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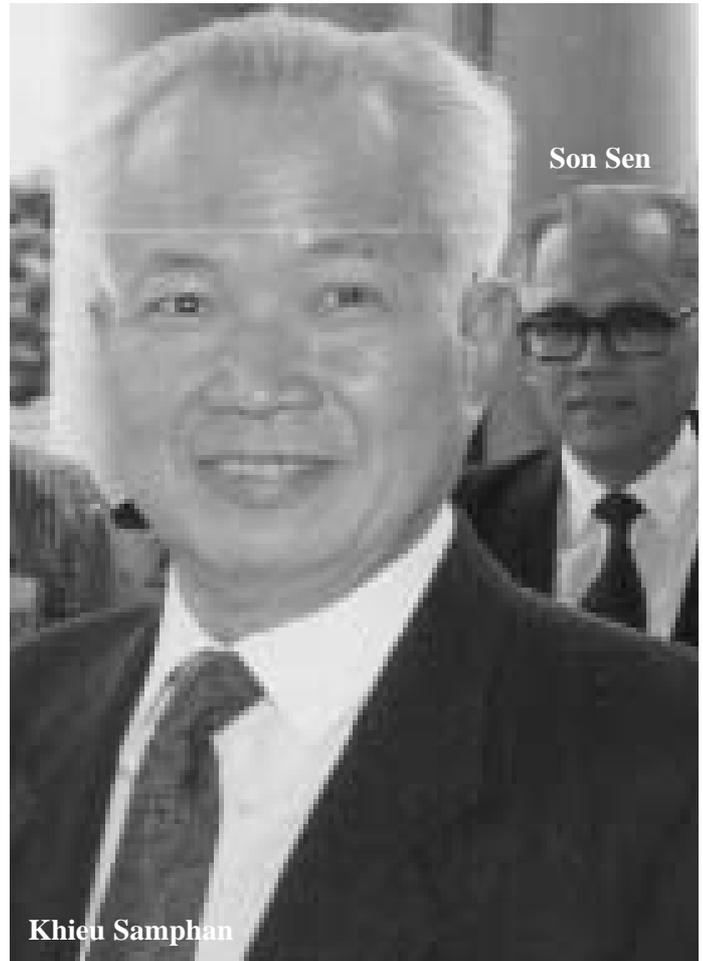
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March 2004:

Denials and Genocide Education

When I was young, the tales of the Khmer Rouge were always a source of wonder for me. I was told that the regime was like a nightmare. People talked of starvation, secret slaughters in the forest with wooden poles, rotting bodies, cannibalism, forced labor, and other horrors. Those who survived the regime used terms like Angkar, cadres, comrades, and political consciousness. I also heard the illusive names that everyone feared: Khmer Issarak, Son Ngoc Thanh, Son Ngoc Minh, Nguyen Van Thieu (Thieu Ky), Pol Pot, Ieng Sary, and Khieu Samphan.

Although observers found the July 2003 election to be free and fair, the government still has not been established. This means that Khmer Rouge leaders cannot be tried until the tribunal agreement signed by the United Nations and the Royal Government of Cambodia on June 6, 2003 is ratified by the new National Assembly.

Former Khmer Rouge leaders like Nuon Chea, Khieu Samphan, and Ieng Sary are denying their involvement in the atrocities. Earlier this month, Nuon Chea said that “hidden enemies” are to blame and asserted that these enemies faked S-21 and Cambodia’s mass graves. Everything that he did, he claims, was for the country and its independence. Khieu Samphan wrote “open letters” to all of Cambodia’s newspapers on August 16, 2001 and December 29, 2003, and more recently a “memoir.” In all of these writings, he said he was just a nominal leader. He did not know about the existence of S-21 or the widespread killings until only recently. He has contacted infamous French lawyer Jacques Verges to defend him in court. Like Pol Pot before them, Ieng Thirith, Ieng Sary, Ke Pauk and others claim that they acted only for the good of their country.

There is an overwhelming amount of information to show that these leaders were involved in decisions

regarding forced labor and execution, and were well aware of the massacres and deaths from starvation, disease, and overwork. The former leaders’ denials greatly affect the populace, who know few details about the regime. People have asked: if everyone said they were not killers, then who were the killers? While they want to reject the excuses made by these former revolutionaries, they are somehow hesitant. Although they went through the Khmer Rouge regime, they only knew what happened in their villages. They never saw those secretive leaders themselves. What they heard was the abstract word “Angkar.”

The effects of denial are even greater on Cambodia’s children, who are already wondering if genocide really did occur. Children’s thinking is dependent upon what they hear, as they have no basic education in or experience of genocide.

There are two ways to correct this situation and instill independent thinking in Cambodia’s young people. The first is education on Khmer Rouge history and genocide. We have both the obligation and resources to complete this task. The Ministry of Education and Cambodian people have expressed their desire to teach young people about genocide. Over 85% of respondents in DC-Cam’s 2001 survey stated that junior high and high school students “deserve” education on Khmer Rouge history. DC-Cam plans to train teachers on how to convey the topic of Democratic Kampuchea to their students. We will also provide materials and references to the Ministry of Education, teachers and students that can help them access a variety of educational resources on genocide, improve their knowledge, and help them convey it to others. We would also learn how countries that have experienced grave human rights abuses teach the subject of genocide.

The second way is to prosecute these former leaders at a proper tribunal in which retributive, restorative and distributive justice is sought for the victims. The tribunal will hopefully build trust in the Cambodian judiciary. We will see who the culprits are in the tribunal and hear what those culprits have to say.

Instead of listening to former Khmer Rouge leaders like Nuon Chea talk about why they weren't responsible for what happened, it is time for us to move on and judge them in a court of law. Only an impartial court can determine who bears the major responsibility for the

genocide committed by the Khmer Rouge. And only we can help the younger generation to understand their history and work to ensure that we live in a just, democratic society that gives opportunities to everyone. Only by ensuring justice and memory can we hold out the hope that genocide will never occur again in Cambodia.

Kok-Thay Eng is the Co-English-Editor-in-Chief of the Special English Edition series of Searching for the Truth magazine.

March 2004:

Two Important New Projects at DC-Cam

1. Living Documents: Engaging the Survivors of Democratic Kampuchea in the Quest for Justice and Reconciliation

Introduction

I have spent the last nine years of my life collecting documents related to the crimes committed by the Democratic Kampuchea regime. In less than four years, that regime was responsible for roughly two million deaths, or over a quarter of Cambodia's population. But what drove me to document those crimes was more than an abstract number of victims; the horrors of Democratic Kampuchea were also personal.

I was a teenager during those years and suffered like almost all of my compatriots. When I picked water grass for my sister, who was pregnant and starving, I was considered to be a criminal, hit with an axe, pushed to the ground, and tied up with ropes. I was put in jail for weeks. My mother was afraid to cry when she witnessed the cadres beating me because the Khmer Rouge also thought that expressing grief was a crime.

Another of my sisters died because she did not have enough to eat. When Khmer Rouge soldiers accused her

of stealing a small amount of food, she denied their charges. To test her veracity, they cut open her stomach. They found no food there, and she died soon after from her wounds. I was luckier. I survived that brutal period.

For many years, I harbored anger at the Khmer Rouge and wanted revenge. I even wished to kill the men who had cut open my sister's stomach. But above all, I dreamed that the people who had so abused my loved ones and millions of other Cambodians would one day be brought to justice for their crimes.

In 1995, I joined the Cambodian Genocide Program at Yale University and returned to Phnom Penh to head the new Documentation Center of Cambodia. I set my sights on a tribunal. My colleagues at DC-Cam and I worked hand in hand with members of the international and Cambodian communities to gather information that would demonstrate the ugly truth about Democratic Kampuchea. Nothing has shaken my view that Cambodians need a properly conducted tribunal for the most serious offenders. It can make a very important statement that what the Khmer Rouge did was intolerable. It can put convicted criminals in prison. And it can help build the rule of law in Cambodia. All of these are essential. But



to Phnom Penh to attend a portion of the trials of Khmer Rouge leaders. These representatives would be selected using criteria designed to identify people who enjoy the greatest respect from the members of their communes, and if possible, are survivors of the regime. We would provide them with an orientation session, and then transportation and lodging when attending the trials.

After they return from the trials, the representatives would hold public forums in their villages. The representatives would relate their observations to those attending and then open up the forum for general discussion. Villagers would be free to ask questions and voice their opinions about the tribunal. We hope that the forums will lead to discussions of a more general nature about individuals' experiences during the Democratic Kampuchea regime. Members of DC-Cam's staff, scholars from Cambodian and foreign universities, and other experts such as psychologists and lawyers would attend the forums to answer more technical questions and help facilitate discussions.

At the same time, our staff members would videotape as many of the forums as funding allows. The videos would be shown in other villages and archived at the Center for further use. We also plan to publish excerpts from the discussions in *Searching for the Truth* and to air the discussions on our radio program with the Women's Media Center. Last, we will provide leadership training to those commune representatives who have had a turn in the public eye by speaking, leading discussions, and fielding questions, and wish to run for office. Building leaders at the local level will help further the Cambodian people's participation in civil society.

With this new project, we hope to achieve several goals. First, we want to help our people see justice done after nearly a quarter century of waiting. Second, the Living Documents Project is way to help people and communities participate, at least at the local level, in the tribunals. We want the commune leaders to return to their communities with information that helps them understand the past and the features of a rule of law. For those who

are willing and able, we want the project to open cathartic dialogue that has been denied or suppressed for too long.

Finally, and perhaps most important for Cambodia's future, the Living Documents Project will set us on the road to democracy by giving our people direct access to the tribunal and, we expect, the will to demand a greater voice in their governance. They will become aware of the workings of the trials and of their need, and indeed their right, to information that is impartial and fair. Cambodia can grow as a nation that values freedom, justice, and the worth of human life only if its people are secure in the knowledge that every measure has been taken to ensure that a tragedy like that of 1975 to 1979 will never happen again.

2. Establishment of a Permanent Documentation Center

We at the Documentation Center have had to ask ourselves about our role if a tribunal for the Khmer Rouge does not convene. Ironically, many feel that we may have an even greater part to play, not only for Cambodia but also for other countries that have experienced grave abuses of human rights.

By making the Center a permanent presence in Cambodia, the documentary materials we have collected would continue to serve as a valuable repository of information for scholars and as a hub for educating the younger generation in a country where high school textbooks devote only a few paragraphs to Democratic Kampuchea. Our efforts to reach out to both victims and perpetrators, and to find the common threads of humanity that unite them, are beginning to bear fruit. And this reconciliation process, together with our documentation work, has begun to empower ordinary citizens to become engaged in a new process of democratic discourse. Our work is also beginning to serve as an example for other countries, and we are now advising documentation efforts in Serbia, Myanmar, Iraq, and elsewhere. As a permanent center, we are well positioned to help all people who seek to move beyond past human rights abuses towards a



more democratic future characterized by the rule of law.

By reconstructing accurate historical narratives, by striving for justice where that is an appropriate remedy, and by working each and every day to achieve reconciliation and peace, the Documentation Center of

Cambodia aims to lay a foundation upon which all people can find firm footing in moving toward a better future.

Youk Chhang
Editor-in-Chief and Publisher

A Reply to Comrade Nuon Chea

In the February 28-29 issue of *The Cambodia Daily*, Nuon Chea expressed his contempt for the title of the Documentation Center of Cambodia's publication on the Khmer Rouge, *Searching for the Truth*. He stated, "Only people who have suffered or were oppressed understand the truth."

I agree with comrade Nuon Chea that "only the people who have suffered or were oppressed understand the truth." To extend this logic, several million Cambodian people suffered under his regime. From the King down to the farmer—everyone has at least one family member who was mentally or physically tortured, starved or executed by his regime. Comrade Noun Chea refuses to understand

the suffering he has inflicted on the Cambodian people because he was the oppressor, if not a direct killer.

The people who lived under the Khmer Rouge, myself included, know the truth only too well. And no denials from such Khmer Rouge leaders as Nuon Chea and Khieu Samphan will alter the truth for us.

I hope Nuon Chea will not join Pol Pot in an uncomfortable grave before being prosecuted by the upcoming tribunal. He has much to answer to the victims of his regime and himself.

Youk Chhang
Editor-in-Chief and Publisher



Nuon Chea

Chinese advisor

Mom gave him the names of all CIA agents who were working with him. In a meeting, Chuon Mom informed the members that in order to carry out anti-revolution activities in Kampuchea, all members had to propagandize, recruit more members, and learn from the Soviet Union. He was told that Kampuchea copied its revolution from China—a poverty-stricken country with no weapons or trucks. Therefore, if [the Khmer Rouge] refused to receive aid from the Soviets, they would not succeed. In contrast, the Soviet Union was the best socialist country: it was strong in politics, leadership and economics, and was led by its intellectuals. Therefore, all members should convince Khmer people living in France, especially the intellectuals, to support the leadership style of the Soviets.

Chuon Mom assigned Thy Pheak to work with other members to persuade students to join the CIA. He was able to convince Keuk Kimse (whose real name was Ke Kimse; he was Ieng Sary's translator from 1975 to 1979 and had a Vietnamese wife who also studied in France), Kem Thy, Tann Meng, Peou Vimol (Tann Meng's wife), Try Vann and Nai Sim (Try Vann's wife).

In 1971, Chuon Mom sent Thy Pheak to study in Grenoble, France, where he was to convince students to take part in anti-revolution activities in Kampuchea. Over the next year, Thy Pheak managed to recruit five more members: By Chungty, Hong Vanet, Yuong Suymano, Chuon Ithirith and Tann Sarao. In 1972, he went to work in Bretagne province. He was unable to work from early to mid-1973 because of a lung disease. After he fully recovered, Thy Pheak received a scholarship to study in China along with other students who were Chuon Mom's secret agents. They were Luch Kimben, Heng Hamkheng, Luong Thavrak, Men Sereysith, Men Sereyrith, Pich Bunrong, Keuk Kimlean (female) and Peou Vimouon (female). Men Mol (deputy chief of the Front's Committee in Paris) was their leader. Chuon Brasith, a former foreign officer for the Front, working in the Ministry of Foreign Affairs, also led the students.

Before they departed, all students were taught Chinese for 6 months. After that the students were divided into two groups. One was sent to study medicine in Guangdong and the other to Peking. In November 1974, Chuon Brasith and Tauch Khamdoeun visited scholars in China and told

them that some of the students would be sent back to Kampuchea soon because the liberated regions needed more fighters. When Kampuchea was completely liberated, these students would be assigned to posts in various ministries and offices.

Four months after the Khmer Rouge's victory, Nou Mongly called for all the students in Peking to return to Kampuchea by December 1975, and those in Guangdong by 1976. Before he returned to Kampuchea, Thy Pheak met So Chea who was on a mission in Guangdong. So Chea told him, "Chuon Mom and others who returned to Kampuchea were not assigned to various posts as expected. Instead they were sent to work in factories because the country just emerged from the war and is lacking food. Therefore, the Khmer Rouge is pushing hard in production. Two or three years more and they will be called to work in the government."

