former leaders of the Khmer Rouge regime. He also stressed several other important aspects of the tribunal.

Presumption of Innocence: Being a judge, one has to be impartial and unbiased; otherwise, the principle of presumption of innocence would be violated. This principle will be applied at the Khmer Rouge tribunal. If a judge or tribunal official says publicly that any former leader of the Khmer Rouge is guilty at any time before a verdict is reached, this would be considered a biased statement. For Judge

Some lawyers have questioned whether an international lawyer can fully represent former Khmer Rouge leaders at the Extraordinary Chambers. Article 13 of the Agreement between the Cambodian government and United Nations on the establishment of the Extraordinary Chambers and article 35 of the Law on the establishment of the Extraordinary Chambers clearly provide that “The accused is entitled to have adequate time and facilities for the preparation of their defense and to communicate with counsel of

Although the Khmer Rouge committed their crimes 30 years ago, bringing those responsible to trial is essential for ending Cambodia's culture of impunity and strengthening its rule of law.

Terith Chy is the English co-editor-in-chief of the special English edition of Searching for the Truth.

"I am very proud to represent in the U.S. Congress thousands of refugees, including many from Cambodia, who now call Minnesota their home. The Cambodian refugee story is one of overcoming tragedy and violence, but it is also one of courage and resiliency. Over thirty years ago, Pol Pot led the Communist guerilla group, the Khmer Rouge, in a large-scale insurgency to restructure Khmer society. In four short years, close to 2 million Cambodians, over a quarter of the population,

"Minnesota has a long and proud tradition of being a safe haven for refugees. The Minnesota-based American Refugee Committee was founded to assist the victims of the Cambodian crisis. With their help, many Cambodian families have made

“Despite her tremendous loss, Kunrath Lam came to Minnesota filled with promise and hope. She and her husband own a thriving business and remain active within their community. Four years ago, they began pooling tips and donations from their faithful customers. Now, a new school stands

(www.mccollum.house.gov)

Bunsou Sour

The language the Khmer Rouge used in their communications - military, educational, propaganda, and civil administration - will likely pose challenges for both interpreters and translators because it varies greatly from standard Khmer. It can be characterized in many instances as:

b.. Lacking in clear reference: The CPK's documents also employed many political figures of speech that are not intuitively obvious, such as: 'Burn the outside to a crisp, but pull it out while the inside is still raw'; and 'Small-fry eats a little, big-shot eats a lot'. Some are metaphoric, such as 'Angkar [the CPK Central Committee, but commonly understood as the Khmer Rouge] has the eyes of

the pineapple' (this phrase implied that Angkar was watching people wherever they were).

c.. Maoist. The leaders of the Democratic Kampuchea adopted an extreme form of Mao's doctrines. They employed such common Communist phrases as 'dialectic materialism', but also added a distinct twist of their own. Some examples include: 'only when the requirements of cleanly sweeping away the concealed enemies boring from within are consistently grasped will it be possible to sweep them out absolutely cleanly and successively'; 'reorient ideological and organizing views and stances in time'; 'the dictatorship of proletariat of the party'; and 'strengthen the stance of absolute and hot class struggle'.

d.. Adjective- and adverb-based. The Khmer Rouge used adjectives and adverbs heavily, and translators will be hard pressed to find their equivalents in English. For example, 'felicitously welcome the second anniversary of national independence: The super-fantastic 17th of April'; 'eliminate absolutely immaculately the ideology of individual and personal property rights'; 'sweep cleanly away'; and 'let's congratulate super-excellently the glorious Communist Party of Kampuchea'.

e.. Administrative. The CPK organized its administrative system very differently from those used in previous regimes, and its language reflects this. Examples include such administrative terms as 'squad', 'fifty-member unit', 'mobile work brigade', 'Economic Support Unit', 'Hot Group' 'Cool Group' and 'Chewing Group'. The latter three are understood to refer to the CPK units responsible for conducting torture and extracting confessions.

Such atypical language has been interpreted and understood differently by Cambodian and international scholars alike. This could pose

problems for translators in terms of accuracy and the time needed to produce a correct and nuanced translation. The key to understanding the CPK's use of Khmer lies in understanding Khmer Rouge history, administration, and terminology (an intimate knowledge of Cambodian culture is important, too).

To cope with such challenges, especially as the tribunal for senior Khmer Rouge leaders draw near, DC-Cam's Tribunal Response Team has developed an English language glossary that defines the terms the Khmer Rouge used. In addition, we have developed a transliteration system that encourages consistency in translating the names of people, places, and the like.

The glossary and transliteration systems were developed after careful readings and intensive research on the CPK cadres' diaries, notebooks on political sessions or trainings, and propaganda texts, which have given us insight into the obscure meanings of the language employed by the Khmer Rouge. Finally, our experience in interviewing former lower-level CPK cadres has added greatly to our understanding of the unique terms found in a variety of CPK documents.

