

Searching for

THE TRUTH

- ◆ Duch's Hearing: A Turning Point for Cambodia
- ◆ Forgiveness: Is It Possible to Forgive and Can Forgiveness Be Taught?

“Reconciliation is not only about the victims or the winners but also the perpetrators. Former enemies can only reconcile in a genuine way if they are armed with the truth.”

-- Youk Chhang

Special
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First Quarter 2009

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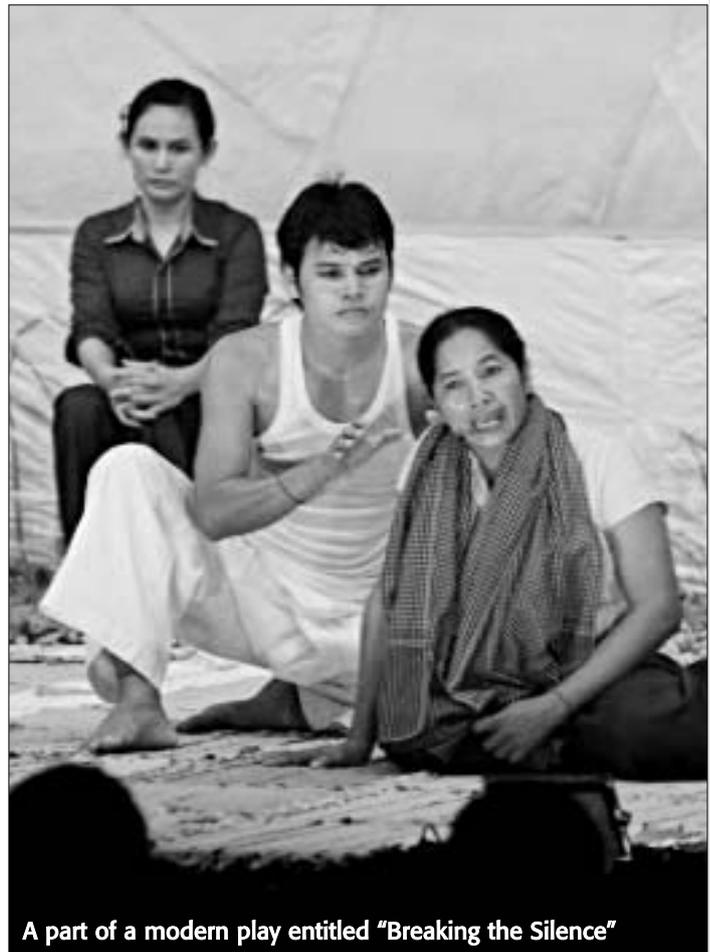
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A part of a modern play entitled "Breaking the Silence"

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LETTERS FROM YOUK CHHANG:

DUCH'S HEARING: A TURNING POINT FOR CAMBODIA

Today is a turning point for Cambodia. Today, after 30 years of waiting, Cambodians have taken a historical step. Through legal means, we are challenging impunity and moving ahead in our long journey for genocide justice. This journey is essential for us to come together as a nation. The Khmer Rouge trials are not only about justice; they are also about the Memory of Our Nation.

Duch's hearing today offers a chance for survivors and Cambodians born after the Khmer Rouge period to learn about that terrible period in our country's history from those who were directly involved in it. There may be no single answer to what really happened. However, we all have the obligation to participate in the search for truth. Together, we can build a better understanding of our common past.

Cambodia is a deeply wounded nation after years of war and genocide. We have been a divided people for many decades, but we all share a common

concern about the future of our country and the legacy we will leave our children. We need a credible legal process that will help us restore faith in justice. We also need a process that helps us feel that we are in charge of our own history.

Victims have an obligation to take responsibility and help this process be a successful one by confirming the brutality they suffered and by sharing their part of our history. This process is a crucial step forward for the healing of our nation. Reconciliation is not only about the victims or the winners but also the perpetrators. Former enemies can only reconcile in a genuine way if they are armed with the truth.

I hope the government will make it possible for all Cambodians to participate in the trial process by encouraging media throughout the country to televise the court hearing. I also hope that the government will declare a national holiday to allow everyone to spend a day to observe, reflect, and remember.



Duch's initial hearing in Feb 17, 2009



Duch and his messenger Sok in 1977

RESTORING CAMBODIAN COMMUNITY: BREAKING THE SILENCE

There has been a long silence in this country regarding the Khmer Rouge era, a silence that has lasted for decades and kept alive by fear, pain, and politics.

In recent years however, there have been solid efforts to end this silence in form of legal justice, outreach programs and forthcoming genocide education in high schools in Cambodia. While each

measure is valuable for the country's healing process, there needs also to be measures which focus on the emotional and psychological components of reconciliation and healing. This is where art can make a significant contribution. Cambodian people are very artistic and it is their way of life. The Khmer Rouge have killed many artists but not the artistry of the Cambodian people. It is our soul. This play,

"Breaking the Silence" produced by Amrita Performing Arts and directed by Annemarie Prins is the most powerful play since the collapse of the Khmer Rouge regime in 1979.

It is a play which seeks to break Cambodia's silence, as evident by its title. It is a play about the Cambodian people, their suffering, anger, and courage to move on no matter the circumstances. Khmer Rouge victims are emotionally broken people living in a broken society; a people without souls or with our souls wandering around. I have found our soul in this play, "Breaking the Silence." This play is very important for all Cambodians to see and hear. It will help restore our dignity and humanity and lift up our morality. It will also help our children to better understand their country. It is my hope that this play, and future plays like it, will have a prominent role in the rebuilding of Cambodian society.

រឿងទង្វាយភាពស្ងប់ស្ងាត់
Breaking the Silence
 A new Cambodian play

ថ្ងៃសៅរ៍-អាទិត្យ ទី២១-២២ ខែកុម្ភៈ ឆ្នាំ២០០៩ វេលាម៉ោង៦:៣០ល្ងាច
 មជ្ឈមណ្ឌលវប្បធម៌ជាតិ(សាលាពិពណ៌) ទលមុខវិមានរដ្ឋសភាថ្មី
 Sat & Sun Feb 21-22, 2009 at 6.30 PM
 Exhibition Hall (Opposite the new House of Parliament)

អ្នកដឹកនាំរឿងជនជាតិហ្វូលុង លោកស្រី អាណិម៉ារី ប្រិនស៍
 សម្តែងដោយសិស្សករ-សិស្សករិនី នៃសាលាមធ្យមវិទ្យាសិល្បៈ
 Directed by Annemarie Prins, the Netherlands
 Featuring Artists of the Secondary School of Fine Arts

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 Research Assistance: DC Cam

With English sur-titles

សំបុត្រចូលទស្សនាដោយឥតគិតថ្លៃ
 កន្លែងអង្គុយមានកំណត់
 សូមទទួលសំបុត្រនៅអង្គការអម្រិតាសិល្បៈ
 ផ្ទះលេខ១២៨ហ្វែរស៍ ផ្លូវសុផារស
 និងនៅមុនពេលចូលទស្សនា

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BOU LUON

Bunthorn Som

Chum Kiri district, 50 kilometers from the provincial town, is a place mostly covered with forest and mountains; a majority of people living there farm. For this reason, before 17 April 1975, the Khmer Rouge used this place to propagandize politics and as a crucial combat base for defeating the Lon Nol regime. As a result, the villagers were in the middle of the fighting of two forces; this led to the departure of some families and the separation of their relatives and parents. Those who did not move lived in fear every day.

Bou Luon could only complete grade 6 at Angkor Chak Primary School because his parents were unable to pay 500 Riels for registering to study at Secondary School. Moreover, the Khmer Rouge had settled its base at the foot of Chum Kiri Mountain, not far from Trapeang Reang sub-district. He therefore was scared and decided to stop studying and help his parents to do the farming.

Chaos in the village

In 1968, there was fighting between Khmer Rouge armies and Lon Nol forces at northern Chak Pagoda, 500 meters from the village; later Lon Nol soldiers arrested and imprisoned 4-5 war captives. This event encouraged Lon Nol forces to start deploying approximately 400 soldiers in every brigade at Chak pagoda to defend the village. Afterward, they beheaded two Khmer Rouge commanders, namely Ham and Sorn, who controlled Sre Cheng village, to prevent opposition from the villagers.