On August 20, 1976, Thy Pheak and six other students returned to Kampuchea. Arriving in Phnom Penh, he first went to the Ministry of Foreign Affairs and filled out a biographical form. A week later he was sent to Office K-15 in Boeng Trabek, which was directed by Savan.

In April 1977, Savan summoned Thy Pheak to meet him and gave him a new task. He told Thy Pheak to send Pang's plan to Chuon Brasith's network in the Ministry of Foreign Affairs (Pang was a high-ranking cadre). Savan told him that Pang's plan aimed to attack Kampuchea politically so that the international community would understand the internal distrust in Kampuchea and allow Vietnam to invade Kampuchea, so that Pang would be able to lead the country, supervised by Vietnam. In the plan, Pang described: 1) the disagreement within the Khmer Rouge leadership; 2) people's miserable lives and their opposition to war; 3) the youths' unwillingness to fight; 4) weaponry shortages; and 5) the leadership's lack of popularity.

In February 1978, Thy Pheak became the chief of K-15. After Angkar arrested Savan in May 1978, Thy Pheak was sent to S-21 on June 10, 1978.

Rachana Phat is a radio broadcaster and videographer at the Documentation Center of Cambodia.

Kong.

In February 1976, the fourth congress of the CPK was held in Phnom Penh. The congress focused on building socialism in Kampuchea through new party statutes and the basic principle of socialism.

In March 1976, Chet received a coup plan from Sao Phim. On April 14 Chet assigned Thuch and Ya to arrange a country-wide coup d'état. The coup was not to be bloody: 1) youths were to assassinate Brother Number One and Brother Number Two during the April 17 victory anniversary meeting. This task was set for Oeun's soldiers. 2) Chefs were to poison the two brothers. 3) Youths in Chakrei's team were to throw grenades into the Royal Palace to spur chaos. 4) All forces in the bases and military offices were to await the radio broadcast of victory.

Days passed, the 14th turned into the 17th, and there was no news of the coup from Phnom Penh. Then it was heard that on the meeting day, security guards arrested a soldier trying to enter the meeting who was armed with an AK-47 and lots of ammunition. The youth came from the north. Chet knew that his plan had failed.

In May 1976, Chet was treated for gallbladder disease in P-17 hospital for more than half a month. There he met Soth and learned that Thuch, Ya and Oeun were arrested. Soth himself was worried. On June 26, 1976, he went to Peking with a medical youth named Borat for further treatment. After his illness was diagnosed in Peking, he was treated in Guangdong province. In Peking Chet had met Phim, who had been there since May 1976. Phim told him he would organize new plans for a coup for the next year.

Chet returned to Kampuchea in August 1976, but because his illness was not fully cured, he was required to stay in P-17 hospital. Apart from gallbladder disease, Chet had high blood pressure and a nervous system disorder. In January 1977, his gallbladder became so bad that he could no longer travel to the bases. After attending a zone congress for three days in Kampong Chhnang in February 1977, Chet stayed in the hospital

most of the time. He wrote a letter requesting that a Chinese physician treat him at his base, but Office 870 rejected his request, saying he should visit the physician instead. Chet had surgery on March 3, 1977 and spent 20 days in the hospital.

In early 1977, the Khmer people from Hanoi wanted to revolt. Chet asked Pall to resolve the problem; he decided to remove the leaders and wait for the reaction of the lower ranks. Khon hung himself after learning that those leaders had all been executed. The Hanoi group was restless and continued to incite trouble; 80 of them were executed. After this, security was strengthened. On the road, all vehicles were checked, and traveling required a permit. Without one, the person concerned would be interrogated. Saron, the secretary of Region 31, was detained for a night and ordered to do self-criticism because his permit did not contain a number, stamp and signature. Chet reported this incident to Brother Number Two (Nuon Chea) and the problem was solved.

One day Chet received an invitation to Tonle Bet to attend a meeting on the 1977 plan. The meeting was attended by Phim, Phuong, Nhim, Vy, Chea, and Yi. There were four items to be completed in order to achieve the overthrow. The Vietnamese military was to help fight on Road 7, Snuol, Kratie, Smach, Svay Rieng, Prey Veng, Region 25, Koh Andet and Lork, while forces in the country were to guide the Vietnamese to attack. At the same time soldiers in villages would disrupt the cooperatives. The naval force was to attack the Staff ship. The northwest army had to contact In Tam's or Thai forces in order to attack from there to Kampong Chhnang. The Preah Vihear army had to contact Khmer Sar or Thai forces to attack from there to Kampong Thom. At the same time, there were plans to destroy rice, potatoes, corn, beans, vegetables, machinery, clothes, medicine and crockery.

In April 1977, the cooperative was still quiet and there was no sign of implementing the 1977 coup. Chet sent a letter asking Phim about the plan. Phim replied that it could not be done at the moment because the

Vietnamese force was not ready.

On August 12, 1977, a critical event occurred in M-99 prison, Tasal sub-district, district 27, Kampong Speu province, Region 32. A guard shot and handcuffed an office cadre and then released prisoners. As a result, 200 prisoners escaped and brought with them 16 rifles. One cadre and four youths died. The leadership blamed Chab Nam, who was wounded during the agitation. Chet tried to put the blame on Pall, a region secretary, for irresponsibility. Comrade Hem (Khieu Samphan) and Brother Number Two (Nuon Chea) arrived to examine the case.

Chet said he made mistakes during a visit by a Chinese delegate named Chen Yongkuy, called Ta Chay, in September 1977. Chet took part in seeing the delegate off and made a lot of mistakes in protocol.

From December 1977 to 1978, there was intense fighting along the border with Vietnam. Sometimes the Vietnamese invaded up to Km 30. Vietnam used much artillery, shelling from a distance. The conflict continued until mid-January 1978.

Another way to assassinate the leaders was to poison their food, but this always failed because Brothers One and Two were careful about what they ate. For instance, in a three-day training session in Kampong Speu in July 1977, attended by Pol Pot, Chet put poison in a cake for Pol Pot, but he did not eat any. Chet had a second plan to poison him at a congress on implementing zone plans in Long Vek in February 1978, but was unable to implement it because of tight security.

There is no confirmation on when Chou Chet was arrested, but the confession implies that he was arrested on March 26, 1978 and sent to S-21. He was interrogated and tortured many times. His 427-page confession is not clearly dated. At the end of the confession, Chet pled for forgiveness from CPK leaders. Here is what he wrote:

Respected and Beloved CPK,

Today after I have written a report [about myself]. I begin to see more clearly my own faults which I

committed against the people and party. After examining my own attitude under the guidance of the party, I have seen that:

◆ Spending ten years in the monastery was a waste, receiving idealism from religion.

◆ From 1950 to 1978 when I was supposed to join the revolution, I instead served the foreign imperialists, the CIA, the land encroaching Yuon, the feudal lords and the capitalists.

◆ It is more than 50 years now that I have done nothing for the people and the nation. In contrast, I made many mistakes. The reason I walked in the wrong way was my original social class, which was characterized by vagrancy, extravagance, alcoholism, prostitution, etc. At the same time, I was affected by the ideas of Buddhism, imperialism, and colonialism (Yuon).

Respected and beloved CPK, today I have understood my own faults in the course of my life. I am regretful as a Kampuchean citizen. Due to the weight of these faults, I have to take responsibility in front of the party and the people. I bend in respect to the CPK to spare my life so I would see the glory of our country under the leadership of the Party or continue to serve the country.

I am eager to refashion myself in the remaining years of my life to serve the Party, the country and the people, like a good citizen does.

From now on I swear that:

◆ I relinquish the traitorous plan led by Phim and I resign from leadership roles.

◆ I would betray the CIA.

◆ I don't recognize any traitorous force that attempts to overthrow the CPK from power.

◆ I would be honest with the CPK and report all treacheries to it.

I have described the crimes that I committed against the CPK. Please forgive me for my confession.

May 20, 1978

Chou Chet, alias Sy.

To Respected Office 870

(Telegram 254)

In the last few days, the enemies attacked us along the border in Preak Vihear province, as well as at Otdar Mean Chey. The enemies used In Tam's soldiers and those who had run away from our army to fight us, and at some places, they entered deep into our country. They had the following plan:

1. They divided their army into small groups in order to launch a sneak attack on us.

2. They assigned small groups of spies in order to contact their networks hiding inside our bases in villages around the area called Prey Sanhar in Ampil district, Sanhar mountain on the border of Chi Kreng and Svay Leu district, and Kulen mountain.

Their purposes were:

- ◆ Looking for food.
- ◆ Recruiting bad elements in order to enlarge their forces. We do not have the exact number of their forces and spies. In Prey Sanhar, Ampil district, there were about 50 to 60 enemies. There were 3 to 4 persons at Sanhar mountain, between Chi Kreng and Svay Leu districts. About 3 to 4 were seen at Kulen mountain. The enemies attacked us when we were busy fighting with Vietnam in the front; they attacked us from the rear.

Measures:

1. Cut off their food supplies by collecting all the rice stored on the edge of the forest immediately, so that the enemies will not be able to steal.

2. Cut off contacts between outside enemies and within-base enemies. Evacuate villages close to the forest. Set up military posts along the border and transfer the people and the bad elements to work sites, where we can control their contacts with the outside enemies.

3. Sweep and clean hidden enemies, as well as bandits, in cooperatives, by using the base people.

4. Regions and districts have to take actions to

seek and destroy the enemies in all entrances and exits according to the information they have about the enemies.

In Region 103, internal enemies and bandits conducted continual activities as some cadres collaborated with them and allowed them to do as they wanted. Therefore, the enemies burrowed from regions, to districts to cooperatives. They disrupted agricultural production (plowing, transplanting, harvesting, and storing rice) repeatedly.

Cattle were also damaged because people let the bad elements tend them. They kept cows and buffaloes together; the buffaloes lashed the cows. In the rainy season, the ground was muddy; the cattle couldn't sleep. According to a study by a comrade in the community, this year in Preak Vihear many people are starving due to the failure of agriculture. People transplanted for quantity, not quality. The reason was that the cadres exaggerated the agricultural guidelines of the party—the party advised them to farm on level ground; they farmed on hills first. Moral offenses between male and female youths still occurred.

From January 11, I will begin working in Region 103. I could not go immediately, since I was busy organizing a training session for the cadres of bases, offices, ministries, and the army a few days ago.

I wish you happiness and successes.

With warmest revolutionary fraternity.

January 10, 1978

Se

Received on January 12, 1978 at 8:30

Copied and sent to: Uncle ◆ Uncle Nuon ◆ Brother Vann ◆ Brother Van ◆ Brother Khieu ◆ Office ◆ Documentation.

and have endured to care for their families and promote a better future for Cambodia. We have identified our main subject for the film, which we plan to release in 2004.

In 2004, we will also continue to support director Rithy Panh, whose first documentary film with DC-Cam, entitled *S-21: The Khmer Rouge Killing Machine*, won international acclaim. Mr. Panh recently completed a second film with our advisory support entitled *The People of Angkor*, an oral history of the famous temple based on the accounts of elderly survivors. With our help, he will also produce a film in 2004 entitled, *Before the Sunset*. Finally, we have contacted American director and producer Steven Spielberg to seek support for documentary films on Khmer Rouge survivors.

1(d). The Digital Photo Archiving Project

In summer 2003, we began a one-year project on digital photo archiving to help preserve the memory of the Khmer Rouge period through a series of powerful images. The project involves digitally imaging a survey of Khmer Rouge photographs and posting them on the Internet for public view. Ms. Pivoine Pang, Mr. Chhayrann Ra, and Mr. Sopheak Sim comprise the team. In 2004, they will continue to review, select, and scan photographs showing the life of Khmer Rouge families before, during, and after the DK period. Many are photos obtained on DC-Cam field research trips, while others are from our archives. To present the photos powerfully and attractively for public view, Mr. Ra, Ms. Pang, and Mr. Sim plan to attend a training course in computer layout techniques. Finally, in 2004 volunteer Ms. Wynne Cougill will work at DC-Cam and draft an essay to accompany the photo presentation. We intend to publish the finished product as a book.

1(e). Microfilming

To preserve historical documents related to the Khmer Rouge, we copy many of our documents into microfilm. This microfilming process allows researchers and legal investigators to access our archival information without handling original documents, many which have become fragile with age. Mr. Nean Yin manages micro-filming efforts within DC-Cam.

In 2003, we also decided that acquiring our own microfilm developer/duplicator would help us develop and copy microfilm in a cost-efficient, quick, and effective way. We ordered and received the machine this quarter. We are now determining an appropriate space for installation and testing.

1(f). Collection of New Materials and Data

Although we possess a very large collection of documentary materials, we are always on the lookout for additional acquisitions. In 2004, we will continue to search for new documentary materials in Cambodia and abroad from both institutional sources and individuals.

2. Promotion of Accountability and the Rule of Law

The second major goal of our work is to promote accountability for the horrific crimes of the Khmer Rouge. To achieve closure on the past, Cambodians need to achieve some measure of justice for the wrongs committed against them and their loved ones. Just as important, the process of accountability for the Khmer Rouge must serve as a bridge toward a stronger rule of law in Cambodia.

2(a). Support for the Khmer Rouge Tribunal

As the United Nations and Cambodian government prepare for trials of certain former Khmer Rouge officials, we are preparing for ways to support the tribunal. We have worked with several of our legal advisors to develop and issue a set of rules and guidelines for access to our documents as the tribunal process begins. We have provided a copy of those procedures to the appropriate UN and Cambodian authorities. In short, we plan to provide the court and authorized officials with full access to copies of our documents. We have also devised a clear set of procedures for granting authorized persons access to original documents. Our new guidelines are designed to ensure that our documents remain both available for review and as secure as possible. As the tribunal process unfolds, we will develop an even more specific set of guidelines to ensure that we assist the proceedings as effectively as possible.

We also plan to create a Tribunal Response Team comprising several of our legal advisors and staff



members most familiar with our documentary holdings and Accountability Project. This response team will be in position to help the tribunal and authorized officials carry out their research and documentary review as needed. Mr. Bunsou Sour will head a translation team that will work to translate additional documents into English in advance of the tribunal.

2(b). The Accountability Project

Our Accountability Project (formerly the “Project to Promote Accountability”) focuses on fact-finding in advance of the prospective KR tribunal. It also seeks to build a better historical understanding of the workings of the DK regime. The anticipated creation of a Khmer Rouge tribunal in 2004 adds to the importance and urgency of the Accountability Project. In 2003, our main activity was interviews with former Khmer Rouge cadres in the field. Using information from our files and past interviews, Accountability Team members seek interviews with individuals who served in the DK regime. Our normal procedure is to identify and investigate all relevant biographies from a given geographic area (see our description of the C BIO above). We conduct that work through four field offices in Kandal, Takeo, Kampong Thom, and Kampong Cham provinces.

In 2004, we intend to continue our extensive interview work in Prey Veng, Kampong Thom, Kampot, and Takeo provinces. To date, the project has yielded 1,946 interviews amounting to over 16,683 transcribed pages in Khmer. Mr. Dany Long, Mr. Sochea Phann, and Mr. Pongrasy Pheng will lead the interview field teams. Ms. Sokhym Em and Ms. Ratana Oeur will manage the process of transcription and cataloguing in our central office.