Before the tribunal begins, it is important that the tribunal's translators and investigation teams understand the meanings of the terms found in CPK documents. This will require that they first study the historical context of the regime, which will give them a better background in understanding how the Khmer Rouge employed their unique language. Otherwise, many important points of evidence could be missed.

Bunsou Sour is team leader of DC-Cam's Response Team.

Muth Chantha

The right to legal counsel was in fact guaranteed under the Constitution, and Criminal Code and Code of Criminal Procedure. Article 38 (8) of the Cambodian Constitution provides that “every citizen shall enjoy the right to a defender through judicial recourse.” Under the 1993 SOC Law on Criminal Procedures, Article 75 states: “When the accused person appears for the first time, the investigating judge shall inform him or her of the imputed act, receive his or her statement after informing him or her of the right to answer or not to answer without the assistance of a lawyer or defender chosen by him or her or appointed automatically.” Article 76: “If the accused tells the judge that she or he chooses a lawyer or requests that a lawyer shall be automatically appointed by the government for his or her defense, then the investigating judge shall suspend the interrogation and call the counsel shortly in order to interrogate

Legal language regarding the “assistance of counsel of their own choosing.” Based on my analysis, this phrase means that all persons are entitled to call for the assistance of a lawyer, who is qualified and competent, of their choice to protect and establish their rights and to defend them at all

stages of criminal proceedings. If the accused cannot afford his or her own counsel, the authorities must provide a lawyer free of charge if the interests of justice so require. Whether or not the interests of justice require such an appointment depend primarily on the seriousness of the offense and the severity of the potential penalty.

However, it still creates room for different interpretations. "Assistance of counsel of their own choosing" is not likely guaranteed under Cambodian law. According to Article 5 of the Law on the Bar of Kingdom of Cambodia, only Cambodian lawyers can represent their clients in court. Based on this article the "assistance of counsel of one's own choice" was unlikely to be ensured because the accused cannot access qualified, competent, reliable, and impartial counsel. Furthermore, the accused may not want to choose a Cambodian counsel, if he or she believes that his or her interests will not be served. This creates a conflict of law. When it arises, the interests of justice of the accused will be affected and the principle of a fair trial will not be guaranteed. It should be noted that "everyone charged with a criminal offense has a primary, unrestricted right, including the right to defend himself." Thus, he is entitled to access to any competent lawyer. This right will not be respected and protected unless the inconsistency between the Law on the Bar and Law on the Extraordinary Chambers is rectified.

Lack of international experience and exposure.

Not many Cambodian lawyers have been trained in international law and important binding treaties, conventions, and covenants that would be frequently referred to during the tribunal. The majority of Cambodian lawyers do not have experience in representing cases or the conduct of judicial proceedings in international tribunals, although the Law on Extraordinary Chambers dictates that existing laws and procedures will be applicable. Training alone is not sufficient to enable them to provide adequate criminal defense for

those accused of high-profile international crimes. Experience and familiarity with international court proceedings is valuable for the accused. Despite the fact that foreign lawyers are allowed to practice with a Khmer lawyer, a gap still exists when it comes to communication and understanding, and the defense process. On the other hand, Cambodian lawyers still face challenges before a panel of mixed judges during the trial process when they present their legal arguments. Flexibility is required if one intends to make a strong defense. I would suggest that the Law on the Bar should be amended to accommodate foreign lawyers to represent clients in the Extraordinary Chambers and where possible, a position of "co-lawyer" be established, since the Law has already established "Co-Investigating Judge and Co-Prosecutor". I suggest that such an exception be considered only for the Extraordinary Chambers, in order to avoid the concern of job-stealing from well qualified and experienced foreign lawyers. The Bar Association of Cambodia made it clear that it does not want to recruit more lawyers because it intends to create job for the current lawyers.

Independence and impartiality of counsels.

The independence and impartiality of Cambodian lawyers is strongly questioned by many, in particular, the accused. At least one out of two lawyers would probably count themselves as victims of the Democratic Kampuchea regime. This could lead one to question whether a lawyer would sincerely defend a client whom he knows committed a murder or caused the death of his or her relatives through forced labor or starvation. When a defense lawyer has his independence or impartiality questioned, a conflict of interest will emerge. The interests of justice of the accused will also be jeopardized. Even the accused person is provided with the right to change his or her defense counsel if he or she thinks that the said lawyer does not serve his/her interests of justice. But the change itself does not help much because the accused may feel strongly that he will never have an independent

and impartial defense or be well represented. But he may opt to have one rather than nothing. This does not mean that I don't have confidence in Cambodian lawyers, but this is a special court for special cases. How can the Extraordinary Chambers and Bar Association, in particular the Bar Disciplinary Council, ensure the independence and impartiality of a lawyer? How can the Code of Ethics be enforced?