Following the coup in 1970, the Khmer Rouge came to settle in Trapeang Veng village causing the inhabitants to flee from their houses. Some students dared not to go to school while others decided to finish their studies. The Khmer Rouge then performed a ritual to dedicate to Ham and Sorn's spirits at the battlefield which they had liberated in

Chum Kiri district, and propagandized the villagers and students to serve in the army to liberate the nation from Lon Nol and American Imperialism. After finishing the propaganda, a meeting for selecting new village and sub-district chiefs, presided over by Ta Rin, Chea, teacher of Sala Bali, located at Damnak Snuol village, Sre Khnong sub-district, Chhouk district, and Deoun known as Daok, Chum Kiri district chief, was held with approximately 70 participants. The two candidates promised to defeat the Lon Nol regime and American Imperialism; then they assigned 20 more soldiers to guard the village due to fear of the attacks by Lon Nol forces whose barracks were at Chhouk district.

Volunteer to serve the revolution

In August 1973, fighting erupted between Southern Vietnamese armies (Thiev Ki) and Khmer Rouge forces coming from Phnom Penh who supported Northern Vietnamese (Viet Kong). Not long after the Khmer Rouge came into conflict with Viet Kong by asserting that "Viet Kong collected all weapons that China had given to Kampuchea, and seized all Khmer properties places where they took control." Later, the Khmer Rouge encouraged Cambodians to hate Vietnamese and said; "Vietnamese want to control Cambodian land, so we must expel Vietnamese from our land, and stop supporting them because Viet Kong soldiers will no longer fight against Southern Vietnamese (Thiev Ki) and American." The Khmer Rouge ordered loads of youths in the village including Luon to sharpen 20 to 30 bamboos a day to prevent the presence of Viet Kong soldiers in the village. A few days later, patrolling the Khmer Rouge armies noticed 6 Viet Kong soldiers based in O village buying vegetables, fishes, meat and other equipment at market next to Chum Kiri district hall. Fighting started that lasted for 2-3 days. Nevertheless, this combat did not cause the death of anyone. Due

to being fed up with sharpening the bamboos and turmoil in village, Luon decided to serve in the army.

Suffering the injury

First, Luon and his 5 friends were sent to stay with 100 soldiers at nearby a market situated in Trapeang Veng village; after that, all of them were gathered at Chhouk district and divided in to groups to live with the villagers because there were no barracks. Ta Cheng was regiment chief. Three days later, the Khmer Rouge sent Luon to ambush Viet Kong soldiers at Northern Peach (Bos) village next to Chhouk village. Made aware of this situation, Ta Mok called for Vietnamese soldier commanders Bay Soeun and Teuk Kam to negotiate at Ang La-Nhau (RoPaek) village to withdraw their forces. He sent Luon to learn fighting strategies at Battalion 63, Regiment 401, Division 35, in Chhouk district hall supervised by Chiem, Battalion chief, former teacher at Kampong Cham province during King Sihanouk's government. Ta Cheng, deputy commander, former barber in Phnom Penh; and Ta Saroeun, division chief.

In 25 December 1973, the Khmer Rouge gathered 7 Battalions to attack Lon Nol's Chak Krey Teang barracks. Hoping to achieve success quickly in 1974, the Khmer Rouge sent countless additional forces to Kampot. In response to this, Lon Nol dropped more parachutists. The outcome of this fighting was the death on both sides. Due to staying at the front lines for so long and eating unhygienic food, Luon suffered diarrhea. Using this chance, Luon borrowed a bicycle from the economic support unit to ride back his home to rest and visit his parents and relatives. In the village, he saw people harvesting rice, living with their families and eating as a family.

In 27 February 1975, Luon became platoon chief, supervising 30 soldiers. Later on, as a result of bombing of It Suong's force who supported the Lon Nol government, Luon was seriously injured and, could not move his body. Because his condition became worse, he was transferred to Steung Keo hospital, region 35, administered by Seng, hospital

director, and Kang Chab, former director of People Newspaper in Phnom Penh and a regional chief. There, there were about 1000 patients, mostly soldiers injured in the war.

After resting for 24 days, Luon was permitted by the hospital chief to leave the hospital. In 16 April 1975, countless Khmer Rouge forces that had planned to liberate Phnom Penh before Kampot died at Sup Barrack, in the West of Savann Sakar Pagoda, because Lon Nol had foreseen this plan. Nevertheless, the Khmer Rouge liberated Kampot province successfully at four o'clock in the evening on 17 April.

New Duty

Three days after the victory, the Khmer Rouge gathered its entire forces to a big ceremony. Siblings, relatives and parents of the soldiers were allowed to join. Later, the dignitaries opened the meeting and recognized the 3000 soldiers who had sacrificed their lives from 1970. They then named Angkar's two main goals: defending the border and farming. As soon as the ceremony ended, Luon was sent to repair National Road N.3, which had been destroyed during the war; it was 50 kilometers from Preah Noreay to Kampot town. Angkar provided



10 vehicles and 300 forces to Luon so he would be able to finish on time. Over one month after that, Luon was moved to Battalion 61, managed by Lon who was later withdrawn to supervise in the cooperative and died. In May, Luon was transferred to defend Rabbit Island, which contains about 5 square kilometers. At first, there were many villagers living there, but only 30 remained due to contagious diseases.

Later, Angkar had Luon plant coconuts on Snake Island training area. There, Luon met severe difficulties such as a lack of water, and he was required to move stones in order to make a water reservoir. Soldiers also had inadequate food; they had only soup with banana trees and yams.

In April 1977, Angkar unreasonably accused Luon of not following Angkar's order because a messenger, Pom, told him to move to another division in Koh Kong, controlled by Meas Mot, but he did not follow. However, Luon was not punished, because he did not receive that order. Subsequently, Angkar transported Luon by boat to Tao Pi (in Kampong Som) to take part in a meeting presided over by Sa Sat or Chhouk Sat, Regiment 401 chief, and Chen, regiment chief.



Khmer Rouge soldiers in DK period

In late 1977, owing to Vietnamese attacks, the Regiment commander transferred Luon to the base on Antay Island. In January 1979, Angkar assigned Luon to Horse Island to prepare to fight with Vietnamese, as the commander there was assigned to defend the eastern and south-west zones. On 12 January 1979, Luon was made Battalion 25 chief, supervising 500 combat forces. In middle May, 1979, due to a lack of food, Luon spread out some of his forces and let them return their villages; the rest were moved to Voar Mountain. There was insufficient food on the mountain, so Luon decided to stop serving as a soldier and went to stay with cousins. In the following month, he returned Trapeang Reang sub-district, Chum Kiri district. At home, he saw his mother looking thin, and about 4-5 villagers died a day due to having nothing to eat.

Shortly after, Luon started a new business; he transported rice by cart to sell in other districts. In 1981, he married a girl in his village called Bao Sim. Although he stopped working as Khmer Rouge, in late 1981, Luon was arrested and imprisoned for 20 days by the United Front because there was a report that he used to be a commander during Khmer Rouge regime. Seeing that Luon lived as an ordinary person and was no longer associated with the Khmer Rouge, officials of People's Republic of Kampuchea released him. He later decided to register as sub-district counselor with the encouragement and support of the villagers. He now has 7 children (4 boys and 3 girls). Due to living conditions, Luon's first child had to give up his studies and help support the family. Luon suggests that the government strengthen the legal practice in Cambodia and requests that the Khmer Rouge Tribunal try Khmer Rouge leaders soon so that he will learn the reason why his relatives as well as other countless innocent people were executed.

Bunthorn Som is a staff writer for Searching for the Truth.

CAMBODIA'S STRATEGY OF DEFENSE AGAINST VIETNAM

D30218

Excerpts from broadcast on the national defense situation from April 1977 to April 1978:

What was our national defense situation during the past year? During this period, we fought vigorously and strenuously against all enemies - domestic and external and achieved complete victory.

(1) The defense of the western border: This year there were some clashes, but we were in full control of the situation and there was nothing to cause us concern. We are now capable of defending this border, and in the future we shall be even more so.

(2) The defense of the eastern border: The defense of the eastern border has been a matter of vigorous and strenuous battle because to the east, Cambodia shares a border with Vietnam. The Vietnamese want to take our territory and turn Cambodia into their satellite, making it part of Vietnam. It was for this reason that during the past year a number of serious and violent battles were fought against the Vietnamese.

During the period from 17th April 1977 to 17th April 1978, fighting took place continuously in small, medium and large-scale battles. The level of fighting actually increased this year. A special feature of fighting against the Vietnamese is the fact that it has been even more serious than in previous years. This is because, not having their forces inside our country, the Vietnamese have to attack us from outside, and the launching of attacks from outside requires a larger number of troops. [Fighting last November and December] We smashed and drove the Vietnamese aggressive forces out of our territory on 6th January 1978, killing and wounding 29,000 of their troops and smashing five of their divisions... This was our opening victory in the first phase. At the

time we attacked the enemy forces and won our first victory, we had not yet properly organized our forces. Like the armed forces of the Party Central Committee (Cambodian: *kamlang robas kangtoap robas machempak*), our forces in each region were not fully organized and prepared for such large-scale fighting, and the troops and weapons were not yet fully prepared. However, we succeeded in smashing the Vietnamese forces...