We will also continue to enter information about interviewees into our “Accountability Promotion Database,” which provides the names, whereabouts, and basic biographical information on each of the former Khmer Rouge cadres whom we interview. Mr. Kem Boly Dy and Ms. Farina So will manage this database, which is likely to be extremely important to prosecutors in the upcoming Khmer Rouge tribunal proceedings.

In addition, we intend to undertake a major new step in the Accountability Project: translating and analyzing the extensive data we have amassed in field interviews. To do so, we have contacted Dr. Steve Heder of the School of Oriental and African Studies at the University of London, one of the world’s leading experts in modern Cambodian history. We plan to engage Dr. Heder on a joint project to translate and analyze the transcripts, and to write a manuscript with our legal advisor, John D. Ciorciari, detailing the findings of the project to date. Our staff will provide research assistance in Phnom Penh. We also hope to involve one or two students from Harvard Law School on this aspect of the Accountability Project.

2(c). The Legal Training Project

A critical part of our promotion of accountability and the rule of law in Cambodia is to train local and national leaders about human rights law and issues of transitional justice. In 1995 and 1996, DC-Cam and Yale Law School ran two very successful legal training courses in Phnom Penh attended by young leaders of Cambodia’s government, academic community, and NGO sector. For years, funding limits prevented us from carrying out a legal training program. However, funding received this year will allow us to revive our Legal Training Project in 2004. In July and August, we will hold a six-week course in legal training led by John D. Ciorciari.

We will invite approximately 20-25 current and future leaders of Cambodian academia, non-governmental organizations, and the media to study the basic features of human rights law and related issues of accountability and reconciliation in Cambodia. In addition, we will publish a legal textbook for our participants and Cambodian university students, focusing on transitional justice and human rights law relevant to accountability and reconciliation in Cambodia. We intend for students from Harvard and other law schools to help with the course, along with other DC-Cam legal advisors and visiting Cambodian and international experts.

While the training course and textbook will focus on tomorrow’s Cambodian leaders, we will also endeavor to educate the general public about the process of justice

and reconciliation in the country. To that end, we will produce a short guide to the Khmer Rouge tribunal for a general public audience. That text will be roughly 80 pages in length, and we hope to involve one or two students from a U.S. law school to assist in this aspect of the project. Ms. Irene Sokha and Ms. Lina Norng will assist Mr. Ciorciari in organizing the course and identifying appropriate participants, and DC-Cam staff members will translate the completed textbook and Khmer Rouge tribunal guide.

2(d). The Mapping Project

Since 1995, the Mapping Project has featured prominently in our work and constituted one of our core projects. As of September 2003, we had identified 19,471 mass graves, 185 former DK prisons, and 77 genocide memorials. We believe that we have discovered the vast majority of accessible mass graves, former Khmer Rouge prisons, and genocide memorial sites in Cambodia. Consequently, we intend to shift our attention away from mapping in 2004. We will continue to pursue information about mass graves and related sites during interviews that we conduct for our Accountability Project and historical field research. However, our existing mapping staff will shift its attention to the Forensic Study Project in 2004 (see below).

We believe that the best way to move forward with our Mapping Project will be to analyze and present our existing data more effectively. In 2004, we intend to update our existing maps in cooperation with the Cambodian Department of Geography. The new maps will show data that we have collected since 2001, in addition to the 1995-2000 data displayed on our existing maps. We also intend to work with experts from the University of Sydney and the local company Khmer Hosting to put more of our Geographical Information Systems (GIS) maps on the Internet. Through “ARC View” software, those maps allow users to zoom into particular provinces, districts, or even villages to see the exact locations of mass graves and related sites. We also hope to engage an appropriate foreign expert to analyze data from documents and interview research in an effort to create “time maps”

showing the geographic evolution of the Khmer Rouge movement and other phenomena. Experts at the University of Sydney designed the software for these shifting computer “time maps,” and they have expressed their eagerness to work with us.

2(e). The Forensic Study Project

To complement our mapping activities, we began a forensic study in 2002. Among other goals, the project intends to shed light on the ways in which individuals were killed or otherwise abused during the Pol Pot era. It involves collaboration with a team of North American scholars: Dr. Craig Etcheson, Dr. Michael Pollanen, and Dr. Katharine Gruspier. In 2003, we completed Phases 1 and 2 of the project. Phase 1 entailed determining that the project would be feasible and collecting sample skeletal remains for display and preservation at the Tuol Sleng Genocide Museum. Phase 2 involved a detailed reconnaissance of mass graves to identify appropriate sites for a full-scale forensic exhumation, as well as the collection and preservation of a representative sample of traumatized human skeletal remains. The team identified six unexhumed graves for detailed forensic study. This project will be reopened if the tribunal requests forensic assistance.

2(f). Advising Foreign Governments and Institutions

In 2004, we plan to continue to offer our services to NGOs and governments around the world that are committed to uncovering the truth and ensuring accountability for grave human rights abuses. In January 2004, Youk Chhang and John D. Ciorciari intend to travel to Iraq to assist NGOs and the Coalition Provisional Authority and the Iraqi Governing Council to design a documentation effort to uncover abuses of the former Ba’athist regime. We are confident that the lessons we have learned in Cambodia will help Iraqis in their effort to design a secure, effective, and credible documentation process. In particular, we intend to share our methods of documentary acquisition, management, and preservation. We also plan to conduct legal training if desired and to help local actors implement an Accountability Project similar to our own.

We are also active in advising other organizations



They Killed My Father by Luong Ung, a best-selling autobiographical account of the life of a young girl in Democratic Kampuchea. Ms. Ratana Oeur and Mr. Kok-Thay Eng receive questions from student readers and forward them to the author, who then responds. We will continue this cooperation with Luong Ung in 2004.

Survey on the Process and Impact of the KR Tribunal. In 2004, we intend to disseminate, collect, and analyze a new survey that focuses on developments in the Khmer Rouge tribunal and respondents' attitudes toward justice and reconciliation in Cambodia. We will distribute the survey through our magazine and on our expanded website, and our magazine team members will prepare the survey with the counsel of local and international experts. By analyzing the survey findings and publishing a report, we aim to keep the public voice very active in the accountability process.

3(c). Translation Series

In addition to our original scholarly work, we translate important foreign works into Khmer and publish those translations for Cambodians to read, study, and enjoy. In 2003, we published Bunsou Sour's Khmer translation of *Voices from S-21* by David P. Chandler, a seminal work on the head security office of Democratic Kampuchea. In 2004, we plan to publish our translation of *Brother Enemy* by Nayan Chanda, an excellent piece on the history of Indochina after the end of the American War in Vietnam. Mr. Tep Meng Khean translated the book, which should be prepared for editing and layout by early 2004. In addition, Mr. Kok-Thay Eng is working on a translation of *Journey into Light* by Khmer Rouge survivor Ronnie Yimsut that he expects to complete in 2004.

4. Public Education and Outreach

Our work is most useful if it is widely seen by interested members of the public and contributes to concrete improvement in the lives of ordinary Cambodians. Our publications are one way that we can reach the public and help to educate people about the Khmer Rouge and related issues of law, history, and politics. However, we

are also committed to expanding the range of forums in which we disseminate information. We are also branching out into public service activities that apply some of our acquired understanding of the Khmer Rouge period to afflicted individuals and communities. Together, educational efforts and grassroots service projects help us to foster genuine reconciliation in Cambodia.

4(a). The Victims of Torture Project

In summer 2003, we began our Victims of Torture (VOT) Project. The project involves counseling people who suffered abuse under the DK regime and is essential as part of Cambodia's process of healing and reconciliation. It is designed to help victims of the Khmer Rouge overcome their painful personal histories and to shed light on the general effects of traumatic periods on the survivors. It will last until at least 2005 and is carried out in collaboration with the Transcultural Psychosocial Organization (TPO). Our VOT team members work with trained psychologists from the TPO to conduct counseling sessions and interviews. We selected three geographic areas for the project—one in Kandal, one in Kampot, and one in Takeo. All three were sites of extensive abuses during the Khmer Rouge regime.

In 2004, our VOT team will include Mr. Meng-Try Ea, Mr. Sophearith Choung, and Ms. Utara Norng. Mr. Ea and Mr. Choung will conduct most of the fieldwork. Ms. Norng will participate in some field trips and also work in our central office transcribing conversations with victims. Further, we will continue to work with children and relatives of the suffering individuals to assist them in coping with difficulties that may result from their parents' traumas. The TPO will then use transcripts to study the effects of the DK regime on survivors, including post-traumatic stress disorder and other psychological conditions. Unless otherwise agreed, we will keep interview transcripts confidential to protect the privacy of victims and enable them to be completely open with us and with the TPO counselors.

4(b). The Koh Sla Development and Reconciliation Project

In late 2003, we also began a social service project

complaints about the conduct of the other organizations involved, we are sensitive to the needs of the squatter population. In 2004, we will continue to work actively toward a resolution of the problem that will deliver us the land (or a suitable alternative site) without causing undue suffering to the squatters.

5(e). Finance and Accounting

This year, we were proud to be singled out by several of our donors as a non-governmental organization with transparent and effective accounting standards. We received formal recognition as such from the US Agency for International Development (USAID) and informal recognition from the Swedish, Dutch, and other governments. Ms. Irene Sokha is our financial officer and oversees our accounting staff. Ms. Chamroeun Ly, Ms. Sophorn Huy, Mr. Bunthann Meas, and Ms. Makara Sam also work on our administrative team, managing staff payrolls, receipts, purchases, and disbursements. In 2004, we will look for ways to maintain our high standards and to further improve upon our procedures.

In 2003, we continued to face challenges in conducting fundraising, as we did not possess a qualified fundraiser and had to draw on the limited time of our foreign legal and academic advisors. In 2004, we intend to launch an expanded fundraising drive with the assistance of Wynne Cougill, who will visit the Center for the year to help us raise funds. In addition to funds for our ongoing projects, we are actively pursuing financing for a permanent Center.

Conclusion

If we are able to fulfill all of the plans above during 2004, it will be an extremely successful year indeed, helping us to move closer to accomplishing our core objectives. With the continued generosity of our donors, we are confident that we will be able to do so. Over time, the role that we play in Cambodian and international society has grown, and so has our responsibility. Both at home and abroad, during the prospective Khmer Rouge tribunal and beyond, we will continue to contribute in whatever way possible to the search for truth, accountability, and the rule of law.

The Khmer Rouge History Preservation Forum Essays Contest

The Documentation Center of Cambodia and the Khmer Writers' Association (KWA) have announced the winners of the Khmer Rouge History Preservation Forum essays contest. Four winners were chosen from 43 essays submitted by survivors of the Pol Pot regime about their experiences in Democratic Kampuchea or thoughts on the Khmer Rouge. Heng Sokphanna and Um Suphany of Phnom Penh, Chhou Sophea of Kampong Cham province and Mei Monyrath of Koh Kong province were honored at a ceremony on April 2, 2004 at Wat Botum. They received cash prizes and their essays will be published in a forthcoming DC-Cam book.

Announcement Khmer Rouge History Preservation Forum Essay Contest

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 2005. The winners will be given cash awards. The winning essays will be published in *Searching for the Truth* and in a forthcoming DC-Cam book on the experiences of victims of the Khmer Rouge.

Please submit your narrative essays by mail to 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. Vannak HUY at (855) 23 211 875 or by email: truthvannak.huy@dccam.org. Thanks!

Public Information Room

Irene Sokha

DC-Cam is planning to launch a new project that will dramatically increase the accessibility of our archival information to the public in advance of the upcoming Khmer Rouge Tribunal. We intend to establish a Public Information Room to enhance our dissemination of information about the Khmer Rouge regime, its abuses, and its legacy. Our aims are to educate members of the public broadly about the Khmer Rouge and more specifically to increase public understanding and awareness of developments in the prospective Khmer Rouge tribunal. In particular, learning from the experience of Rwanda and Bosnia, we believe that it is essential that the processes of the upcoming Khmer Rouge tribunal are made known to the public. In that way, the judicial process can bring not only justice, but also comprehension, reconciliation, and healing to Cambodians.

We at DC-Cam are resolved to expand our communication with the people of Cambodia and to share our work more widely as our Center grows. The need for public education is especially great in the lead-up to the criminal trials of certain former Khmer Rouge officials. While this project aims first to disseminate knowledge, the Public Information Room will also be educational for us. As visitors come to engage in forums, lectures, discussions, and reading, we can learn together about the best ways to move forward in our shared goals of memory, justice, and reconciliation.

The Public Information Room as a Library

The Public Information Room will serve first of all as a library. We will display copies of our documentary and other materials, particularly those documents likely to be relevant to the upcoming tribunal. The room will be open to all interested members of the public who wish to read or to conduct research on the Khmer Rouge and the tribunal. We will also display copies of documents

available at the Tuol Sleng Genocide Museum. Having copies of such documents in one easily accessible place will help researchers and the public while ensuring that original documents remain well protected for history and for possible use as evidence in the tribunal.

In addition to documentary materials, readers will be able to read articles by local and international scholars, our own *Searching for the Truth* magazine, books written or translated by DC-Cam researchers, and other works relevant to modern Cambodian history, law, and politics. We will provide a search engine that allows visitors to search for files, books, and magazines very easily. Visitors will also be able to search our extensive databases created in collaboration with the Cambodian Genocide Program at Yale University and experts at the University of New South Wales. Those include the Cambodian Biographical Database (CBIO) on former Khmer Rouge employees; the Cambodian Bibliographic Database (CBIB) on Khmer Rouge correspondence files; the Cambodian Geographic Database (CGEO) showing mass grave, prison, and genocide memorial sites; and the Accountability Database, which displays information acquired from our field interviews with former cadres. Researchers will be able to review copies of our microfilm as well.

Research has shown that art is one of the most effective tools to reach out to the public and to boost public involvement. Thus, we will set aside special audio stations for listening to Khmer Rouge songs and broadcasts, and video stations for visitors to watch Khmer Rouge films and documentary films about the Khmer Rouge. The films will include those produced by outside directors with the assistance of DC-Cam.

Finally, the Public Information Room will be equipped with computers with Internet access, which

will allow visitors to pursue further research on the web. All related links will be posted on our homepage for easy access. Having access to the Internet will enable the public to broaden their knowledge on the judicial system and further enhance their understanding of Khmer Rouge history and the accountability process. The more members of the public understand the process, the better the outcome of the tribunal will be.

The Public Information Room as an Educational Center

To further educate our visitors, on the second Saturday of each month, we will organize a public lecture on issues related to the Khmer Rouge and the coming criminal trials. Our staff members will also provide public lectures on a regular basis, describing various aspects of Khmer Rouge history and the accountability process. We will respond to public demand as much as possible in choosing our topics for discussion. We also plan to invite local and international experts from outside the Center to take part in this educational process. Invited guest speakers will include historians, lawyers, political scientists, and others with expertise on various issues. The motive behind these lectures is both to educate the public and to facilitate productive public discourse on the accountability process.