Language. The right to an interpreter is critical to ensure a fair trial. In the determination of any criminal charges against him/her, every person is entitled to have the free assistance of an interpreter

of such documents will be costly and the authenticity of the translation can be called into question. The question in this regard is who will be responsible for the cost of translations and their authenticity? It is important that the Extraordinary Chambers recruit qualified interpreters and translators who were trained in law and have knowledge of legal terminology. There are not many interpreters and translators in Cambodia who were trained in law and understand court proceedings, and who can provide simultaneous interpretation that is not limited to the court proceedings. Language will be one of many

On June 30, 2005 the United Nations approved the newly constructed headquarters of the Royal Cambodian Armed Forces on the outskirts of Phnom Penh as the location for the Khmer Rouge Tribunal



if he cannot understand or speak the language being used in the court, as stated in Article 14 (3) (f) of the ICCPR. The official working languages of the Extraordinary Chambers are Khmer, English, and French, as stated in Article 45 of the Law on Extraordinary Chambers and Article 26, paragraph 2 of the Agreement. The main issue raised by this provision is what interpretation should be given to the words "used in court." While it could obviously be said to refer to oral proceedings, this needs to be clarified. Nevertheless, the right to translations of written documents (documentary evidence and testimony) is not expressly stated. Written translations

challenges that the Extraordinary Chambers will face. It will have to establish rules for interpretation: whether it requires simultaneous or consecutive interpretation, and the exact words used in court or oral proceedings. It may be recommended that future interpreters and translators should be trained in legal terminology and in court procedures before they are assigned to their job.

Muth Chantha is Senior Program Manager of National Democratic Institute for International Affairs (NDI) bases in Phnom Penh. His paper does not necessary reflect the opinions of the NDI.

ANNOUNCEMENT

DC-Cam recently wrote a book called *Stilled Lives: Photographs from the Cambodian Genocide*. It describes the lives of 51 men and women who joined the Khmer Rouge revolution. Thirty-nine of these fifty-one people died at Tuol Sleng prison. Only nine are alive today.

We will soon read selected stories from the book on our radio program. The stories will air on: FM 102 MHz, Phnom Penh, FM 93.25 MHz, Kampot, FM 99 MHz, Preah Vihear, and FM 103.25 MHz, Battambang.

To write the book, we interviewed former cadres, base people, and their family members. They also gave us photographs of themselves. Many of the pictures were taken before the Khmer Rouge came to power, but some show the cadres during the revolution.

Funding for the book was provided by the National Endowment for Democracy. The book revealed that those joining the revolution had the same hopes and needs as other Cambodian people, and also lost their loved ones. We hope this book will help Cambodian people to understand that both victims and perpetrators share a common humanity.

We are now planning a book that will tell the stories of the new people and their families during Democratic Kampuchea. If you or one of your relatives was a new person and would like to tell your stories for the book, we would like to interview you. We welcome the contributions of Cambodians from both at home and abroad.

Because photographs will be a very important part of this book, we are only asking help from people who would agree to share their photographs with us. They must have been taken before or during Democratic Kampuchea. We will scan the photographs and return the originals to you. Please call DC-Cam at 023-211-875 or write us at Box 1110, Phnom Penh. Email: truthpivoine@dccam.org or truthsavina@dccam.org.



I would like to search for my younger sister named Chhim Tort, also known as Sophal, who disappeared during the Khmer Rouge regime. Through her brother Chhim Sung, who was a subdistrict chief, Sophal joined Khmer Rouge in 1974 at the subdistrict office. After 1976, she was sent to work in Phnom Penh at 17 April Hospital. In the same year she visited her ill mother in the village for five days and then returned to her work. She has disappeared since then.

I am Yors Pheng, age 72. My daughter Man Man, age 45, would like to search for my son Man Mun who left home in 1976 and has been missing ever since. In early 1976, Man Mun was forced by the Khmer Rouge to leave the monkhood and was sent to work in the potato-planting unit in Phnom Peam Chaing, Preah Sdech district. Man Mun never returned home.

 All of them were born in Kampong Chhnang province and lived in front of Aranh Pagoda. Sun Sira was separated from the family in 1975 while I was studying medicine in Phnom Penh. After the liberation of January 7, 1979, I looked for my family in Kampong Chhnang and was told by neighbors that all of them were killed by the Khmer Rouge after April 1975. A year later, I was informed on Pchum Ben day by villagers that some people have also come to look for my family in Kampong Chhnang.

Chuon Kim, male (died in 1975)

Chuong Thy, female (died of disease in 1979).