The Vietnamese forces then attacked us in the second phase. This phase of the offensive started towards the end of February 1978, and was designed to prepare conditions for smashing us in March and then occupying our Cambodian territory in April... That is why the Vietnamese engaged 11 divisions in this phase, two more than in the first phase. What happened then?

As soon as we had won our victory of 6th January 1978, we did not let the Vietnamese initiate further attacks against us, but kept launching attacks against them. We launched a series of attacks until the end of January. We also attacked them in February. The Vietnamese forces became weaker, losing a number of troops. They were then obliged to send more fresh troops in order to launch attacks against us. In March, however, the Vietnamese did not have the strength to attack us: instead, we continued to attack them. In March, the fighting was serious and fierce, because on some fronts divisions of troops were engaged. As each front involved a number of divisions, this was by no means a small war. Whilst the Vietnamese suffered defeats in January and February, their defeat in March was even more serious. Because of their heavy defeat in March, in April the Vietnamese did not have the strength to attack us

again... That is why they turned to guerrilla tactics, or engaged in smaller attacks. Because their large-scale offensive plan has been defeated, they turned to small attacks, but just as they were defeated in their large-scale offensives, so too they will suffer even more serious losses in their smaller attacks...

We absolutely must fight to defend the independence, sovereignty and territorial integrity of Cambodia. We need to live independently, and we need to live by ourselves. We cannot afford to live under subjugation. This is the stance of victory. This is not a stance of submission, but a stance of victory. This is the first point. On the basis of this stance, we draw up the lines of our fight, we implement people's war, and we implement effectively the lines of combat in order to defeat the enemy. The Party has instructed that we must try to destroy as many of the enemy as possible, and try to preserve our forces to the maximum. We are few in number, but we have to attack a larger force; therefore, we must preserve our forces to the maximum and try to kill as many of the enemy as possible. This is our slogan. In terms of numbers, one of us must kill 30 Vietnamese. If we can implement this slogan, we shall certainly win. We shall defeat Vietnam, regardless of its size. Any country which dares to commit aggression against Cambodia will be defeated if we abide by this slogan. So far, we have succeeded in implementing this slogan of one against 30; that is to say, we lose one against 30 Vietnamese. Thus, our losses are one-thirtieth of the Vietnamese losses.

Using these figures, one Cambodian soldier is equal to 30 Vietnamese soldiers. Then how many Vietnamese are equal to 10 Cambodian soldiers? The answer must be 300. And 100 Cambodians are equal to 3,000 Vietnamese. And 1,000,000 Cambodians are equal to 30,000,000 Vietnamese. We should have 2,000,000 troops for 60,000,000 Vietnamese. However 2,000,000 troops would be more than enough to fight the Vietnamese, because Vietnam has only 50,000,000 inhabitants. We don't have to engage 8,000,000 people. We need only 2,000,000

troops to crush the 50,000,000 Vietnamese, and we would still have 6,000,000 people left. We must formulate our combat line in this manner, in order to win victory. This is the combat line to be implemented on the battlefield. We absolutely must implement the slogan of one against 30. If we cannot implement this slogan, we shall not win victory. This matter does not concern the armed forces alone. The entire Party, army and people must be made fully aware of these lines, views and stance. Now, how well did we implement this combat line in winning victory? In brief, the target of one against 30 has been attained...

How are they [the Vietnamese] going to attack us in future, and how are we going to handle it? We have to foresee the prospects. In order to do this, we have to review past events and look into the future. Did the Vietnamese succeed in beating us? They have wanted to turn Cambodia into their satellite since 1930. In 1945, we joined in the fight against the French. The Vietnamese then wanted to conquer and annex Cambodia the easy way. Did they succeed then? No, they did not. Did the Vietnamese succeed in conquering Cambodia in 1950, 1960, 1970 and 1975? No, they did not. This is why we need not adopt a defeatist view. We must review our history. Have the Vietnamese succeeded in swallowing Cambodia. No. They wanted to swallow us in 1970, but they could not. They entered into negotiations in 1973 in an attempt to swallow us, but they did not succeed. They tried again in 1975. Their plan was to capture Prey Nokor [Saigon, Ho Chi Minh City] first, and then attack Phnom Penh, in order to impose their control over us. This time again, they were a step behind Cambodia. Cambodia won victory before them. After our victory, they Vietnamese wanted to stage a coup d'etat, and attacked us; again they were defeated. They were defeated in 1975, 1976 and again in 1977. Their April 1978 attack was also defeated.

So, we must read history and have full confidence, and we must not believe the lies and confusion of other people who wonder how we with only 8,000,000

people can defeat Vietnam with its 50,000,000 people. We must not believe that we cannot defeat Vietnam, just because we have about 100,000 troops against Vietnam's 1,000,000.

What is the solution to the contradiction of using a small force to defeat a larger force? It is necessary for the smaller force to know how to use what power it has to defeat the larger force, as we mentioned earlier - that is to say, one against 30. If we can use one against 30, we shall certainly win, even if this fight lasts 700 years or more, but if we do not adopt this line, we shall not win. Therefore we must (1) be resolutely determined to defend our territory. Defending Cambodian territory means defending the Cambodian race. If the Vietnamese succeed in conquering the country, the Cambodian race will be completely erased within about 30 years, so it is imperative that we defend Cambodia (2) we must be confident that we can defeat the Vietnamese (3) how do we defeat them? We must understand and know how to use a small force to defeat a large force. We must use one against 30. This is just the number fixed by the Party, but in concrete deeds some of our comrades fought one against 10; we shall certainly win with one against ten or one against five. Some of our people have fought one against 20, and some have even tried to fight one against 50 or one against 100. There was no problem; they were still victorious. This is the combat line. To implement the combat line is to apply the science of people's war, to solve the contradiction, for we have to use a small force to defeat a large force. We won victory because we solved the contradiction properly. This is what happened in the past, and is happening at present.

What must we do in future? We must (1) believe that we shall be able to continue to fight as successfully as we have in the past; (2) have confidence in the implementation of the same combat line - one against 30. Some of our units must fight one against 40, and others must try one against 50.

During the past three or four months of fighting

the Vietnamese aggressors, our armed forces have developed tremendously, increasing fourfold. This is the first change. The second change is the fact that the number of cadres has also increased. In order to develop the armed forces, it is necessary to have cadres. After one or two months of fighting, our cadres can handle battalions. After the same period of time those who were in battalions can handle regiments and those who were in regiments can handle divisions. We have used our army cadres in the development of our armed forces throughout the country. That is why our armed force are in control of the situation from (Kantuy Neak) area [words indistinct] from the top of Ratanakiri down to Ratanakiri, Mondolkiri, Kratie, Snuol, Memot, Prey Veng, Romeas Hek, Prey Veng again, Kandal, Takeo and Kampot. We can smash an enemy regiment attacking us on the front in one or two days.

Why are our armed forces so powerful? Because we have powerful army cadres. Powerful army cadres make for powerful combatants, because combatants are under the guidance of the cadres. Why are these cadres so powerful? Because they are army cadres who have been properly selected in accordance with the lines set by the Party and who implement the lines of pure army cadres. These cadres are extremely powerful. They are powerful, but they never engage in battle without serious planning. They are powerful and can fight effectively. They have succeeded in preserving their force to the maximum and in destroying a large number of enemy troops. Our forces fight like thunderbolts. Our comrades have never hesitated. In order to attack the enemy like thunderbolts, they have adhered first to a strong and resolute stand, second to the correct combat lines, and third to the concept of the permanent presence of commanders in their units and on the battlefield. Unit commanders must be present on the spot, in order to grasp the situation on the battlefield, such as on the battlefield in Kampot, Takeo and the eastern front. The commanding officers must always be present so that whenever the enemy

attacks we can detect them immediately and order the units to counter-attack the enemy, and so that after the enemy forces are smashed, we can assign the units to pursue them immediately. When the enemy forces continue to run, we can order our groups and units to follow them. We follow and attack the enemy forces until they are routed and run across the border. This is what we call the thunderbolt attack.

All forces are permanently on the alert. The enemy cannot resist, because our command operates in this manner. When this system of command is in operation, orders from the divisional command to regiments, to battalions and to companies are not needed. If we had to wait for reports from platoons to companies, from companies to battalions, from battalions to regiments and from regiments to the divisional command, and then if orders from the divisional command had to go through the same number of levels, we would give the enemy forces time to prepare attacks against us. While we were drawing up plans, the enemy forces would be ready to attack us again...