Following the lectures, we will lead public discussions in which participants will be encouraged to express their ideas and receive comments from other participants. This will provide a means for individuals to gain voice in the process. It will also enable us to learn about public opinion on the Khmer Rouge and the accountability process, and thereby contribute as effectively as we can to justice and reconciliation. It is crucially important to have as much as public participation as possible in this transitional period. During the upcoming trials, we seek to help the public actively engage in the search for the truth and the quest for accountability. In this way, we believe the rule of law can best become internalized.

The Public Information Room as a Welcoming Point

We intend to create a relaxing atmosphere for those who come to study and perform research in the Center. We will reserve part of the space for a rest area with water and light refreshments. The nature of the documents and articles related to the Khmer Rouge regime and the tribunal can sometimes prove emotionally draining or painful for our visitors. We therefore wish to ensure that they can take breaks and relax when necessary. We will also have staff available to assist visitors and to speak with them about their experiences. Our own dialogue with members of the public is a critical way that we can foster reconciliation and contribute to cathartic discourse. It is also a way that we can help informally to counsel victims of Democratic Kampuchea and help them heal the wounds of the past. There will be five staff members assisting the operation of the Public Information Room: two librarians, one staff member in charge of computers and audio-visual equipment, and two general assistants.

Irene Sokha is assistant to the Director of DC-Cam and the Center's Finance Officer.

Searching for the Truth **Radio Broadcast on FM 102**

DC-Cam has partnered with the Women's Media Center to produce *Searching for the Truth*, a local radio program on FM 102. We cordially invite you to tune in to FM 102 every Wednesday and Thursday afternoon from 3:30-45, as Ms. Rachana Phat and Ms. Sophal Ly broadcast selected articles from the DC-Cam magazine, *Searching for the Truth*.

Please send letters or articles to
Documentation Center of Cambodia (DC-Cam)
P.O. Box 1110, Phnom Penh, Cambodia
Tel: (855) 23-211-875, (855) 23-221-165
Fax: (855) 23-210-358
Email: dccam@online.com.kh
Homepage: www.dccam.org

Book: *Documentation Series No. 4*

Building the Case Against Senior Khmer Rouge Leaders

For nearly a quarter century, the people of Cambodia have been waiting to see justice for the acts of the Khmer Rouge. In 2003, they finally found some hope, when, after years of negotiation, the Royal Government of Cambodia and the United Nations agreed in principle on the formation of a tribunal for the crimes committed during Democratic Kampuchea (1975-1979).

As the trials approach, all of us wonder which of the regime's aging leaders will be held accountable in a court of law. Pol Pot, the chairman of the Communist Party of Kampuchea, died in 1998 and Party Central Committee member Pok followed in 2002. And since *Seven Candidates for Prosecution* was first published in late 2001, another of the regime's leaders, Central Committee member Kae Pok, has died. His fellow Committee member, Khieu Samphan, has just published a book intended to absolve him of any responsibility for the genocide, starvation, and disease that took the lives of nearly 2 million people. Deputy prime minister for foreign affairs and Central and Standing Committee member Ieng Sary has joined Khieu Samphan in proclaiming his innocence.

Seven Candidates for Prosecution is the first book to examine the individual culpability of senior Khmer Rouge leaders for crimes against humanity during Democratic Kampuchea. It combines an historical account of the workings of the Khmer Rouge regime with a legal template for indicting the accused. This new edition contains additional evidence against Khmer Rouge leaders Nuon Chea, Ieng Sary, Khieu Samphan, Ta Mok, Kae Pok, Sou Met, and Meah Mut. It also chronicles the negotiations between the Royal Government of Cambodia and the United Nations that led to a draft agreement in

2003 on establishing an internationally-assisted Cambodian tribunal to try senior leaders and others most responsible for Khmer Rouge atrocities.

"This report will be a template for any prosecutor, a starting point for any investigation."
Ralph Zacklin, Assistant Secretary General for Legal Affairs, United Nations

"This is extremely important to reconstruct the paper trail all the way to the top and establish the command authority of the leaders."

David J. Scheffer, Former US Ambassador at Large for War Crimes Issues

Support for this book's 2004 publication by DC-Cam was provided by the Swedish International Development Cooperation Agency and the OSI Development Foundation (a Swiss charitable foundation).

Author Stephen Heder teaches in the Political Studies and Law Departments of the University of London's School of Oriental and African Studies. A leading scholar on Cambodia, he has written numerous articles and monographs on the country. Among his recent publications is *Cambodian Communism and the Vietnamese Model: Imitation and Independence, 1930-1975*.

Co-editor Brian Tittmore is principal specialist of the Inter-American Commission on Human Rights of the Organization of American States. Earlier, he was senior research associate and acting executive director of the War Crimes Research Office of the Washington College of Law, American University, in Washington, DC.

The Cham Rebellion

Osman Ysa

In October 1975, six months after the Khmer Rouge took power, two Cham Muslim villages in Kampong Cham province staged brief and ill-fated rebellions against their oppressors, who had banned the practice of Islam. Armed with swords, knives, sticks, stones, and two guns, they killed a member of the sub-district committee and the chief of the district youth group. The men of these villages engaged in battle, while the women transported food and wounded, and children buried the villages' dead. After the rebellions were put down, the survivors were deported to malarial areas, imprisoned, or executed. Only about 10% of these villages' 8,000 people were left alive when the Khmer Rouge fell from power in 1979.

The Cham Rebellion is a sequel to Mr. Ysa's 2002 monograph, *Oukoubah: Justice for the Cham Muslims*

during the *Democratic Kampuchea Regime*, which investigated the arrest and execution of 13 Cham Muslims at the central government's prison at Tuol Sleng (S-21) and made a case that the Khmer Rouge targeted Muslims for extermination.

For *The Cham Rebellion*, the author interviewed 132 Chams about the revolts in addition to his readings of confessions and other records from Democratic Kampuchea. This monograph also examines the concepts of reconciliation and forgiveness in the Qur-an, and interprets them in light of the rebellions.

Osman Ysa is a member of DC-Cam's Promoting Accountability Project. He is the author of Oukoubah: Justice for the Cham Muslims under the Democratic Kampuchea Regime.



Second “Open Letter” of Khieu Samphan

December 29, 2003



Khieu Samphan

As you know, in the past three decades our country has gone through complicated twists and turns, fraught with dangers and tremendous sufferings.

Most of our fellow countrymen are also aware that at each dangerous turn in the history of our country during that period, I stood on the side of a force which I recognized as fundamentally nationalist because it fought hard for national sovereignty and territorial integrity despite some serious pitfalls in its actions made by individual members or leaders of the force.

Our country has inherited a grave legacy of grudges and horror, left behind by a revolutionary movement which turned into an extremist one. This movement committed more violence than any revolutionary movement the world has ever known, leading to many deaths and unprecedented sufferings.

In that tragic event, how much responsibility did I have? What did I do to survive when many others were dying? In answering these questions, I would like all of you to thoroughly examine and consider my case and then judge me.

I would like to have your permission to provide further explanation to my previous “Open Letter” dated

August 16, 2001, as follows:

Because the forced evacuation of people from cities astonished, confused and worried me [to such an extent] that I was unable to think of anything, I could not say anything against the violence being carried out on my behalf [as a high-ranking cadre]. However, what I can tell you is that I did not let myself fall into nasty opportunism, solely seeking opportunity “to be promoted in rank” at the cost of deaths of our innocent countrymen. As I informed you, I did not accept the role as nominal president of Democratic Kampuchea (DK) wholeheartedly. My conscience compelled me to just take part in protecting the rights of my country as a sovereign state in its “present land” according to my ability and the real situation.

Further, I would like to inform you that although I represented the struggle in the country and later became the president of DK, I lived a sedentary life in a virtually tight circle, not just when I was in hiding to evade capture by the police but after the Khmer Rouge’s victory on April 17, 1975. My situation was still the same. Choosing to obey the [KR’s] rules which isolated me from the others [the people] and thus not knowing all the truths happening in the country at that time could raise some doubts toward me among some of our countrymen like: “That you did not know any truth is one thing, but that you did not make efforts to seek it is quite another.” The followings is my answer:

First, it was because of my judgment on the KR movement. I hope I will have a chance to explain more thoroughly than this about the birth and rise of this movement, which I witnessed after the event in 1967 that forced me to escape from Phnom Penh and seek protection from this movement. At that time, I would like to say, the victory of the KR on April 17, 1975 appealed to me: the KR movement was genuinely nationalist and had the ability to conceive and implement appropriate

Therefore, [one] can't talk about "cheating" or incidents. It actually was a part of this regime.

From here I would like to tell more. This issue relates to most of our countrymen and possibly to many other people living outside Cambodia.

In the past three decades, a large part of our country's sufferings resulted from the efforts to keep our country independent and sovereign in its territorial integrity. I do not mean to underestimate the internal problems that occurred in our country

The threat to our country's sovereignty by the US and Vietnam played an important role in encouraging the KR movement to be that absolute. 1973 could be a crucial period that created this change. At that time the KR faced one big problem:

If the KR decided to stop fighting and negotiate with Lon Nol, as the Communist Vietnam wanted, the KR would follow the tail [orders] of Communist Vietnam forever, which meant putting the fate of Cambodia in the hands of Vietnam. Additionally, an important part of the US strategy when the US signed the cease-fire agreement was keeping Cambodia under its sphere of influence by supporting Lon Nol to stay in power. That was why the US viciously bombed Cambodia in the first semester of 1973.

The bombing inflicted serious damage on the KR's forces, but at the same time it annihilated the rural economy, which gave the KR a chance to change "low-level cooperatives," assigned in late 1971 and throughout 1972 in its controlled territories, to "high-level cooperatives." The high-level cooperative was a tool to mobilize the human, economic and ideological forces of the KR to win the war.

The victory of the KR on April 17, 1975 strengthened the confidence of Pol Pot that the only way for the survival of the KR movement, through which Cambodia would live, in light of the danger from Vietnam (a danger which they [KR] believed to be greater than at any time after Vietnam was reunited) was to quickly "achieve socialist revolution and build socialism."

However, I, who had no responsibility in the KR

leadership and no role in the above-mentioned decision making, was suddenly confronted with a problem (below) and I believe this problem could exist in other places in the world although with different characteristics and in different circumstances. It is:

For a citizen like me, do the two duties of respecting human rights and taking part in defending the motherland always go together? Can one hope that once the motherland is successfully defended, the people will be able to look for a way to resolve the leaders' mistakes? But the subsequent question is if it is so, how much will the people have to pay? Or should [we] leave this responsibility to the international community? But the international community has not clearly determined the grounds on which they should base [their actions] to ensure that their intervention is right and proper so as to guarantee the respect for sovereignty of each nation and to prevent the violation from the super powers or the more powerful neighboring countries.

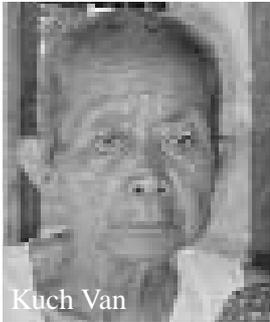
I have not found a satisfying answer. I just hold a belief that this problem must be highlighted, at least for the respect of the right of the youths of the next generations to extensively learn and analyze the history of their country, not just receiving slogans or pre-prepared formulas or a history lesson that is quoted one piece from one source and one piece from other sources. It is true that those of my generation, including me, who cared about the nation, regarding nationalism, no one can deny that we were not nationalist. But we made fundamental mistakes. I do not know how to educate my children. I think I should let them choose their own ways themselves. But to avoid making them confused, I think [Cambodia] should resolve the confusion over our nation's present history by allowing each person to express their personal opinion, although these may be conflicting, so that the youths can consider and choose the ways forward for their lives.

If I cannot find a satisfying answer, I still think that the road that I chose in my life, that is taking part in protecting my national sovereignty, is still basically correct and necessary at all places and times.



This Is Not Karma!

Kalyan Sann



Many of Democratic Kampuchea's survivors have told their stories to the younger generations. In her tile-roofed and leaf-walled house, 77 year-old Kuch Van, accompanied by her two granddaughters, told me her story while pounding betel nut. Van looks after her grandchildren while her daughter and son-in-law are in the paddy field.

Van's father Kuch used to be the chief of Prasoth sub-district. She was the fifth of six siblings. She said, "When I was growing up, my father collected taxes and solved problems for his people. He also drank with the villagers every day. We had good living conditions. My father had many plots of land, but he never cared for farming. Instead, my mother, brother and sisters worked in the fields." Neither Van nor her four sisters had the chance to get an education; only her brother could read and write. At first her brother attended a public school near the village. But her mother was worried about losing her only son, so she took him to study at a pagoda. Her brother was unhappy there and ran away.

There were no maids in Van's home, so everyone was responsible for both the household and field work. When Van had free time, she cut firewood for pocket money. Van could earn five cents per day (one bundle of firewood cost one cent). In those days, Cambodians used red coins with a hole at the center so people could carry them in a bunch. One cent could buy two things, such as oil and palm sugar.

She liked attending Khmer festivals and ceremonies such as Pchum Ben. Van, her brother and sisters walked together to movies, plays, traditional games and dances, since people liked walking and riding carts as means of traveling; only a few wealthy family had bikes. Van was

never able to afford one.

When Van was 10, her father died during an asthma attack. Later, people throughout her village had a kind of disease in which insects emerged from their flesh. People did not have enough clothes; some used mats or sacks, while others had only pants. When she was young, women did not wear wraparound skirts, but ceremonial trousers, which required three meters of fabric. Laughing, she said, "Although we lacked cloth, we still we had to wear those 3-meter sleeves." All family members had to spin kapok fiber to make clothes; however, Van did not like it much as kapok was not comfortable or of good quality. So she made clothes from the little cotton grown at her farm. When Van reached the age of 13 or 14, people changed from using ceremonial trousers to wraparound skirts. Her only brother always brought her and her sisters sarongs from distant places and not many people could afford them.

Van got married to a farmer from her village named Pum But when she was 22 years old. They had four children, one of whom died from disease at 2 to 3 months of age. Her husband passed away ten years ago at the age of 81, and her three children live with her.

After April 17, 1975, the Khmer Rouge began dividing people to work in different units; however, the products of their work belonged to the Angkar, which rationed food according to the number of people in each family. Once the Khmer Rouge had formed communal dining halls, they began collecting property, even plates and pots, except for boiling kettles. Van's only son was taken to work in the children's mobile group, her eldest daughter worked as a cattle tender, and the youngest was assigned to collect cattle dung and to study. Her husband was assigned to work in the production unit.

Van herself was set to work with 14 other women in the cooking group. Her responsibilities included picking

they did not give it to us. For example, when they gave us dry fish to eat, we could not even say we were thirsty. I always warned my children not to say anything. At nights I told them to go to bed. It was really hard during that regime.”