I am searching for one brother, Chuon Kei, who has been missing since the age of 17.

I am Im Yeav, age 70, living in Svay Teap village, Ampil Krao subdistrict, Sithor Kandal district, Prey Veng province.

PUBLIC INFORMATION ROOM

DC-Cam is the largest repository of primary materials on Democratic Kampuchea. Through the PIR, the public can read the documents and use them for research. The documents in our possession include biographies, confessions, party records, correspondence, and interview transcripts. We also have a database that can be used to find information on mass graves, prisons, and genocide memorial sites throughout Cambodia.

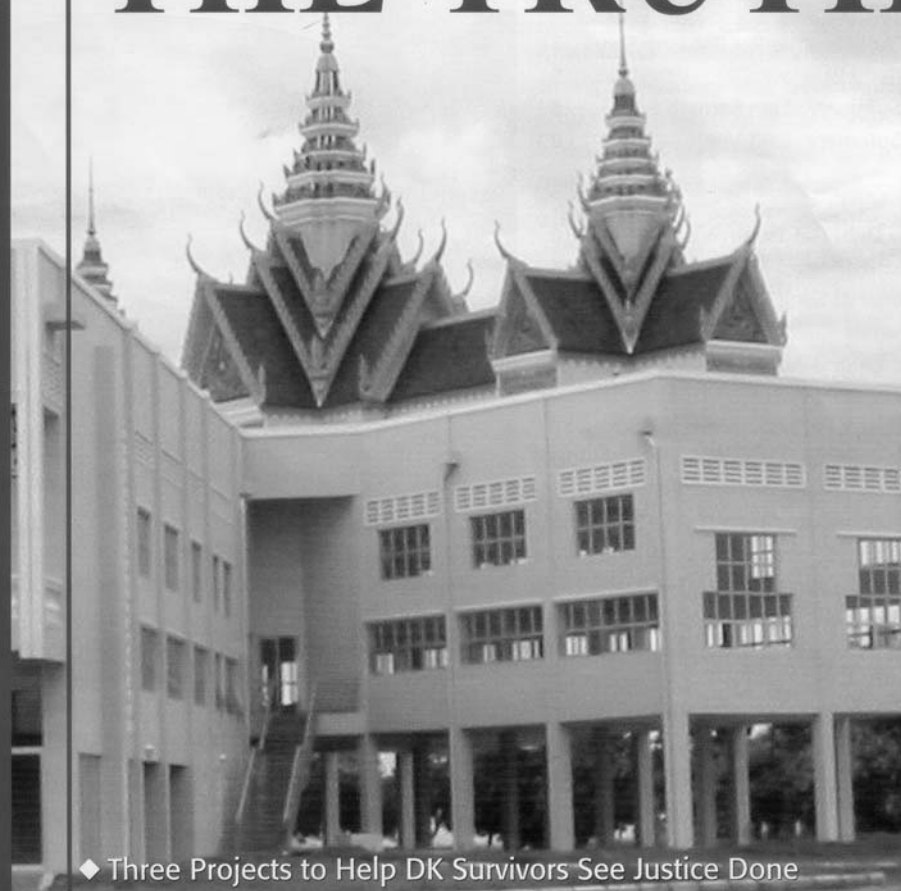
3. Tribunal Response Team: Our document and legal advisors will provide research assistance to the tribunal's legal experts from both Cambodia and the United Nations, as well as to the public.

The PIR is located at House 66, Preah Sihanouk Blvd, east of the Independence Monument. It is open to the public from Monday to Friday, 8 a.m. to 12 p.m. and 2 to 5 p.m. For more information or if you want to arrange a group event, please contact our staff, Phearum or Pidoa, at 023 211 875. Thank you.



Magazine of the Documentation Center of Cambodia

Searching for THE TRUTH

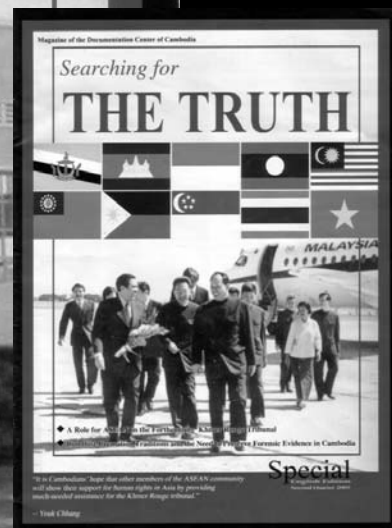


- ◆ Three Projects to Help DK Survivors See Justice Done
- ◆ Introduction to the Khmer Rouge Tribunal

*"I cannot hold my tear. I lost my husband and all of my siblings.
Nothing is harder than living through the Khmer Rouge.
We must prevent it from happening again."*

-- Ma Las

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