We must have firm belief in our masses of people, our armed forces, our Party, our line of people's war and in our combat lines. Whenever the enemies, far or near, conduct propaganda campaigns to deceive us, to intimidate us and make us fear the enemy, we must counteract them. We must not allow these germs to attack the masses, our Party or our armed forces.

We must purify our armed forces, our Party and the masses of people in order to continue fighting the enemies in defense of Cambodian territory and the Cambodian race, for if we do not do so, our race will disappear. Do we want to see the end of the Cambodian race? If we do not try to defend our territory, we shall lose it, and then our race will also disappear. The Vietnamese will bring in one or two million of their people into our country every year, and then we shall lose our territory and our race will be completely swallowed up...

The Vietnamese thought that they would gain from what they have done, but in fact their acts have only served to heighten the flames of anger among our people and our armed forces, thus strengthening our revolution. They could not weaken our revolution. They would have weakened our revolution if we had surrendered, but instead of surrendering we have become even stronger. We have been able to defend our country and we shall be able to do everything. However, we can only carry out our construction task provided that Cambodia is preserved. If we lose Cambodia, what will become of our national construction work? Thus, as we have succeeded in defending Cambodia, we shall certainly be able to do anything.

SEARCHING FOR MISSING SON

I am Chhoeun Uy, 84, with seven children. I lived in Svay Chek village, Ta Trao sub-district, Puok district, Siem Reap province. Now I live in Svay Chek village, Svay Chek sub-district, Ang Thom district, Siem Reap province. I would like to search for my son named Duong Tuy, who has disappeared since 1973 after he was recruited into a Khmer Rouge art unit. Tuy was the third child and went to grade 11. In 1970, Tuy became a Khmer Rouge comrade whose duty was to guard the village. Later on, Angkar selected him to work in the art unit. In 1973, Tuy's mother and I were evacuated to Svay Leu district. I lost contact with Tuy at that time.

After the Khmer Rouge was toppled in 1979, we returned to our homeland and heard that Tuy had become the chief of his art unit. According to the news, he traveled to perform and then disappeared. If anybody knows or has any information regarding Duong Tuy, please contact me via the Documentation Center of Cambodia.

A THOUSAND VOICES

Terith Chy

EXECUTIVE SUMMARY

This survey seeks to determine whether or not a sample of over 1000 respondents from all parts of Cambodia wish to see prosecutions of only the 5 Khmer Rouge leaders currently in detention at the Extraordinary Chambers in the Courts of Cambodia (ECCC) or the investigation of a further 5-10 leaders. The responses to this question are presented below:

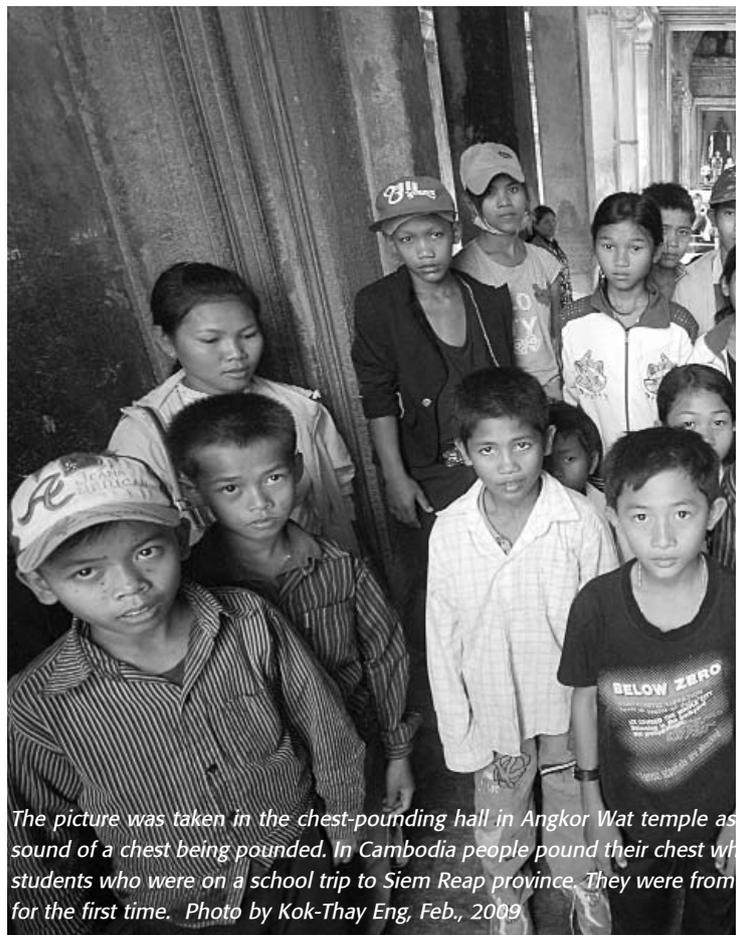
Question 3 of the survey asked: "Do you think that the ECCC should only try the 5 alleged KR leaders and persons most responsible for crimes currently in custody or should they also try another 5-10 of subordinates?" Of the persons sampled, 41.4% responded that they do not wish to see further ECCC prosecutions beyond the five KR leaders currently in detention; 56.8% responded that they do wish to see trials of a further 5 to 10 individuals; and 1.7% responded that they do not have a view on the matter or would prefer not to express their views.

METHODOLOGY

This survey of public opinion seeks to incorporate the views of the Cambodian population into the ongoing discussions as to whether or not there should be additional ECCC prosecutions. Therefore, in planning this survey, the team carefully discussed the research methodology, including by whom and from whom opinions would be collected in order to ensure the reputability of the survey's results. For the purposes of this survey, the term "survivor" describes those who survived the horrors of the Khmer Rouge regime, including both victims and those formerly associated with the Khmer Rouge regime. In many cases, those formerly associated with the Khmer Rouge often consider

themselves to be victims because they and/or their family members suffered harm, be it physical, emotional and/or psychological. In addition, many former Khmer Rouge were recruited as children and were, therefore, deprived of their childhood.

Although the Center reached out to individuals all across Cambodia in collecting public opinion, this survey is of limited scope as it sought to solicit the opinions of a limited sample of the population (1110 respondents). As such, the survey results do not necessarily reflect the views of the entire Cambodian population of 14 million people, though they are likely to be indicative. This survey sought to solicit opinions from three groups most affected by the legacy of the Khmer Rouge.



The picture was taken in the chest-pounding hall in Angkor Wat temple as sound of a chest being pounded. In Cambodia people pound their chest when students who were on a school trip to Siem Reap province. They were from for the first time. Photo by Kok-Thay Eng, Feb., 2009

The first group consisted of those individuals classified as "new people" or "17 April people" by the Khmer Rouge. These were city people. As the Khmer Rouge wanted to create a pure agrarian society in Cambodia, they considered city dwellers, those with education, professional and speakers of foreign languages to be "bad elements" and targeted them for elimination. These people enjoyed "few or no rights." Branding members of this group as parasites and imperialists, the Khmer Rouge evacuated them from their homes in the city and put them to work in the rice fields and other worksites in the countryside. There they were singled out for execution or died of exhaustion, malnutrition and/or disease.

The second group surveyed consisted of individuals classified as "base people." This group primarily included those individuals formerly associated with the Khmer Rouge and/or those individuals with no familial ties to the Khmer Republic regime. Base people lived in rural areas under Khmer Rouge

control prior to 17 April 1975, when the Khmer Rouge officially came to power. They were farmers and laborers and were called full-rights people.

The last group consisted of individuals born after the Democratic Kampuchea regime aged between 20 and 30 years old. This group was included because the purpose of the Khmer Rouge Tribunal is to ensure justice for the future and to set an example for the younger generation of Cambodians. It is hoped that they will not to follow in the steps of the Khmer Rouge leaders. They, therefore, could not be excluded from this study.

This survey seeks to empower survivors of the Khmer Rouge regime and the younger Cambodian generation by making their voices heard. Some victims have never had an opportunity to share their stories with the younger generation at all. For instance, Taing Kim, a survivor of rape during the Khmer Rouge regime, has never disclosed what happened to her to her children and has not allowed them to see the documentary made about her. As recently noted by DC-Cam Director, Youk Chhang, "There has been a long silence that has lasted for decades and kept alive by fear, pain, and politics."