She also mentioned that many of the people who lived along the Cambodia-Vietnam border fled to Vietnam. But the Vietnamese government usually did allow them to stay. Van said that one of her neighbors traveled to Vietnam by oxcart and was allowed to have her own business. Van also wanted to escape to Vietnam, but she decided not to go because the Khmer Rouge would kill her children in retribution. She admitted that if all her family were together, she would have surely fled to Vietnam with other villagers.

In 1978, a new group of Khmer Rouge came to her commune. These new cadres killed the existing chiefs and replaced them with newcomers. The new appointed chiefs then told people to attend a meeting. After telling them that the former chiefs killed many people, the new chiefs pretended they felt sorry for the villagers. However, the new chiefs also killed people, and worse, they executed all the members in a family. She said that they killed a lot of people, especially the city people.

At the end of 1978, the Khmer Rouge evacuated villagers twice as a result of fighting between Khmer Rouge and Vietnamese soldiers. The first evacuation was in Svay Rieng province. During the second, the Khmer Rouge drove people to Koh Prak sub-district in Kandal province. Then Van became a “new” person. The Khmer Rouge assigned her to guard a sapodilla field and cut grass in a potato field. Although she was hungry, she never dared to pick a single fruit. And when she was working as a cook, she never stole food because she was so fearful. She preferred facing starvation rather than be killed or criticized. Van lifted her hands up in a show of honesty and said, “I ate according to what they gave me, I never stole since I was scared of being killed, tortured or criticized. I obeyed, so I am still alive. Every day I prayed in front of the sapodilla tree so God could make the regime end before they could kill all of us. God did

help us. After only four days of working in the tomato field, the Khmer Rouge collapsed.”

After the fall of the Khmer Rouge, Van’s husband did not want to return to their home village, but go to the city instead. However, Van insisted on coming back since she wanted to reclaim her father’s land and property. So they returned home and resumed farming. After they arrived, Van had no buffalo for plowing. But today, her children have an ox, cart, and plow for growing rice.

Van lost her brothers to the regime as well as many of her nieces and nephews. Today, only Van and her youngest sister are still alive. Van and her youngest sister live with Van’s youngest daughter.

Some Cambodian people, especially old people, think that the difficulties in the Khmer Rouge regime were the result of their deeds in previous lives, but Kuch Van does not agree: “Who said they love Pol Pot? I detest them! It is not our bad deeds left from previous lives; they themselves were the ones who created the Khmer Rouge who killed their own people. The Chinese were not involved, only the Khmer.”

When asked if she knew of the Khmer Rouge tribunal, she responded that she had heard about it on the radio. She said, “They have to be tried for they have killed millions of people. How can people forgive them if they killed even young children? I say this from what I have seen, I don’t exaggerate at all. I deserve to see them tried, but only the leaders. We do not need to punish the Khmer Rouge cadres for they would not form again if they do not have leaders. But if they still resist, try them all then.”

Van stressed that the Khmer Rouge rose to power because of Khmers’ carelessness, but she does not believe that it will happen again since Cambodians have learned about the genocide and will try to prevent it from happening again. “In order to stop such crimes, we have to work cooperatively so that we can live peacefully. I am glad that now people can do business, go to the temples and whatever they like.”

Kalyan Sann is a Searching for the Truth staff writer.

Live for the Children

Veng Chheng



Yan Chhim

Yan Chhim, 52, a widow with three children, lives in Trapeang Stok village, Tang Yab sub-district, Prey Chhar district, Takeo province. She farms and weaves silk. Her husband Meas Pa was killed in 1977.

Her village came under Khmer Rouge control in 1972. Chhim's mother-in-law Sou Ky needed an eye operation which local doctors could not perform. The village chief gave them permission to go to Phnom Penh for 15 days. When they returned, planes were dropping bombs on the village. Chhim's mother-in-law was accused of providing information about the village to the Lon Nol military. However, she was saved by the village chief who trusted her and explained that the planes did not come as a result of Ky's information.

Chhim lived with her husband and two daughters in Phnom Penh. Her husband had been working in the electricity department near Wat Phnom since 1969. Her family moved out of Phnom Penh on April 18, 1975, a day after the Khmer Rouge took over the city. But Chhim did not head for her home village; instead, she crossed Munivong bridge and continued to walk along the Bassac River, so that her family would not lack water. On the way she saw corpses floating in the river, lying by houses, and on the road. Four nights and five days later, Chhim and her family arrived at Koh Thom district, Kandal province, which was her father's birthplace.

Chhim said at first many April 17 people (those evacuated from the cities) arrived in Koh Thom district, but after staying for a short time, Angkar sent them to Battambang province. Chhim's family was also on the list to go to Battambang, but as her brother-in-law had malaria and was unable to travel, Angkar allowed her

family to stay in Koh Thom.

In 1975, cooperatives were not yet set up in Koh Thom; people still ate in their houses. Chhim said base people and new people had different food. Base people possessed rice, while new people received rice rations. In 1976, the Khmer Rouge began creating cooperatives. People were grouped into three units. First, "full-rights units" consisted of the poor, landless base people. Members of this unit usually became group leaders of people in the other two units. Some of group leaders were assigned to collect vegetables and scare off birds. The "candidate units" included base people who had been rich and owned land and houses. Their work was not hard. The "dependent unit" comprised new people, who received small food rations and were forced to work the hardest.

Chhim was in the dependent unit, in which she had to work very hard and was given little food. Her body began to shrink. She wore the same clothes for working, resting, and sleeping.

In 1976, Chhim gave birth to a daughter. The unit chief allowed her 20 days' rest, after which she had to go back to work. Before going to work, Chhim had to send her three daughters to three different children's units. It was the year of the dragon, a symbol of water, and so there was a big flood. Some roads were cut off. Chhim had to cross the chest-deep river to ferry her children. In the evening, her children waited for her, while the base people had already picked up their kids. One day she asked the unit chief for permission to tend her sick child at home, and the chief replied, "Are you a doctor?" But Chhim kept pleading with the chief until she let her come home during lunch. To return on time, she skipped lunch, then ran and walked a few kilometers to reach home. Excited to see her mother, Chhim's daughter fell from the house, bled and became unconscious. Shocked, she

Legal Precedents in Yugoslav Court

Kelly Askin

The International Criminal Tribunals for the former Yugoslavia (ICTY) and Rwanda (ICTR) have not only indicted, arrested, tried, and convicted numerous perpetrators of atrocities, they have also laid down landmark decisions, establishing multiple precedents for the worldwide pursuit of justice. The decisions include novel prosecutions in international tribunals of crimes such as genocide, rape, and enslavement. Groundbreaking rules were made to protect victims and witnesses who faced risks by coming forward to give testimony, and technology was employed to obscure their faces and to distort their voices. The Tribunals enacted extensive measures to balance the rights of the victims against the rights of the accused.

The ICTY

Established in 1993 by the United Nations Security Council acting under Chapter VII of the UN Charter, the ICTY is granted the rights under its Statute to prosecute “grave breaches” of the 1949 Geneva Conventions, violations of the laws or customs of war, genocide, and crimes against humanity. The Tribunal has the authority to hold the accused accountable for individual criminal responsibility if they “planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of a crime [within the court’s jurisdiction].” The Tribunal may also prosecute a commander or superior if a subordinate has committed a statutory crime and that superior “knew or had reason to know that the subordinate was about to commit such acts or had done so and...failed to...prevent such acts or to punish the perpetrators thereof.”

Individual and joint trials have been held against civilian and military persons from each of the three main ethnic groups involved in the Balkan conflicts. Persons indicted by the Tribunal range from ordinary citizens who are alleged to have committed crimes with a nexus to the conflict, to the highest-level political and military officials. Sentences have ranged from 7-45 years’

imprisonment. To date, the ICTY has rendered judgment in eleven trials against 21 accused; some of these cases are currently on appeal. The cases summarized below represent some of the most dramatic advances in terms of international law.

Prosecutor v. Tadic

The first trial held by the Yugoslav Tribunal settled many of the jurisdictional issues and its decisions also delineated generally the scope of most of the crimes within the Tribunal’s jurisdiction. The accused, Dusan Tadic, was a Bosnian Serb who had free access to Omarska, Keraterm and Trnopolje camps, facilities notorious for mistreating Bosnian Muslims and Croats detained in the camps. Accused of every core crime except genocide, the charges afforded the first opportunity for the Tribunal to determine such things as the nature of the armed conflict, whether the character of the conflict as international, internal, or mixed was relevant to the applicability of grave breach charges, and the scope of crimes under the terms of the Statute vis-à-vis violations of the laws or customs of war and crimes against humanity.

At this early stage in the ICTY proceedings, it was imperative to resolve the question of defining the conflict as “internal” or “international” in character. This was essential because that definition would determine which laws would apply in the courtroom. In its Decision on the Interlocutory Appeal on Jurisdiction (October 2, 1995), the Appeals Chamber defined an armed conflict as existing “whenever there is a resort to armed force between States or protracted armed violence between governmental authorities and organized armed groups or between such groups within a State.” In this context, the Tribunal clearly endorsed greater overlap between laws applying to international and internal armed conflict.

Considering violations of Article 3 of the Statute, the Appeals Chamber determined that four conditions must be fulfilled before a violation of the laws or customs of war incurs individual criminal responsibility. These

conditions apply regardless of whether the violation has occurred within the context of an international or internal armed conflict: “(i) The violation must constitute an infringement of a rule of international humanitarian law. (ii) The rule must be customary in nature or, if it belongs to treaty law, the required conditions must be met. (iii) The violation must be “serious.” (iv) The violation of the rule must entail, under customary or conventional law, the individual criminal responsibility of the person breaching the rule.”

Common Article 3 of the 1949 Geneva Conventions, which is encompassed by Article 3 of the Statute, was intended to apply specifically to civil wars. However, the Appeals Chamber found that the conduct regulated by Common Article 3 [of the Geneva Conventions] was also part of customary international law, and thus applicable to both internal and international armed conflicts. This holding—which extends the reach of the protections afforded by the Geneva Conventions—narrows significantly the historical practice of treating conduct differently depending on whether a war is regarded as internal or international.

The Chamber also noted that under customary international law, crimes against humanity can be committed in wartime or peacetime. Therefore, unless the governing statute dictates otherwise, it is not necessary to establish that there was an armed conflict at the time in order to prosecute crimes against humanity.

Once the jurisdictional matters were resolved, the trial on the merits proceeded. Here again determinations as to whether international laws would be applicable came to the fore. In rendering its Judgment (May 7, 1995), a majority of the Trial Chamber determined that grave breaches [of the Geneva Conventions] were not considered part of customary international law at the time of their commission. Essentially, the majority found that grave breaches were limited to conflicts having an international character, and the prosecution had not proved that the crimes in question were committed during an international armed conflict. Thus, all charges brought under Article 2 of the Statute were dismissed. Subsequently Tadic was found guilty on 9 of the 34 counts, and guilty

in part on two additional counts, for crimes against humanity and violations of the laws or customs of war. Several issues were appealed by both the defense and prosecution.

The Appeals Chamber Judgment (July 15, 1999) disagreed with the Trial Chamber’s reasoning on international conflict, determining that an armed conflict is international in character not only if it takes place between two or more states; an internal armed conflict may also become international or exist alongside an internal armed conflict if another state intervenes through its troops or if some participants in the internal armed conflict act on behalf of another state. The Appeals Chamber went on to delineate the legal criteria for establishing when an internal armed conflict may become international. In applying the law to the facts, it found that at the time and place of the events charged in the indictment, the conflict did indeed have an international character, and thus the grave breach charges had been inappropriately dismissed by the Trial Chamber. (It should be emphasized that the Chamber was not stating that the entire war in the Balkans was an international conflict—it was merely stating that during the particular charges relevant to Tadic, the conflict could be regarded as international.)

The Appeals Chamber made yet another groundbreaking interpretation of the Geneva Conventions. Article 4 protects civilians who find themselves “in the hands of a Party to the conflict or Occupying Power of which they are not nationals.” The Geneva Conventions were codified to regulate wars between nations and this is how they have been used traditionally. But according to the ICTY Appeals Chamber, in certain circumstances Article 4 may encompass victims possessing the same nationality as the perpetrators of the crimes. In other words, conflict can be so ferocious that it rends the bonds of nationality. Consequently, Bosnia Muslim victims were deemed to be persons “protected” by the 1949 Geneva Conventions even though the crimes were committed by a Bosnian Serb; therefore the grave breach protections afforded by the conventions could be enforced.

The Appeals Chamber Judgment also stressed that under customary law regarding crimes against humanity,



persecution can be committed for purely personal motives. It further emphasized that to prosecute crimes against humanity, it is not necessary to prove a discriminatory intent—that is, persecution for racial, ethnic, or religious reasons—unless the controlling statute makes this intent a requirement.

Prosecutor v. Erdemovic

This case focused particularly on criteria for accepting a guilty plea and the legitimacy of claiming duress as a defense to accusations of war crimes or crimes against humanity. The defendant, Drazen Erdemovic, a member of the Bosnian Serb Army, was accused of having participated in the execution of thousands of unarmed Bosnian Muslim men shortly after his unit took over the UN “safe haven” of Srebrenica. He was charged with one count of murder as either a crime against humanity or a violation of the laws or customs of war. Erdemovic pleaded guilty to murder as a crime against humanity, but claimed in his defense that he had only killed under duress. He stated that if he had failed to execute the Bosnian Muslims as ordered, he not only could not have prevented the executions, but he would have been killed as well. In the initial Trial Chamber Judgment (November 26, 1976), his guilty plea was accepted and Erdemovic was sentenced to 10 years’ imprisonment. Erdemovic appealed, arguing that his guilty plea had not been adequately informed—that he had not understood the difference in pleading guilty to a crime against humanity versus pleading guilty to a war crime. He also asserted that his duress was not taken into account either as a defense or in mitigation of the sentence. In its Judgment (October 7, 1995), a majority of the Appeals Chamber agreed that the guilty plea had not been informed, and it remanded the case back down to a new Trial Chamber to allow Erdemovic the opportunity to replead and to determine the appropriate sentence. Establishing criteria for accepting a guilty plea, it was held that 3 pre-conditions must be satisfied: the plea must be voluntary, informed, and unequivocal.

The Appeals Chamber also held, by a majority, that “duress does not afford a complete defense to a soldier charged with a crime against humanity and/or a war

crime involving the killing of innocent human beings.” The Joint Separate Opinion of Judges McDonal and Vohrah emphasized that despite there being no corroboration of the duress, the Trial Chamber could have taken the duress into account in mitigation of the sentence.

Erdemovic subsequently pleaded guilty to murder as a war crime before a different Trial Chamber. Its Judgment and Sentence (March 5, 1998) took into account both the nature of the crime and the duress, and imposed a sentence of five years’ imprisonment. The majority of this Trial Chamber held that crimes against humanity are inherently more serious than war crimes. (This particular ruling, finding a hierarchy of crimes, has been rejected by some Chambers of the Tribunals, and the issue remains unsettled.)

Prosecutor v. Delalic and Others (“Celebici”)

This was the first trial in the Tribunal that accused a defendant of command responsibility. In this case, four Bosnian Muslims and Croats who had held various positions of authority in Celebici prison camp, a detention facility with a reputation for atrocities committed against Bosnian Serbs detained therein, were charged with a variety of war crimes. One was acquitted of all charges, and the other three were convicted for either committing the crimes themselves, or for responsibility as superiors for crimes committed by their subordinates.

The Trial Chamber concluded that a superior, whether military or civilian, may be held criminally liable for acts of subordinates on the basis of a *de facto* or *de jure* position of authority. In reaching its determination, the Trial Chamber Judgment (November 16, 1998) stated that the superior must “have effective control over the persons committing the underlying violations of international humanitarian law, in the sense of having the material ability to prevent and punish the commission of these offenses.” The Trial Chamber found that a superior may only incur criminal liability where an accused had either actual knowledge that his subordinates were committing or about to commit a crime (which could be established through direct or circumstantial evidence), or “where he had in his possession information of a nature, which at the least, would put him on notice of the

Political Transition and Justice in Cambodia

John D. Ciorciari

In June 2003, officials from the Cambodian government and United Nations initialed an agreement to create the long-awaited Khmer Rouge tribunal in Phnom Penh. The only remaining hurdle was ratification by the Cambodian National Assembly, which was widely expected. For nearly nine months, however, plans for the tribunal have been on hold once again due to contested summer electoral results. In late July, the National Election Commission announced that the Cambodian People's Party (CPP) had won 73 seats in the 123-member National Assembly, just shy of the two-thirds majority needed to constitute a new government. The opposition Sam Rainsy Party (SRP) and royalist FUNCINPEC Party, both of which received roughly 20% of the popular vote, formed an "Alliance of Democrats" and refused to participate in a new government. They alleged electoral fraud and demanded that the CPP enter into a tripartite government without Hun Sen as its leader. The CPP refused, and only now does a thaw in CPP-FUNCINPEC relations appear to be paving the way toward a reconstituted Assembly.

Like many other issues, the Khmer Rouge tribunal remains hostage to the political impasse in Phnom Penh. Proponents of the tribunal can only hope that rising popular frustration and fears that a "dark horse" will emerge on the Cambodian political scene will push the major parties to a quick settlement. Cambodian politics continue to be characterized by highly uncooperative relations between the governing party and its principal opponents. Fortunately, Cambodia's 2003-04 political transition has been marked by far less violence and instability than the previous "transitional period" in 1997-98. It provides a reminder, however, that justice in Cambodia is not simply about the grievances of the past. Even the prospective Khmer Rouge tribunal, which will adjudicate the alleged crimes of defendants between 1975 and 1979, is tied inextricably to demands for human rights and political fairness in the present day.

Like other tribunals of its sort, the proposed Special Chambers bear fundamental similarities with "normal" criminal courts but also have an indisputably political character. Whether legal or moral purists find this unsatisfying, major tribunals of this sort are almost always about managing political transition as well as providing justice for past offenses.

Introduction

This article will address the contested nature of transitional justice in Cambodia by exploring the social, economic, and political "transitions" that various stakeholders seek through an accountability proceeding against the Khmer Rouge. As in many developing countries, elite political interests have tended to de-emphasize demands for "restorative" civil and distributive justice. Clearly, the Democratic Kampuchea (DK) period involved widespread criminal abuses as well as civil wrongdoing that contribute, among other things, to an "unjust" distribution of resources. Delivering "complete" justice to the victims of the Khmer Rouge would thus require a mix of retributive and restorative mechanisms.

Despite the range of civil and criminal abuses in Democratic Kampuchea, the "transitional justice" process—shaped by empowered national and international actors—has been more about managing regime security and satisfying basic public opinion than effecting broader social transformation. The proposed tribunal has been crafted narrowly to target only select top leaders of the DK regime in what scholar Stephen Heder calls a "Nazification" of the Khmer Rouge. Broader numbers of serious offenders, some of whom bear ties to the present government, have been excluded in the interests of regime preservation and stability. An effort to provide restitution of any kind to the victims of that period is absent, even in token form. The Cambodian case is not unique. Although certain states—such as Germany and Chile—have endeavored to provide retribution or other civil remedies to victims of grave past abuses, most



transitional justice mechanisms have downplayed economic injustice and constructed the past in a manner that highlights violence and political ills instead. The following sections discuss some of the reasons why, using Cambodia as a primary case example.

Defining “Transitions” and Defining “Justice”

In Cambodia and elsewhere, “transitional justice” is a complex and problematic concept. We typically attach the term to legal or quasi-legal processes in societies that have experienced dramatic political change and seek to address the alleged malfeasance of the *ancien régime*. The demise of the Soviet Union and partial crumbling of Cold War alignment structures, together with more recent U.S.-led efforts to effect regime change in certain “rogue states,” has made transitional justice particularly common today. However, the process that the term “transitional justice” is meant to capture is nearly as old as human history. From the era of Babylon to contemporary Baghdad, political changes have been carried out as a way to achieve varying notions of justice. Formal or informal processes often accompany those changes to right the alleged wrongs of the past and underscore the legitimacy of the new regime.

In many cases, the process of transitional justice follows closely upon the collapse or overthrow of the old regime. In Cambodia, intervening political and strategic realities stymied meaningful progress toward transitional justice for almost 20 years. Shortly after the Vietnamese invasion of Cambodia, an abrupt conviction of Khmer Rouge leaders Pol Pot and Ieng Sary marked the efforts of Hanoi and the new People’s Republic of Kampuchea (PRK) government to mark an effective and legitimate political transition by delivering justice. However, the 1979 People’s Revolutionary Tribunal to condemn the “genocidal Pol Pot-Ieng Sary Clique” was not accepted by most Cambodians or by the broader international community. Part of the problem was that the court seemed to be delivering inadequate “justice.” The court did not hear arguments for the defense and quickly sentenced the former DK leaders

to death in absentia. It also neglected to offer a credible pronouncement with respect to the thousands of Khmer Rouge cadres who supported Pol Pot, Ieng Sary, and other members of the shadowy DK leadership. At a local level, therefore, the trial arguably provided little justice for victims at all.

The other problem with the 1979 People’s Revolutionary Tribunal was that it did not relate to a political transition supported by many Cambodians and most of the international community. Despite the horrific abuses of the DK regime, many Cambodians did not welcome the presence of Vietnamese troops and the new Hanoi-backed government. The Khmer Rouge, who retreated to the jungles of northwestern Cambodia and waged protracted guerilla warfare, clearly rejected the transition, as did the influential King Norodom Sihanouk and right-wing Cambodian republican forces descendant from the old Lon Nol regime. Internationally, only Vietnam, the Soviet Union, and a handful of its closest allies recognized the invasion as legitimate. Thailand, China, Singapore, Malaysia, France, Britain, and the United States led an overwhelming international majority against the invasion and mocked the 1979 tribunal as a political “show trial.”

The point to be made is that only part of the difficulty in defining “transitional justice” comes from contested notions of “justice.” The contestation also arises from the highly disputed nature of the surrounding political transition in most justice-seeking societies. What type of political and social change is the process supposed to promote and facilitate? This question is inseparably linked to the definition of “justice” that various stakeholders choose to embrace. I argue that in most cases, empowered local and international actors tend to define what constitutes “transitional justice” in a way that directly or indirectly promotes their prospective or continued control or influence over the reconstituted state and its resources.

In some cases, empowered actors prioritize the “retributive” aspects of justice and focus relatively narrowly on members of the deposed leadership. In



separated from their families. Money was abolished, and physical property was simply confiscated by the government as CPK property. Generations of accumulated economic assets were gone overnight, and the economic losses for individual families and communities were often crippling. Many survivors have never been able to restore their previous positions, and many lost their primary economic support networks through the deaths of family members. Moreover, much of their confiscated property remained in the hands of government officials, even after the change of regimes in 1979. Providing “justice” to them in any holistic sense would necessarily entail a significant measure of “restoration,” as well as “retributive” measures against those most responsible for the regime’s criminal atrocities. The same can be said for other transitional societies, particularly in the developing world. South Africa, Guatemala, Rwanda, Peru, East Timor, the Balkans, Sierra Leone, and now Afghanistan and Iraq are just a few examples.

Civil and Criminal Approaches to Transitional Justice

Whether in transitional periods or tranquil ones, almost all modern legal systems deal with retributive and restorative justice through different sets of laws and judicial procedures. Generally speaking, the retributive aspects of justice are handled through the criminal system, pitting the state against an individual or groups of individuals alleged to have committed an offense against the public good. Restorative remedies, by contrast, are usually pursued through what common-law systems refer to as “civil” channels. Civil cases involve two non-state actors—whether persons or corporate entities—and are normally designed to provide restoration to the aggrieved party. Only in select instances, such as U.S. tort law, are punitive damages sometimes attached to civil liability, giving them more of a retributive flavor.

Neither civil nor criminal proceedings alone can deliver a “complete” form of justice to victims of grave human rights violations such as genocide, torture, and other crimes against humanity. Civil remedies may provide monetary compensation for certain past ills

but lack the strong tone of societal condemnation, deterrent capacity, and punitive character of criminal sanctions. Conversely, a criminal verdict cannot alone redress the material grievances of many victims whose lives and livelihoods were shattered under the abusive old regime. In Cambodia, some former Khmer Rouge leaders live in large villas while millions of their victims continue to eke out meager livings fanning rice, growing fruit, or collecting scrap metal. Ieng Sary, the former Deputy Prime Minister, owns several luxury motor vehicles and an impressive villa in central Phnom Penh, while other former leaders including Nuon Chea and Khieu Samphan reside comfortably in the mountain town of Pailin. Their spacious homes are funded through a mix of illegal trade and Chinese funds once directed to the Khmer Rouge.

Ironically, the two poorest of the major prospective defendants, Duch and Mok, have been the only ones imprisoned since 1999 pending formal criminal charges. The others have successfully used money or signed political deals to insulate them from incarceration and even from poverty and civil suits. Even long prison sentences for former DK officials like Ieng Sary and Khieu Samphan will not change that painful economic reality for the survivors of Democratic Kampuchea. The same is true in many Latin American, Asian, and African states recovering from periods of abusive governance.

Despite obvious economic injustice in Cambodia and many other societies, transitional legal processes have tended to focus predominantly upon the criminal responsibility of former regime leaders and officials. In some cases, this process has been attached to formal criminal prosecution, while at other times, truth commissions have attempted to establish accountability without such a punitive dimension. Comparatively few states or international bodies have directly addressed the issue of “restorative justice” by creating official institutions for civil claims, land redistribution, and other forms of wealth redistribution. Indeed, addressing civil wrongdoing in a transitional context is notoriously



population.

In recent years, the prospect of a Khmer Rouge tribunal has resurfaced in Cambodia with newfound international and domestic support. The military defeat of the Khmer Rouge by the late 1990s and the reduction of superpower tension after 1991 were largely responsible. Those factors made it possible, for the first time in many years, to hold a more robust justice-seeking process with respect to the DK period. However, since negotiations restarted in approximately 1996, the needs of millions of Cambodian victims have again been subordinated to power politics. The negotiations over a mixed tribunal with Cambodian and international judges, prosecutors, and investigators have become a battleground for control of the process. Both Cambodian and international negotiators have claimed that their solution will best deliver justice for Cambodians.

The Cambodian government has insisted throughout that only a select number of Khmer Rouge leaders be targeted for prosecution, arguing that trying more would undermine the nation's stability and security. Many critics of Prime Minister Hun Sen and the CPP assert that his real objectives in trying only a handful of former Khmer Rouge leaders are different. Hun Sen was himself a mid-level commander in the Khmer Rouge before defecting to Vietnam midway through the DK period and returning as one of the leaders of the Vietnam-backed invasion force. The same is true of CPP elder statesmen Heng Samrin and Chea Sim. A number of other current Cambodian officials are former Khmer Rouge, and allegations abound that government officials have entered into dubious agreements with the Khmer Rouge over the years to secure defections or to realize narrow economic gain. Critics argue that the CPP's main objectives for the tribunal—if a tribunal forms at all—would be to protect its own political image and win public recognition as the party that defeated the Khmer Rouge.

Thus, the CPP has often been perceived by outsiders as the primary obstacle to the criminal accountability process, given its own historical ties to certain Khmer

Rouge members and its abiding suspicion of Western motives. In recent years, the CPP has appeared more willing to conduct a tribunal with mixed local and inter-national participation. The CPP-led government even promulgated a law to establish the tribunal in 2001 and initialed an agreement with the United Nations in June 2003. The country's two main opposition parties, FUNCINPEC and Sam Rainsy, now find themselves in a position similar to many Western powers, publicly committed to justice for the Khmer Rouge, but privately dismayed that trials could help to solidify Hun Sen's hold on power. It is unclear whether the tribunal issue has been an important part of their calculus in opposing the reconstitution of the National Assembly.

Internationally, there have also been sharply differing accounts of what would constitute "transitional justice" for Cambodia. China has been most adamant in its opposition to the tribunal, given its past support of the CPK and its fear of Western attacks upon its own regional and domestic affairs. Beijing asserts that foreign intrusion into Cambodia's "internal affairs" would itself constitute injustice and that Phnom Penh should carry out any judicial process domestically. The United States has led public efforts for the tribunal, but has been reluctant to agree to a court that has a strong Cambodian composition. Out-wardly, American officials fear that the Cambodian judges will be corrupt and subject to easily manipulation by the government. More quietly, many U.S. officials do not wish for the CPP to take political credit for a tribunal. Some U.S. Congressmen, including Sen. Jesse Helms and Rep. Dana Rohrabacher, even went to far as to table a resolution proposing the trial of Hun Sen in lieu of a number of "aging Khmer Rouge geriatrics." Most European states have had similar ambivalence, contributing to the tribunal's ongoing delay.

For the international community, the central issues have been whether Hun Sen and the CPP can be trusted with the criminal process and whether the benefit of a tribunal justifies the cost of helping the CPP solidify its rule. Thus, ongoing negotiations between



the United Nations and Cambodian government suggest strongly that many of the major empowered actors view the tribunal as a political prize to be captured. This perception regrettably contributes to the ongoing denial of any credible criminal justice to millions of DK survivors. In Cambodia, no political actor has yet won the “prize” of a Khmer Rouge tribunal. The governments of certain other transitional societies have been more successful. For example, the African National Congress in South Africa has based a considerable portion of its public legitimacy on the overthrow of apartheid and management of the extensive Truth and Reconciliation Commission. A similar process of legitimization is now envisioned for new political regimes in Iraq and Afghanistan, where efforts to establish criminal tribunals are underway with international support.

Disincentives for Restorative Justice

If successful criminal or “retributive” processes can help to solidify the position of a new government and its external supporters, “restorative” processes are often seen as having the potential to do the opposite. Most developing societies proceed, to some degree, on a politico-economic model that can broadly be described as “allocative.” An allocative state is one in which the government receives much of its revenue from overseas sources, either through rent, international aid, or taxation of foreign trade. These economies are notoriously vulnerable to corruption and heavy-handed governance, because the political leadership does not depend on taxes from its own citizens to enjoy power and wealth. Rival political groups often compete to “capture the flag,” enabling them to control the material resources of the state to their own advantage. Even when a despised old regime is removed, the problem often recurs, as the new regime becomes entrenched in its highly privileged position. Foreign states and international agencies frequently contribute to the problem by supporting such governments for political, economic, and strategic reasons. This is a very familiar process evident before, during, and after the Cold War, when the dynamics of foreign support were particularly clear.