The methodology for the survey was to target district towns where the population is densest. Generally speaking, the inhabitants of district towns have better access to information and are, therefore, in the best position to express views on the ECCC dispute. All 43 DC-Cam staff members and volunteers were provided with background information about the issues raised in the questionnaire before they embarked on their field missions. Although all staff members possess a high level of education, their general knowledge of the Democratic Kampuchea period and their level of understanding of the ECCC Co-Prosecutors' disagreement varied. All interviewers were Khmer and could, therefore, converse with the respondents in their mother tongue. In most cases, the interviewers conducted outreach in their home provinces and were familiar with the target



Children looking from outside. The hall derives its name from its ability to amplify when they want to show deep, unspeakable concerns. These are seven-grade students in Phnom Srok district, Battambang Province. Some of them saw Angkor Wat

locations.

QUESTIONS ASKED

1) Have you heard about the ECCC? If so, how much do you know about it?

2) Do you think that former KR leaders should be tried by the ECCC? If "Yes," how strongly do you feel about this?

3) Do you think that the ECCC should only try the 5 KR leaders they have in custody or should they also try another 5-10 of the subordinates? How strongly do you feel about your answer?

4) Do you think the cost of the trials should be an important factor in the ECCC's decision on how many people to prosecute?

5) Do you think there would be public disorder or violence if the ECCC prosecuted more than the 5 already charged?

6) Do you think the ECCC should try the five people in custody before deciding whether to conduct additional prosecutions?

7) Do you think the ECCC will help bring justice sufficiently to Cambodia if only the 5 existing defendants are prosecuted?

BACKGROUND

The Extraordinary Chambers in the Courts of Cambodia (ECCC), more commonly known as the Khmer Rouge Tribunal, was established in 2006 to bring to trial senior leaders of Democratic Kampuchea and those most responsible for the crimes and serious violations of Cambodian penal law, international humanitarian law and custom, and international conventions recognized by Cambodia, during the period from 17 April 1975 to 6 January 1979. The ECCC was jointly established by the Royal Government of Cambodia and the United Nations. Thus far, five former Khmer Rouge leaders have been placed in provisional detention. To date, only one alleged perpetrator has been indicted and put on trial. The five individuals are: Kaing Guek Eav a.k.a. Duch (former Chairman of

S-21/Tuol Sleng Prison), Nuon Chea (former President of the National Assembly of Democratic Kampuchea), Khieu Samphan (former Head of State of Democratic Kampuchea), Ieng Sary (former Minister of Foreign Affairs), and Ieng Thirith (former Minister of Social Affairs).

After waiting for thirty years, on 17 February 2009, survivors finally witnessed the historic initial trial hearing at the ECCC. In a short time from now, Duch will be brought before Judges of the ECCC to answer for and defend through counsel his oversight of torture and confession extraction at Tuol Sleng Prison, codenamed "S-21" by the Khmer Rouge. It has taken three decades for the survivors to see the start of trials. These trials will, however, only seek to bring to account a small number of individuals alleged to be responsible for unspeakable suffering. Despite the progress made at the ECCC to date, many difficult questions remain unanswered, perhaps most notably: "Is it enough to try only the five persons currently in the custody of the ECCC for what happened?" At the moment, the tribunal is struggling to find an answer that appropriately takes into consideration the interests of victims and of justice.

Because the ECCC is a hybrid international/national court located in Cambodia, locals and, most importantly, victims, have an opportunity to experience involvement in and a level of ownership of the justice-seeking process. It was, however, foreseeable and perhaps inevitable that the international and national sides of the Office of the Co-Prosecutors would at times conflict. During the controversial ten-year-long negotiations for the tribunal between the United Nations (U.N.) and the Royal Government of Cambodia (RGC), the U.N. was adamant that the tribunal be established in a manner ensuring its ability to function independently, impartially and objectively. The tribunal's independence in issuing indictments proved to be one of the most controversial issues and caused significant delays in the negotiations. According to Dr. Stephen Heder, the U.N. delegation sought to ensure the accountability of all those

believed to be responsible for the crimes of the Khmer Rouge, i.e. those deemed to be "senior leaders" and "those most responsible."

After compromising by agreeing to establish a mixed national/international or "hybrid" tribunal, the United Nations sought to have an international majority on the bench, and a single U.N.-appointed international prosecutor. In putting forward this proposal, the U.N. sought to avoid disputes over the selection of individuals for investigation and indictment and to ensure that those indicted would be arrested. The RGC maintained its firm negotiating stance on the structure of the tribunal, insisting that Cambodian personnel form the majority of the tribunal's staff and that there be two Co-Prosecutors and two Co-Investigating Judges. After considerable pressure from foreign governments, civil society and scholars, the U.N. finally agreed in 2003 to accept the RGC-proposed structure. This resulted in the establishment of a Cambodian-dominated tribunal. Had the U.N. not agreed to this structure, the current dispute would not have arisen. The ECCC as established today has two Co-Prosecutors (international and national) and two Co-Investigating Judges (international and national).

Due to these parallel appointments, it was anticipated that the Co-Prosecutors might disagree as to whether or not to investigate certain individuals and negotiators envisaged the need for a dispute resolution mechanism. For this reason, the agreement between the U.N. and the RGC provides that the Pre-Trial Chamber of three Cambodian and two international judges is responsible for resolving prosecutorial disagreements. Likewise, Article 16 of the ECCC Law states that, "[a]ll indictments ... shall be the responsibility of the two Co-Prosecutors ... who shall work together to prepare indictments against suspects ..." In the event of disagreement, Article 20 new provides for the resolution of disputes. In order to halt an investigation, four out of five Pre-Trial Chamber judges must vote affirmatively to do so. If they do not, the investigation shall proceed.

Article 20 new further provides that there are no appeals against the Pre-Trial Chamber decision.

THE DISPUTE ON FURTHER PROSECUTIONS

On 1 December 2008, the international Co-Prosecutor, Robert Petit, filed a statement of disagreement between the two Co-Prosecutors with the ECCC Pre-Trial Chamber. Mr. Petit wishes to open judicial investigations into six more former Khmer Rouge individuals. He believes that: "(1) the crimes described in those submissions were committed; (2) these crimes are within the jurisdiction of this Court; and (3) they should be investigated by the Co-Investigating Judges."

The national Co Prosecutor, Ms. Chea Leang, does not support further prosecutions on three grounds: "(1) Cambodia's past instability and the continued need for national reconciliation; (2) the spirit of the agreement between the United Nations and the Government of Cambodia ("Agreement") and the spirit of the law that established this Court ("ECCC Law") [anticipating only a small number of trials]; and (3) the limited duration and budget of this Court."

Because the tribunal was for the benefit of Cambodians, it is imperative that the Judges of the Pre-Trial Chamber take into account the opinions of the Cambodian people as they seek to resolve the ongoing dispute between the Co-Prosecutors. In order to include victims and other members of Cambodian society in this important discussion, the Documentation Center of Cambodia (DC-Cam) conducted this study. While hopeful that this survey may assist the Judges to a limited extent in their deliberations by educating them as to public opinion, the Documentation Center of Cambodia does not seek to influence the outcome in any way and recognizes that the Judges will reach a decision based upon legal theory and judicial discretion.

ARGUMENTS: DOES THE NUMBER MATTER AT ALL?

Youk Chhang, DC-Cam Director has said,

"Number cannot define genocide justice for the people of Cambodia." However, the number of prosecutions pursued by the Co-Prosecutors has undeniable political implications. The dispute has thrown the perception of the independence and credibility of the tribunal into question. For the millions of lives lost to the regime, is it adequate to try only five? Is it enough to try 5 or 6 more? Would it be enough even if the tribunal were to try 5-10 more alleged perpetrators? Among the main "players" at the ECCC, opinion is split as to the optimal number of prosecutions. This section discusses the arguments that each of these actors makes in support of their respective positions.

This study does not argue for or against either of the Co-Prosecutors and does not discuss the relevant legal arguments. For discussion of the legal issues involved, please see: Joanna Geneve, "In the Matter of the Disagreement Between the Co-Prosecutors on the Issue of the Scope of Prosecutorial Discretion and the Standard of Pre-Trial Chamber Review to Solve a Prosecutorial Dispute," (March 2009), available at www.dccam.org.

International Co-Prosecutor

In the statement of disagreement dated 5 January 2009, it was stated that the international Co-Prosecutor proposed to submit two new introductory submissions and an additional introductory submission. In these submissions—if filed—Mr. Petit would propose investigations of only a handful of additional suspects believed to be responsible for crimes within the jurisdiction of the tribunal. He claims that these new investigations would help to shed light on the truth of the history of the Khmer Rouge era. Contrary to the assertions of his Cambodian counterpart, Mr. Petit states that he does not believe that such further investigations would jeopardize the hard-earned peace and stability currently enjoyed in Cambodia after decades of civil war, bloodshed and unpredictable fluctuations in the political situation.

The international Co-Prosecutor based his decision to pursue investigations of additional suspects

upon legal arguments and his interpretation of the ECCC's mandate. He argues that preliminary evidence available to his Office suggests that more individuals should be held to account for the crimes perpetrated during the Khmer Rouge regime. He argues that the ECCC's mandate permits trials of further alleged perpetrators. Although the Co-Prosecutors' Office has not said how many this may be, Douglas Gillison of the Cambodia Daily has quoted an undisclosed ECCC source as saying that "as many as six additional suspects" have been identified by the international Co-Prosecutor.

The international Co-Prosecutor has warned the public not to jump to the conclusion that the Co-Prosecutors' disagreement is politically motivated. He has emphasized that, if facts do not suggest the political nature of the disagreement, then it must be a "legitimate difference of opinions." According to the Co-Prosecutor, the Pre-Trial Chamber will approach the matter in the same manner, resolving the dispute in accordance with its interpretation and application of the law and based upon available evidence.

National Co-Prosecutor

The national Co-Prosecutor, Ms. Chea Leang, does not believe that investigations into additional suspects should go forward. Ms. Chea believes that the tribunal should not risk destabilizing the country and should instead focus its limited resources and attention on bringing to justice those already in detention. She argues that the tribunal can fulfill its mandate by trying these five alleged perpetrators only.

The national Co-Prosecutor's arguments center on an "interests of justice" analysis, taking into consideration Cambodia's fragile stability and the tribunal's limited resources and timeframe. Therefore, one of the survey's seven questions sought to determine whether the respondents believed that further prosecutions would negatively impact upon the country's stability and/or political situations.

Civil Society

Soon after news of the Co-Prosecutors' disagreement became public, various non-governmental organizations reacted strongly. The Cambodian Human Rights Action Committee (CHRAC), representing the voices of some 20 Cambodian non-governmental organizations (not including DC-Cam), issued a press statement urging the tribunal to investigate and prosecute more alleged perpetrators and called on the ECCC to act independently, which in their view means investigating additional suspects. Others have suggested that the tribunal's credibility would be in placed in question if it does not proceed with the proposed investigations of additional suspects. For example, Human Rights Watch has described the dispute as entirely political in nature and has accused the Government of attempting to block further investigations.

Scholars

In a Letter to the Editor published in the Phnom Penh Post on 8 January 2009, Professor David Scheffer, the former U.S. Ambassador-at-Large for War Crimes Issues who was involved in the ECCC negotiations, asserted that U.N. and U.S. negotiators did not set any limits on the potential number of accused during their negotiations with the government. He states that "it was no secret that some Cambodian officials desired a small number, which would exclude current government and military officials." According to Scheffer, the negotiators spoke of indicting around fifteen or so defendants. This clearly contradicts the view espoused by the national Co-Prosecutor. Scheffer has predicted that, in order to conserve the credibility of the tribunal and its limited resources, this dispute will ultimately be resolved in favor of a smaller number of prosecutions.

Professor Beth Van Schaack of the University of Santa Clara School of Law and a legal advisor to DC-Cam, agrees with the views of the international Co-Prosecutor. She believes that trials of only the five currently detained leaders of the Khmer Rouge would be insufficient, given all the long effort,

hundreds of millions of dollars, and time expended in establishing the tribunal. She suggests that the Co-Prosecutors should expand their investigations beyond even the proposed six additional prosecutions. In her view, although the Standing Committee of the Khmer Rouge's Communist Party of Kampuchea (CPK) may have designed DK policies, it was the mid-level cadres within the organization who implemented them. Moreover, she notes that, since some places in the country suffered damage or suffering more than others, mid-level cadres must have held some discretion as to how policies were implemented. Therefore, individuals with a level of responsibility equivalent to that of Duch should also be held accountable when there is evidence against them.

Dr. Stephen Heder, after analyzing evidence and information available in the DC-Cam archives, has identified seven individuals for trial in his book "Seven Candidates for Prosecution: Accountability for the Crimes of the Khmer Rouge". These candidates include three individuals already in detention (Nuon Chea, Ieng Sary, and Khieu Samphan), in addition to Ta Mok and Kae Pok (Zone Secretaries) and Sou Met and Meah Mut (Military Division Chairmen). At the same time, Dr. Heder has emphasized that his limited list does not mean that there is only evidence available to prosecute these seven candidates.

In a public discussion on the subject of "The KRT: Is it Worth It and For Whom?," held in Phnom Penh on 17 November 2004, Dr. Heder spoke about those who, in his view, fall under the jurisdiction of the ECCC:

When the CPK was in power, its senior leadership comprised some 20-30 Central Committee members, and its corps of powerful cadre from the central down to the local level numbered perhaps 1,000 persons. Of the 1975 leadership and corps of cadre, many fewer than half survived the purges that began to devastate the Party in 1976 and proceeded in waves in 1977 and 1978. Quite a few of those

who made it through to the end of the regime have since died. If the jurisdiction of the EC[CC] were to [extend] down to the district level, it seems to me likely that no more than a few hundred are still alive. The definition of "senior leaders" and "those most responsible" and the evidence will determine how many of these could be legally targeted for intense investigation. But my very rough guess is that no more than 60 cases would fit into these categories, including perhaps 10 senior leaders and 50 most responsible subordinates.

FINDINGS

Knowledge About the Khmer Rouge Tribunal

Each respondent was asked to evaluate their level of knowledge about the Court. Almost half of the respondents (44.2%) said that they had heard a little bit about the Khmer Rouge Tribunal and 26.8% felt that they had received a medium amount of the information about the tribunal. Only 11.6% of all the respondents said that they had heard a lot about the tribunal process. 17.3% told us that they never heard of the tribunal at all.

Khmer Rouge Tribunal	Percentage
Never heard	17.3%
Heard a little	44.2%
Heard medium amount	26.8%
Heard a lot	11.6%

Support for the Khmer Rouge Tribunal

When asked if they think that Khmer Rouge leaders should be tried at all by the Khmer Rouge Tribunal, the very vast majority of respondents (92.7%) expressed strong support for the tribunal and only a small percentage of 6.1% expressed the opposite view (see Figure 2). This is consistent with previous surveys on support for the establishment of the Khmer Rouge Tribunal. In a 2008 study by the International Republican Institute, 69% of respondents very much agreed with having trials of senior Khmer Rouge leaders. In a previous survey

conducted by DC-Cam amongst its magazine readers, 56.59% of the respondents indicated their desire to see Khmer Rouge leaders prosecuted. Another survey carried out in 2002 by the Center of Social Development similarly indicated that 68% of respondents wanted the Khmer Rouge leaders to be held responsible in a court of law.

Number of Prosecutions

Respondents' opinions were divided on the question of the desired number of prosecutions of persons alleged to be responsible for the crimes of the Khmer Rouge. A little more than half of all of respondents (56.8%) were of the view that more than the five alleged perpetrators currently in detention should be held accountable for the crimes. Less than half of all respondents (41.4%) wanted to see prosecuting of only the five individuals currently in custody.

Notably, 30% of all respondents were young Cambodians born after the collapse of the Khmer Rouge regime. Almost two thirds of this younger generation (67.5%) supported the view of the international Co-Prosecutor, perhaps indicating that the young generation has a different view of justice than their parents, the direct victims.

	Percentage
Existing 5	41.4%
5-10 others	56.8%
Don't know	1.7%

Funding

Many respondents considered funding to be an important factor in the development of the tribunal process. Given that funding has been a major problem since the ECCC's establishment, this finding is not a surprise. State donors have been reluctant to fund the Cambodian side of the tribunal due to unresolved allegations of corruption and a lack of transparency. Time and again, the Cambodian side of the tribunal has appealed for more financial support and, at one

point, staff had to work unpaid. At the time of writing this report, the national side of the tribunal again told the press that it is short of funding and would not be able to pay its staff in March 2009.

The study shows that 77.1% of the respondents believe the tribunal should balance the number of prosecutions with the availability of the funding.

	Percentage
Yes	77.1%
No	19.8%
Don't know	3.1%
Total	100%

Public Order

The survey solicited respondents' views on public stability. As mentioned above, the national Co-Prosecutor has argued that additional prosecutions could jeopardize the country's peace and stability. More than half of the respondents (56.6%) did not believe that additional prosecutions would cause public disorder or violence in the country. Having said that, 37.6% of them did believe that further trials would cause public disorder, and 5.9% did not have and/or simply did not want to express their views.