“Restorative” mechanisms potentially threaten privileged developing-world governments by raising the possibility that they will be required to redistribute land and other resources to poorer citizens. In Cambodia, villagers who survived the Khmer Rouge period frequently lament that fact that both former CPK officials and current government and military leaders own vast tracts of valuable land. Those owners guard the land with troops or private security guards and often sell foreign companies and workers the permission to remove natural resources from the area. In the cities, government officials with nominal salaries of US\$25 per month drive Mercedes-Benz automobiles, own lavish villas, and otherwise profit immensely from the public coffers. Some of those officials are former CPK cadres or officials. To average DK survivors, these continuing injustices are as important as the more bloody and brutal Khmer Rouge atrocities of the past. Corrupt government practices and domination of key resources, facilitated by the abuses of the DK regime, remain sources of considerable injustice.

Major foreign powers are also reluctant to open a possible Pandora’s Box of claims for distributive justice in the developing world. Even if their constituents support a tribunal to punish the crimes of the world’s most egregious human rights abusers, those voters are uncertain (or unlikely) to support large transfers of wealth as well. In some cases, elites in the developed world may also fear that encouragement of wealth redistribution will destabilize the current governing regime in a transitional society and introduce economic, political, and strategic uncertainty. There is a clear political risk associated with any re-distributive political process, and the willingness of external powers to accept that risk will ebb and flow as other priorities emerge. In the Cambodian case, international pressure on the government to pursue reforms has varied slightly when other significant regional issues—such as the 1999 East Timor crisis and the more recent campaign against terrorism—have become greater priorities. When other issues demand attention, external powers and international

bodies are more likely to promote “stability” by preserving the status quo.

Optimizing the Level of Restorative Justice

The fact that transitional governments and their foreign supporters generally favor criminal trials or truth commissions over “restorative” practices is by no means a secret. The leaders of transitional countries often provide public reasons for their decisions not to engage in more robust re-distributive efforts. Their justifications normally cite the need to foster reconciliation and to ensure that peace remains intact. Those arguments certainly are not without merit. As the Japanese, German, and French experiences of the late 1940s displayed, a society can help to reconstitute itself by assigning responsibility to select leaders, condemning them for their abuses, and otherwise trying to reintegrate members of the former regime into a productive society.

Despite the foregoing, my presentation has suggested that the private motives of many leaders for emphasizing criminal accountability include a salient strand of narrow self-interest as well. In Cambodia and elsewhere, accountability proceedings can be used to justify the rule of a new government as they provide partial justice for the abuses of an old one. The proposed tribunals for Afghanistan and Iraq will undoubtedly come under fire in this respect. Critics of the U.S.-led invasions are bound to characterize any accountability proceedings in Baghdad or Kabul as means to help justify unpopular wars and install pro-Western regimes. To at least some degree, those critics will be correct.

The most interesting question, perhaps, is whether the power-political decisions to interpret “transitional justice” a certain way actually accrue to the benefit of most of the victims of the deposed regime. In Cambodia, a mass re-distribution of wealth away from the CPP-led government authorities or a criminal process casting too wide a net could very well lead to some renewal of civil hostilities. In Iraq or Afghanistan, full “restoration” for the abuses of the Taliban or the Ba’athists and a more “just” distribution of resources could likewise

produce serious social or political problems. As is often the case in complex policy matters, the question is one of degree. How far should restorative measures be pursued, and how widely should criminal accountability mechanisms cast their nets, to ensure that the maximum amount of justice is achieved without unduly undermining the order necessary to reconstitute a functioning society?

Within developing transitional societies, elites often place the fulcrum too far toward protection of the status quo, and ordinary victims may advocate a balance that would undermine public order too greatly. International society and powerful external actors tend to side primarily with local elites, favoring trials of former leaders in order to show their own constituents that they are “doing something” about impunity without putting too many of their economic and political interests at risk. Slanting too far toward “restorative” solutions or too far away from them is apt to harm the long-term interests of most aggrieved victims of injustice. Too little redistribution leaves a corrupt and inefficient regime in power that is unattractive to foreign investors and unmotivated to create the conditions for sustainable growth. By contrast, too much “restorative justice” can undermine the political stability and elite leadership that-at some level-is necessary for growth and productive investment.

Conclusion

There is no formula for striking the right balance between “retributive” and “restorative” processes in a transitional society. However, one thing is certain by looking at the Cambodian case and many others. If “transitional justice” is to have meaning as a concept, the key consideration of empowered parties should be how to achieve the best outcome for the ordinary survivors of past abuses, not how to solidify a new set of political structures that will be vulnerable to the same depredations.

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Khieu Samphan

Steve Heder



Khieu Samphan

The evidence discovered in connection with Khieu Samphan, former chairman of the DK State Presidium, while not as extensive as that identified in relation to some of the other senior Khmer Rouge leaders, nevertheless implicates Samphan in CPK crimes. Available documentation points to Samphan's knowledge of CPK atrocities and suggests that he personally contributed to those crimes by making public statements supporting the underlying policies and by monitoring the manner in which regional and other authorities implemented them.

Evidentiary Analysis

Several categories of documents suggest that Khieu Samphan was well aware of the existence and implementation of the Party's execution policies. These include documents indicating that, through much of the DK period, Khieu Samphan occupied a number of senior CPK positions. Reports indicate, for example, that Khieu Samphan joined the Central Committee in 1971,

perhaps as an alternate member. Pol Pot claimed that as of 1975, Khieu Samphan had "the status of a Central Committee member," an ambiguous formulation that seemed to suggest less than full membership. In any event, by the time of the CPK Congress in January 1976, Khieu Samphan was a full member of the Central Committee. As such, he was privy to the policies originating from that body, including the policy of arresting and executing persons suspected of being enemies of the regime. Even if his publicly proclaimed role as chairman of the DK State Presidium established in 1976 was largely ceremonial, Samphan's membership in the Central Committee would have made him, as with all other Committee members, aware of the policy of executing all purported enemy agents.

In 1977, Khieu Samphan was promoted to chairman of "Office 870," which operated as a form of cabinet for the CPK Central Committee. Although not formally a decision-making post, the chairman of Office 870 had the duty "to keep track of the implementation" of the Standing Committee's policy decisions. In this capacity, Khieu Samphan would have become aware of the Standing Committee's arrest and execution decisions. In particular, it was in his capacity as chairman of Office 870 that Khieu Samphan was present as a "note taker" at a secret meeting in the first half of 1978 at which Pol Pot, Nuon Chea and Son Sen ordered the purge and execution of East Zone Secretary Sao Pheum and most other leading CPK military and political cadre in the East Zone.

That Khieu Samphan knew of CPK atrocities is reinforced by evidence of his apparent familiarity with the existence and content of confessions. As with Ieng Sary, certain evidence indicates that Khieu Samphan read from the substance of confessions during public gatherings and was therefore aware of their existence and content. According to a former CPK member interviewed in 1996, at a meeting in the Olympic Stadium in late 1976 Khieu

Samphan read out the confessions of Mæn San alias Ya, the secretary of the Northeast Zone, as well as confessions of other recently arrested persons. In his confessions Ya “admits” to the crime of treason, a crime that was widely recognized within the Communist Party to result in execution; accordingly, Samphan’s familiarity with this confession strongly suggests his knowledge of Ya’s fate and that of similar “confessors.”

Khieu Samphan may also have received reports from the grassroots that would have put him on notice of the arrest and ill-treatment of alleged enemy “agents” near the border with Vietnam, the “smashing” of DK combatants who were allegedly in contact with the CIA in Thailand, and the interrogation of “no-good elements” in Central Committee military units. Reports containing this and other information concerning Nuon Chea and Ieng Sary, were marked to be sent to “Office” (*muntir*) and to “documentation” or archives (*aekasar*). Because the formal functions of Office 870 included monitoring the implementation of Standing Committee policies, there is reason to believe that the “Office” in question in these reports may have been Office 870, which Khieu Samphan chaired from early 1977, and/or that Office 870 was in charge of the Central Committee archives.

This evidence is buttressed by incriminating statements by or attributable to Khieu Samphan since the fall of Democratic Kampuchea. On July 15, 1987, Khieu Samphan’s Office of the Vice President of Democratic Kampuchea for Foreign Affairs issued a document attempting to absolve Pol Pot, himself and others then still alive of any responsibility for “mass killings” or avoidable deaths while the CPK was in power. Despite its general aim, the document concedes that the CPK executed some 11,000 of its own members for being Vietnamese agents. Of these, according to the document, only some 8,000 appear to have been truly involved in trying “to systematically carry out activities to overthrow Democratic Kampuchea.” The remaining 3,000 executed persons “died from our mistakes.” These were people who were mistakenly netted in the course of “measures to arrest and punish ... Vietnamese agents.” Significantly,

the document acknowledged that these victims were executed even though they were either “minor offenders or innocent civilians.” This statement directly contradicts a prior statement that Samphan believed that only one person was falsely accused of treason.

The release of this document was preceded by other statements by or attributable to Khieu Samphan in which he conceded knowledge of at least some arrests and executions, though he typically insisted that he and other surviving CPK Central Committee members did not commit mass murder. During an interview conducted in August 1980, the year following the collapse of the CPK regime, for example, Samphan claimed that any executions that had occurred had been committed by traitors within the CPK, who had been executed. After asking himself rhetorically and euphemistically whether there had been “things that adversely affected the lives of the people,” he replied, “there were indeed,” although “not on the scale of a massacre.” He quickly added that the existence of such killings “should be clarified: they existed as a result of the Vietnamese agents, Khmer agents who the Vietnamese infiltrated into the ranks of our state power, where they furthermore had quite important roles,” such as zone secretaries. Then, in an apparent allusion to the purges of these and other alleged “traitors,” Khieu Samphan said that, “by 1977-78 we had basically sorted them out and put proper order into the situation inside the country.”

Other evidence indicates that Khieu Samphan personally contributed to CPK crimes. While no evidence has surfaced to date indicating that Khieu Samphan had the right to decide whom to arrest and order killed on his own authority or that he was directly involved in the execution of former Khmer Republic officials, he publicly endorsed taking measures against the enemies of the revolution in a way that suggests knowledge and support of the policy of executing purported enemy agents. For example, in a commentary on the Constitution broadcast on the occasion of its promulgation in December 1975, Khieu Samphan warned that “foreign imperialists” were trying to “infiltrate” and “subvert” DK. He declared a



determination to “fight them no matter what disguises they use” and to “oppose them at all costs.” At the time this statement was made, S-21 was already operational and at least 18 persons who had been arrested and were subsequently executed there had produced “confessions” indicating that they were enemy secret agents. In light of Khieu Samphan’s position in the CPK power structure, statements of this nature may have encouraged lower-level cadre to arrest and execute suspected traitors, including those from the former Khmer Republic.

The substance of certain confessions also indicates that in late 1976, Khieu Samphan was directly involved in work on the Party’s behalf to investigate dissidence in the Ministry of Propaganda and, in this capacity, was aware of the suicide of at least one ministry cadre suspected of treason, Prum Sam-A, who had feared arrest and execution. When dissident remarks made by Sam-A came to the attention of “the Organization,” likely a reference to Nuon Chea, the Organization dispatched Khieu Samphan to the Ministry of Propaganda to transmit instructions “to conduct further investigations in order to determine whether or not he was an enemy.” In early 1977 Sam-A realized that he was about to be arrested and killed himself. Khieu Samphan immediately reported his suicide to “the Organization,” again probably a reference to Nuon Chea, following which Samphan gave instructions that Sam-A’s body “be disposed of secretly.”

Other confessions provide indications that after his assumption of the Office 870 chairmanship, Khieu Samphan began working directly with the senior leadership of the Party, either through Nuon Chea or possibly with the Standing Committee as a whole, to ensure proper implementation of his Party superiors’ decision to carry out a more general purge of Communist Party ranks. In August 1977, for example, according to the confessions of West Zone Secretary Chou Chet alias Thang Si, Khieu Samphan arrived in the West Zone to conduct an investigation into the unclear situation earlier purges and other problems had provoked. His investigation looked into conflicts between Si and his deputy, Heng Pal, and his reports apparently contributed to a decision

by the Organization to arrest Si.

These events were followed by a speech delivered by Khieu Samphan, as chairman of the State Presidium, on or about April 17, 1978, as part of celebrations for Democratic Kampuchea’s April 17 National Day, in which he exalted in the “bitter defeats” of alleged agents of the Vietnamese inside the Communist Party who had already been arrested. Samphan said that they had engaged in “activities of subversion, spying and setting up cells, and attempts of coups d’etat in order to overthrow the Communist Party of Kampuchea and the Government of Democratic Kampuchea.” He indicated he was not concerned that purges might deplete the ranks of the revolution’s cadre, because they could be replaced with newer and better cadre. Delivered during the first stages of a new series of widespread purges that netted not only Chou Chet but also senior cadre in the East Zone, this speech was followed one month later by a massive purge of the East Zone as a result of a secret decision that, according to Duch, Khieu Samphan recorded.

Confessions also indicate that Khieu Samphan assisted in the mid-1978 purge of the CPK East Zone by helping to ensure that at least one cadre marked for arrest did not suspect the imminence of his detention. This was Veung Chhaem alias Phuong, a fellow member of the Party Central Committee who was in charge of DK rubber production. Phuong visited Office 870 for discussions with Pol Pot and Nuon Chea, ostensibly about reorganization of the East Zone. In one meeting, Nuon Chea reassured Phuong that if there was anything he needed to make himself more comfortable, he should get it from Khieu Samphan. Khieu Samphan then hosted a dinner at Office 870 with Phuong and other Party Central Committee members who were about to be purged, at which they discussed the arrests that had taken place so far. Phuong was subsequently arrested on June 6, 1978 in Phnom Penh. Phuong’s arrest may have been discussed at the 1978 meeting recorded by Khieu Samphan in which Pol Pot, Nuon Chea and Son Sen ordered the purge of the East Zone. Evidence relating to Phuong thus suggests that Khieu Samphan may have contributed to the commission

of some CPK atrocities with full knowledge of the implications of his role.

Legal Analysis and Conclusions

Our analysis of evidence pertaining to DK State Presidium Chairman Khieu Samphan suggests his individual responsibility for executions perpetrated in Democratic Kampuchea. In addition to indicating that Khieu Samphan was aware of the Party's execution policies and failed to take any steps to bring them to an end, the evidence suggests that Samphan knowingly contributed to the implementation of the Party's execution policies by making public statements in support of those policies and by investigating on behalf of the Party the manner in which certain regional authorities implemented the policies.