Although the majority of the respondents believed the Khmer Rouge would never be able to stage a comeback, some individuals expressed concern that additional prosecutions could cause public chaos or violence. Some respondents expressed concern to the author and DC-Cam staff that additional prosecutions or investigations could result in the implication of the former king and/or those currently holding high-ranking position, leading to a disruption in the peace.

Prioritizing the Existing Prosecutions

A victim - and not the Documentation Center of Cambodia - initiated the question of whether to prioritize the prosecution of the five currently in custody before conducting additional investigations. This victim was interested in the process of the Khmer

Rouge Tribunal and suggested this compromise as a way to move forward. He suggested that the Co-Prosecutors should make the prosecutions of the current five detainees their first priority and should focus upon additional prosecutions later. His greatest concern was that the disagreement could result in longer delays and that those being tried and awaiting trials might escape trial due to old age or illness or, in the worst case scenario, death, before the Co-Prosecutors could prove their guilt or innocence.

This study shows that 4 out of every 5 respondents share the same concern of the above-mentioned victim. Almost 80% of all respondents want the ECCC to prioritize prosecutions of the five current detainees and to decide whether to investigate additional suspects only after completion of the five trials. However, due to the limited duration and funding of the Court, this is likely not a politically feasible option.

Prioritizing Existing 5	Percentage
Yes	78.5%
No	19.6%
Don't know	1.9%
Total	100%

Level of Satisfaction

The final question asked of the respondents was whether they feel that justice can be achieved by bringing to justice only the five individuals now in custody. The question resembles Question 3 regarding the desired number of prosecutions. However, this question was intended to elicit the respondents' level of satisfaction. Interestingly, the outcome was comparable. 53% of the respondents felt that adequate justice cannot be achieved if only the five detained "senior leaders" and "those most responsible" are tried. 44.3% believed that the tribunal may provide an adequate level of justice by trying only the five detained individuals.

Prioritizing Existing 5	Percentage
Yes	78.5%
No	19.6%
Don't know	1.9%
Total	100%

CONCLUSION

Many see the prosecutorial disagreement as merely a politically-motivated issue, an accusation the government has strongly denied. Recently, at a graduation ceremony on 24 February 2009 in Phnom Penh broadcast on Bayon TV, Prime Minister Hun Sen recalled his past successes. These include the collapse of the Khmer Rouge regime, the successful campaign against the return of the Khmer Rouge regime, the establishment of the Khmer Rouge Tribunal, and the capture of those currently prosecuted by the tribunal. In addition, he denounced those who still have doubts about the government's political will to bring Khmer Rouge leaders to justice, stating that the disagreement at the tribunal is an issue to be dealt with by the tribunal itself and claiming that it has nothing to do with his government. Words alone, however, will not erase people's doubts. Ultimately, regardless underlying nature of the dispute, it will be left to the judges of the Pre-Trial Chamber based upon their discretion and legal reasoning.

According to this survey, more than half of all 1110 respondents (56.8%) want the ECCC to try additional individuals believed to be responsible for the crimes of the Khmer Rouge era (see Figure 4). This finding was supported by a recent forum held in Banteay Meanchey, where a group of around 100 participants were asked if they want the ECCC to conduct investigations into additional suspects; the majority put their hands up in support of additional investigations. Promisingly, this survey reveals that, generally speaking, people consider respect for the rule of law to be important. Cambodians demand

an end to the long-standing legal impunity and call for prosecutions of additional suspects believed to be accountable for the crimes of the Khmer Rouge. In this regard, the exact number of prosecutions does not seem to matter. However, the survey also shows that people are concerned about available resources (see Figure 5) and the age and health of the detained Khmer Rouge leaders (see Figure 7). For instance, on 24 February 2009, AFP reported that Ieng Thirith, aged 76, informed judges of the ECCC during a hearing on her appeal against continued detention that her lawyer would speak on her behalf because she was "too weak." Just two days later, on 26 February 2009, a hearing on 83-year-old Ieng Sary's appeal against his continued provisional detention had to be postponed to 2 April because he was too ill to attend the proceedings. In addition Noun Chea is now 84 years old and Khieu Samphan 79 years old. Notably, one of the six suspects proposed by the international Co-Prosecutor has recently died prior to resolution of the disagreement between the Co-Prosecutors.

With the exception of Duch, who has confessed to the commission of crimes taking place inside S-21, the remaining alleged perpetrators have never acknowledged any wrongdoing. Given the fact that trials are going to take time, and that perhaps some or all of them will appeal against convictions, it is quite possible that the trials may take a great deal more time, perhaps at least another three years. Again, given their age and fragile health, some of these alleged perpetrators may become too old or too unwell to stand trial or may even pass away. In light of these circumstances, the ECCC should take the concerns of the people as described in this report into serious consideration. The credibility of the tribunal may be placed in grave danger if any of the charged persons should be found too ill to stand trial or die before receiving their final judgment.

Terith Chy is team leader of DCCam's Victims Participation Project.

YEM YIM: A KHMER ROUGE SHACKLE MAKER

Pong Rasy-Pheng

Seventy-three year old Yem Yim is the only surviving wooden shackle maker, among four, from Security Office 99. Now as an Achar (men who assist monks at the Buddhist temple) at Wat Tham Trai, located in Oural district of Kampong Speu province, Yim's standard of living is presently below average. However, he says that he can now enjoy life because no one pressures him to work as hard as he did under the Khmer Rouge Regime.

Yim frequently travels to visit his children who live approximately one hundred kilometers away and has medical check-ups near the provincial town of Kampong Speu. He earns a living by serving as an Achar in weddings and traditional ceremonies. During his spare time he does housework, but he refuses to do what he did thirty years ago during the Khmer Rouge era.

Yim was among a small group of villagers whom I talked to. He quickly volunteered to share his experiences from childhood. He said that he was born at a foothill near Samrong Tong district in the Kampong Speu province, which is about one hundred kilometers from his present home. During his childhood, he went to a local school for a short

period of time before quitting when he was in the 9th grade due to his family's poverty and insecurity in the village. He moved to his current residence when he was twenty years old, just before the coup that ousted Prince Sihanouk. At first, he lived with his older brother and earned a living as a farmer like most villagers. He remembers that not long after settling down in his new home, he got married and his family enjoyed living as farmers until the country fell into chaos. In 1970, a Khmer Rumdoh member arrived in his village and appealed to villagers to join their movement.

By 1972, the revolutionary movement prohibited people from traveling to other places. Like most villagers however, he was forced to join the Khmer Rumdoh movement. He was then assigned to work in the wooden artist group with four other people. The group was assigned to make tools out of iron to support the revolution.

Yim did not have prior carpentry experience, but learned very quickly by observing others working and later became one of the carpenters in the commune of Tasal. According to Yim, "...the revolution group recruited me to be in a carpenter group because I could do little else."

The main tools made were water wheels, rice mills, kitchens tables, and bridges. He got along very well in different teams without quarreling with the members. Yim said that while he was not a group leader, he worked very hard and was the most effective man in the group. Sometimes he was assigned to go build bridges outside of his area.

One afternoon in 1973, a Tasal commune rice mill chief, San, told him to go to Security Office 99 to look at the



Yem Yim

existing shackles there. The purpose of sending him to Security Office 99 was to see the shackles so that he could replicate them.

After he arrived at the gate of the security office, two security guards whom he remembered as Yan and Meun took him to see the office's ground. He was not allowed to go into any of the buildings however. Later, another guard came and took him into one of the five buildings located in the security center. "They did not let me go inside the building to look. They just told me to wait outside, and then another guard appeared to take me to see a sample of the shackles," recalled Yim.

Inside the building, he saw two rows of prisoners in shackles. He tried to look at their faces, but he recognized no one. Yim explained, "I had never thought that there were so many prisoners in the building. I was extremely shocked to see that. I also saw some of the prisoners in shackles doing some light work such as making brooms or baskets."

After seeing the shackles, he knew how to make it. He then called his team of three to start making shackles. To replicate the shackles, Yim needed a bar of wood five to seven meters in length and six to twelve centimeters thick. Next, his group made holes big enough to fit the prisoner's ankles in the shackle. The length of each hole was thirty centimeters.

Everyday his team made up to four or five long bars of shackles which a security guard came to pick up at the end of each day. Yim and his team spent a whole week making shackles even though he was not happy doing this work.

Soon afterward, Yim and his team were sent to a remote area to do different tasks. In 1977, the three other people in his group were arrested, never to be seen again. He did not know whether they had lived or died. He remembered that that one of the detainees was sent to S-21 after he was accused of being a traitor. Even though he was the only one in his group to survive, his relatives were executed in 1976 on accusations of having political

ties to the previous regime.