As noted above, Khieu Samphan made numerous public statements from December 1975 forward endorsing the Party's efforts to purge itself of traitors. These included an April 1978 address on the first anniversary of the "liberation" of Phnom Penh in which Khieu Samphan exalted in the "bitter defeats" of alleged agents of the Vietnamese inside the CPK who had already been arrested for having engaged in "activities of subversion, spying and setting up cells, and attempts of coups d'etat in order to overthrow the Communist Party of Kampuchea and the Government of Democratic Kampuchea." In that same speech, Khieu Samphan indicated that he was not concerned that purges might deplete the ranks of the revolution's cadre, because they could be replaced with newer and better cadre. As the previous discussion indicates, these statements were made during periods when the execution of non-Communist members of the DK population and the purges within the CPK itself were proliferating. In light of Samphan's senior position, these statements may have had an encouraging effect on the perpetration of arrests and executions. Further, the contents of several confessions suggest that Samphan was actively involved in facilitating the identification and arrest of potential enemies by, for example, investigating suspected dissidents in the Ministry of Propaganda, investigating the manner in which purges were being

conducted in the West Zone so as to contribute to the arrest of CPK cadre Thang Si who was subsequently executed, and aiding in the arrest of another cadre from the East Zone in mid-1978 who was likewise executed.

That Khieu Samphan was aware during these pertinent periods of the arrest, interrogation and eventual execution of Party cadre pursuant to CPK execution policies is suggested by several categories of evidence. As noted earlier, Khieu Samphan was from January 1976 onward a full member of the Central Committee and held the position of chairman of Office 870 beginning in early 1977 with responsibilities extending to monitoring the Standing Committee's policy decisions. In both of these positions, Samphan would have been privy to documents and other information concerning the Party's execution policies. This would have included the Central Committee's March 1976 decision to delegate to Zone Party committees and certain other Party committees the authority to execute those who were allegedly guilty of serious crimes against the revolution.

Samphan also was present during the 1978 meeting at which Pol Pot, Son Sen and Nuon Chea decided to purge the East Zone. Other evidence indicates that Khieu Samphan read publicly from the content of confessions in late 1976; this, when considered in light of his likely knowledge of the Party's execution policies, also suggests that he was aware of the existence of confessions and possibly their function in implementing the policies.

Certain statements attributable to Khieu Samphan since the fall of Democratic Kampuchea further reinforce our conclusion that he was aware of DK atrocities. These include in particular the July 1987 statement issued by Khieu Samphan's Office of the Vice President of Democratic Kampuchea for Foreign Affairs suggesting that at least 3,000 minor offenders or innocent civilians were wrongfully executed by the CPK regime.

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Letter: A Reply to Khieu Samphan's Second Letter

Did the Khmer Rouge massacre or intend to make the Cambodian people extinct? On April 17, 1975, people said Phnom Penh was liberated; back then I was just 11 years old. Half a month later, I saw Phnom Penh residents begin to arrive in my village in large numbers. With other children, I watched them coming, not knowing what was going on. They came on tri-cycles [cyclos], motor bikes and small cars. We did not see that they had many belongings. Some carried small packages of stuff on their heads, while holding their children's hands with difficulty. Those who had relatives in the village stayed in their houses, others lived on roads, under trees or in pagodas. Though the evacuees wore nice clothes and looked nice, I knew they were exhausted, especially the kids. Before they could find a proper place to stay, I saw the village chief and some soldiers quickly unload and search their luggage. They said they were looking for weapons and people who had roles in the Lon Nol regime.

It was dusk and some people did not have rice to eat. They exchanged their clothes, jewels like gold and

diamonds, and other belongings for rice with the villagers, because by then money was no longer in use. Even though they were miserable, I did not pity them, but I hated and was angry at them, since I was told daily that the rich exploited the poor, and the urban dwellers looked down on the peasants. Perhaps this was the reason why villagers paid less attention to city people. A few days later, Angkar assigned them to stay in the villagers' houses; large house would take in two or three families.

My grandfather had told me that his youngest son had gone to work in Phnom Penh. My grandparents, aunts and uncles anxiously waited for him to return home; I had never seen my youngest uncle. 18 days later, I saw a tri-cycle with 6 people heading toward my home. All of my relatives were joyful; my father introduced me to my uncle. Before long, everything turned gloomy because the village soldiers also arrived. My uncle became depressed. The soldiers asked him what he did in Phnom Penh. He hesitated to answer. Because they were honest with Angkar, my old uncle and father told him to tell the truth, adding

that Angkar would not punish him. I saw my uncle weeping; maybe he knew something. Eventually, he confessed that he was a spy.

Since he arrived my uncle did not enjoy much; he did not eat; he slept in a hammock with a scarf coving his head, not talking to anybody. Three days later, soldiers arrived and asked my uncle to attend an educational session. I heard my father and older uncle remind him to try to temper himself and not miss the



Vorn Vet

Ieng Sary

Nuon Chea

Khieu Samphan

old regime. It's 27 years now, and my uncle has never returned from his educational session. My grandfather and older uncle died. Like other relatives, my father saw my youngest uncle for only three days. I dreamt that my uncle would return one day, because I still remember that Angkar would educate him for only three days.

Where did Angkar take my uncle to? Please, Mr. Khieu Samphan tell me.

In 1976, Angkar required all the people to work and eat together in cooperatives. We ate solid boiled rice for only three days, and after that, rice gruel with water lily for almost three years, because Angkar declared food shortages so we had to be economical. But we had to work day and night. Those who were sick were accused of having emotional sickness [ideological dissatisfaction]. I remembered that single people age 18 years and older were drafted into mobile work units. Children were put into children's units and forced to work without stop. Like my friends, I often went without food when visiting my parents.

A few months after staying in a mobile unit, two of my older siblings and one older cousin visited home. They were bony thin, just like AIDS patients. I remembered in one rainy season, my older cousin hid himself in tall rice plants for two or three nights. The chief found him, brutally beat him and took him back. None of my relatives dare to intervene because there was a slogan in the regime, "one's hair is one's head [one is responsible for oneself]." Although he was severely punished, my older cousin always came home. Later he disappeared; perhaps the regime brought him to an educational session, just like my uncle.

In the village, I often saw people being tied up and herded off to be educated. Some April 17 men, although they apparently did nothing wrong, were accused of treason by Angkar. During the regime if someone was called at night to carry machines or rice bundles, it was certain he would disappear.

In 1977, my aunt-in-law, her three children and 50 families of April 17 people, about 250 persons in total, were resettled in a new village. Where was that new

village? Near or far? Why didn't one of the 250 people visit their former village again?

Did Mr. Khieu Samphan know about this? We lived in Krang Daung village, Samraong sub-district, Banteay Meas district, Kampot province. If you who were the chief of state did not know, then who knew?

But I can tell that the person responsible for relocating the people was named Pou Auk, the chief of Krang Daung village in the Pol Pot regime. He was very cruel. Today he lives in happiness in Samraong Krom village, Banteay Meas district.

In three years and eight months, 300 people in my village were slaughtered in addition to those who died of overwork, starvation and disease.

You may know about the mass graves of the 250 people if you ask Pou Phun, Pou Vorn, and Bang Sek, because they transported firewood for the cooperative. They said they stumbled across an execution site in O Kandal.

My uncle, aunt-in-law, 4 cousins and a 5-year-old sister were killed with a wooden pole. My uncle's family perished but had committed no wrong; it was so unjust!

Why did they kill them, Mr. Khieu Samphan? Tell me!

With little education, I could not produce a very lively account and I was also young at the time. So I can't remember every detail of the events. I apologize if I made any mistakes.

My intention in writing this letter is I want the story of my village to be remembered. I believe that few people write this for the next generations to read. Instead they would tell their children the story orally. In my village if I don't write, more than 300 victims will be forgotten and the children will not know the brutality that occurred in their village.

May the Buddhist morals of sympathy and forgiveness exist in the minds of all human beings.

Thank you,

Brak Tuny

Trapean Rong District, Koh Kong Province

The Plum Trees

Qingguo (George) Gao

Among all the fruits in the world, I like plums the most. I developed this bias of taste when I was still in elementary school. It was during the Cultural Revolution in China.

There were five trees in our front garden when I was a little boy. I did not know exactly how old the trees were. But I later learned that my father planted the plum trees when he was still a teenager. And the trees started bearing plums before I was born.

In the early 1970s, the Cultural Revolution had reached its high water mark in China. These years didn't involve as much violence and street fighting as the beginning of the movement. It rather aimed at peoples' minds and ideas. The popular slogan of the movement was "Cutting Off the Tail of Capitalism." The rationale for this round of "ideological revolution" was to rid China of all "remnants of capitalism." The concept was rather clear to most of the Chinese populace with "class-consciousness." The problem, however, laid in the ways of defining the "remnants of capitalism." Chaos and confusion were suddenly abundant.

Like the rest of China, our village was inundated by the flood of confusing and radical ideas. Although most villagers started getting tired of such long-lasting movements, they were still forced to participate in them. First of all, everyone was to locate some remnants of capitalism and get rid of them. Unfortunately, after many years of cleansing, few villagers had anything remaining, ideologically or materially. The new round of the movement could only make their poor lives more miserable.

As a peasant (commune member), my father worked for the commune all year round. But he could hardly make any money except for the grains (mostly corn and sorghum) allocated by the commune for each family. Our family's only cash income, if there was any at all,

came from selling produce from the small garden in front of our house and the eggs laid by the family hens. Only during the Spring Festivals and special occasions could my family spare money to buy some meat from the market. Normally, we would only have what we grew in the family garden. We never had money to buy fruits from the stores. But we did not need to. My hometown was and still is famous for producing all kinds of delicious fruits—cherries, apples, pears, peaches, apricots, and, of course, plums. I was lucky enough to be allowed to eat the fruits produced in our garden. My cousin, however, was not that lucky since my uncle wanted to sell all the fruits produced in their garden in the market so that they could use the money to buy salt and soy sauce.

My father was a skillful farmer and very good at tending fruit trees. All the plum trees in the garden became abundant with plums year after year. Often, I started tasting plums in July when they were still green and sour (the last time I did this was when I was 10 years old), and sometimes picked up the last red, juicy plum hidden in the leaves in October.

In the spring of 1973 as I was turning 11, the "Cutting off the Capitalist Tail Movement" was devouring the village and moving close to my family. The movement was designed to totally destroy what remained of the market economy in China. In other words, it became illegal when peasants sold the limited produce they grew in their gardens. Anything that could be used to make money was to be destroyed.

Despite the severe political environment, the plum trees in our garden were blooming. Those delicate flowers were pure and white; they looked like blankets of snowflakes covering the crowns of the trees. This indicated that we would have another bumper crop of plums. In the mornings, I liked to come close to the trees and smell the fragrance



After lunch, I went to school as usual, but still felt resentful about the encounter with Mr. Jiang at noon. However, I did not know I was in real trouble until being called to my teacher's office. Before telling you what happened next, I would like to tell you briefly about my fifth grade teacher, Teacher Li. Teacher Li came to the village to teach right after she graduated from a high school in a nearby city. The reason she came to work in our small village school was that the village was the hometown of her husband, whom she met and fell in love with in high school. Teacher Li was thus the first "city girl" settled in the village. For many years, she was the sensation of the village. Besides her gracefulness, she was always kind and patient with her students. And I knew she liked me because, besides being a good student, I was the best friend of her son Chunsheng, who was also my classmate.

Teacher Li looked worried when I met her that afternoon, but her voice was still soft and comforting. "What a fool you are! What did you do this noon when you were home for lunch?" asked Teacher Li. At first, I was a little puzzled and then realized that I was in big trouble. I thought Mr. Jiang was just going to scare me by saying that he would report the incident to my teacher. Apparently, he indeed told everything to the principal and Teacher Li. "I argued with Secretary Jiang, but I was telling the truth," I replied. "Don't argue for your fault," teacher Li said. I had never seen her so angry. Then she again lowered her voice: "Secretary Jiang had told the principal about what you said to him and ordered the principal to hold a school meeting to criticize your capitalist ideas. Now, you must write a confession report and read it before the other students when we have the meeting this afternoon."

Suddenly, I felt humiliated and scared. Holding tears in my eyes, I said: "I do not know how to write a confession report." After letting me dry my tears, Teacher Li said more softly: "I know it is hard on you, but you have to do it. Otherwise, both the principal and I will also be in trouble. And you should not be scared. It is not

difficult at all to write the report." Teacher Li's motherly voice was so comforting that it almost made me forget the humiliation. Writing the confession report, to me, was just like finishing a composition assignment. As she did in our writing class, Teacher Li helped me with my self-criticism paper!

Our school was a small village elementary school with a total student population of about 120. I was then in the fifth grade. So I was among the big brothers of the students, even though I was only 11 years old. The worst thing of all was that everyone knew everyone else in the village. I felt that I had humiliated my family and friends.

The meeting was held on the small playground in front of the school. I saw Secretary Jiang talking to the principal at the door of his office. I was again tortured by humiliation and fear. I cried, tears running down my face when I read my confession report in front of the assembly. I cannot remember exactly what I wrote in my confession report, but basically I said that I was wrong for arguing with Mr. Jiang. When I finished my self-criticism, Secretary Jiang started a long, radical speech to an audience of children mostly under 11 years old. At the end, he said: "Goa, Qingguo has serious problems in his mind, but he confessed his mistakes sincerely. But his crying does not mean that he has already got rid of capitalist ideas completely. I hope you can help him in the future, at the same time, you must always be vigilant, not to be polluted by capitalist ideas..."

That evening, I could hardly find my home when I came back from school. Our house looked different. The plum trees were gone! I ran into the garden before going inside the house, trying to find some remains of the trees. There was not even a branch left. There were five newly dug holes with fresh soil unearthed around them in the garden. I saw some flowers covered by dirt on the ground. They had been trampled by the people sent to cut down the trees. I cried.

It has been more than 20 years since this event occurred. The Cultural Revolution in China is long gone and has become part of China's modern history whether

we like it or not. A lot of things have happened in China in the past three decades. Perhaps I am too sentimental. I just missed those five plum trees in our front garden whenever I thought of what happened that spring. My father planted five new plum trees after the Cultural Revolution. The new trees began bearing plums many years ago. I never had the opportunity to taste the fruits of the new trees because I stayed in a city far from home and only went to see my parents in the winter. My father told me the plums from the new trees taste just as sweet as the ones from the old trees.

Secretary Jiang apologized for what he did to our family when he came to my father to learn how to plant and look after fruit trees. My father told me that he had no hard feelings toward Mr. Jiang. After all, it was a crazy period of time in China. No one was totally sane during the Cultural Revolution! He never apologized to

me directly. But I could tell he indeed felt sorry when I talked to him many years later. He is now just one of the old uncles in the village.

All the humiliation and anger during the Cultural Revolution now only exist in my crowded memories. They are all becoming less clear and further away. My memories of the five plum trees, however, remain as clear as they were three decades ago. Although I have tasted many different kinds of fruits around the world since I left the village, I will never forget the taste of my hometown's plums. They were a little bitter in the summer and very sweet in the fall.

Qingguo (George) Gao grew up in Liaoning Province, China during the Cultural Revolution. Today, Dr. Gao lives in the United States.



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