Yim still tries to forget his experiences thirty years after the Khmer Rouge regime collapsed, but he cannot forget making shackles. He has never visited Security Office 99 since 1973 when he first went to see the sample of shackles; he does not know how many wooden shackles are left. Yim is not interested in going to see such a place again. What Yim wants to do now is accumulate merit by doing good deeds.

Today, as an elder, he is favored by other villagers. Yim is too busy and his home too remote to access the media and be updated with news about the Khmer Rouge tribunal. He is happy with what he is doing now than he was ever before, "I will let the 'government' deal with the tribunals. For me, what I think about now is what I am doing presently."

Pong Rasy-Pheng is the team leader of DC-Cam's Genocide Education Project.

MISSING BROTHER

My name is Gek Ly, age 47, and now I am living in Australia. My father is Bun Duk. In 1975 he had a shoe shop called Nam Yoeung in Kampong Som.

I would like to search for my brother Bun Trach aka Chrouk (he would now be 50 years old), who left home to serve in the revolution in 1970 and other five cousins: Ing Sina (female), Ing Sipa (female), Ing Ya (male) and two younger cousins whose names I do not remember. In Sangkum Reastr Niyum, this family lived near Vimean Tip Cinema, selling shoes.

If anyone has known or heard anything about him, please contact me via phone: 012 909 770 or 012 809 880, or Gek Ly, 1 Bracknell Rd, Canley Heights, NSW 2166, Australia.

Mobile: 0402-194-182, Home: (02) 9711-7637
Email: emmatran90@gmail.com

UNCOVERING POL POT'S HORRORS THROUGH THE EYES OF CAMERA LENSES

Dacil Q. Keo

Vietnamese cameraman Ho Van Tay, now 76 years old, traveled to Cambodia during two significant moments in the nation's modern history: in 1976 when the country was under the genocidal control of the Khmer Rouge regime and in 1979 when Vietnamese forces invaded, thereby ending the regime and its brutality. According to Ho, he was among the first to discover the Tuol Sleng prison, the highest level security prison under the Khmer Rouge responsible for as many as 14,000 deaths. His video footage of the prison shot in January 1979 showing bloody walls, fat chickens pecking and consuming human corpses, and tiny dark jail cells, was donated to the Documentation Center of Cambodia (DC-Cam) in late December 2008 along with other archival films totaling nearly 500 minutes of archival footage. These films provide undisputed evidence of Pol Pot's horrors.

In a recent interview with DC-Cam's Dany Long in Vietnam on January 20, 2009, Ho recounts his experiences in Cambodia in 1976 and 1979 and the resulting films he produced back in his office at the Ho Chi Minh City Television (HTV) station. His films of the country, its people, and in particular the infamous Tuol Sleng prison (code named S-21

under the Khmer Rouge) mostly document the cruelty and tragedy of Cambodia, but in a few cases, also its resilience.

In 1976, Ho was in his early 40s and on his way to neighboring Democratic Kampuchea upon an official invitation. Arriving with a group of Vietnamese reporters, Ho recalls that he was greeted warmly by officials in the capital of Phnom Penh. Things quickly changed however. During his stay which lasted over two weeks, he and the other reporters were tightly controlled in their movement and work. Their lodging was patrolled by two Khmer Rouge cadres and they could not leave unless a car came to pick them up, taking them to predetermined places. According to Ho, Pol Pot wanted the reporters to spread the news that since his takeover in 1975, the country and its people were stable and thriving. What Ho saw witnessed instead were deserted homes in Phnom Penh, scared hotel workers in Siem Reap, and a pool of crocodiles being fed human corpses (apparently Khmer Rouge leaders enjoyed raising crocodiles). When he tried to film such scenes however, the cadres who escorted him blocked his camera lenses with their hands. Ho did not dare to oppose them.

Three years later Ho returned to Cambodia with Vietnamese troops when they invaded and quickly overtook the country in January 1979. Ho's discovery of the S-21 prison was rather accidental. As he and his crew, which consisted of an assistant and a driver, were driving near the vicinity of the prison compound, they were confronted with the stench of decomposing matter. In searching for the source of this pungent odor, they found an abandoned compound surrounded by barbed wires. It was S-21, Pol Pot's interrogation and torture center. After alerting



Ho Van Tay during a Press Conference at Cambodiana

the Vietnamese troops about his finding, it appeared that he and his assistant were not alone in S-21. Five children were inside one of the buildings, some crying and some asleep. They were the children of Khmer Rouge cadres that Pol Pot had sent to the prison. There in front of Ho and the Vietnamese troops, they appeared emaciated and on the verge of death. Female Cambodian troops were called over to take care of them.

During his 1979 stay in Cambodia, Ho encountered other Cambodians who would later become the subject matter in his collection of films on Cambodia. There was a little boy that Ho first located in the province of Siem Reap, and later filmed in Phnom Penh. When Ho first met the kid, he was withered, anxious and had a dented scar on his head. The little boy said that the Khmer Rouge had slit his throat, beaten him over the head, and splashed hot water on him. Nearly five years later when Ho returned to Cambodia in 1984, he met the kid again and filmed his new and much improved condition. The little boy had grown up and was dressed in a school uniform. Ho even commented that he had gotten fat.

Ho made another film called, "The Rebirth of an Art Form." In this film, a female survivor who studied classical dance in the Soviet Union prior to 1975 talks about her hardships under the Khmer Rouge regime. Ho also produced a documentary on the general state of children of Cambodia, inspired by the site of a pale and skinny kid sitting



alone near the river dock in Neak Leang in 1979. This film went on to win an award.

One film in particular focused on a non-Cambodian. In 1979, Ho found a Japanese woman walking along the national road in a rather confused state. She was the wife of the former Cambodian ambassador to Japan. After her husband was killed by the Khmer Rouge, she was imprisoned and forced to take care of the children. Ho helped the woman by informing the Japanese newspaper Asahi about her when he returned to Vietnam. Japan soon sent her family and a plane to take her back to her home country. Ho recalled that it was a dramatic and elaborate reception. Half a year later, Ho received a letter from the woman which he keeps next to the photograph taken with her.

Several of Ho's films however are not in his possession; they remain with HTV. There are also approximately 70 photographs taken of S-21 in 1979 which HTV still holds.

DC-Cam invited Ho to Phnom Penh on February 15, 2009 to attend the hearing of Duch, the notorious leader of the S-21. Duch, whose real name is Kaing Guek Eav, was charged with crimes against humanity in July 2007 and will be prosecuted by the Extraordinary Chambers in the Courts of Cambodia (ECCC), known informally as the Khmer Rouge Tribunal. Ho's filming experiences of the Khmer Rouge regime now comes full circle from his 1976 tour of Democratic Kampuchea, his 1979 discovery of S-21, his update on the country in 1984, and now to his upcoming witnessing of the trial of S-21's leader. Although now retired, there is a good chance that Ho still has within him the desire to continue, and in a sense complete, his filming of Cambodia. His return to Cambodia on February 15, 2009 marked another visit to the country during an important moment in its history.

Dacil Q. Keo
PhD Student at University of Wisconsin-Madison
United States of America.

DUCH'S INITIAL HEARING FEBRUARY 17-18, 2009: PARTICIPATION OF KHMER ROUGE SURVIVORS

Savina Sirik

After a long wait for the start of trial of senior Khmer Rouge leaders and the most responsible for serious crimes during the Democratic Kampuchea (DK era), the first public hearing before the Trial Chamber of the Extraordinary Chambers in the Court of Cambodia (ECCC) was held February 17-18, 2009. The initial hearing of Kaing Guek Eav, alias Duch, the infamous head of torture center S-21, was held in the presence of media and NGO representatives, groups of villagers, students, monks, nuns, and others. Among these, a group of 65 village representatives and Cham-Muslims from the provinces of Takeo, Kampot, Kampong Thom, Kandal, Prey Veng, Preah Vihear, and Kampong Cham were invited to attend by the Documentation Center of Cambodia (DC-Cam)'s Living Documents Project. The day was an historic event for Cambodian people who were victimized by the Khmer Rouge regime both directly and indirectly. The public hearing addressed topics such as protection measures for victims, admissibility of civil party applications, and parties' lists of witnesses and experts. Most discussion was centered on the lists proposed by the civil party legal teams.

February 16, Introductory Session: Legal training and documentary show at DC-Cam

An introductory session for the DC-Cam participants was held at the Center the morning of February 16. This was followed by an afternoon documentary film screening and ECCC complaint filing information session. Several program participants from Takeo had been waiting to the opportunity to file complaints with the Court. With assistance from the Victim Participation Team, four participants filed forms with the Court to become complainants.

The group of villagers - a majority of whom were from Stung district, Kampong Thom, where

Duch was born and raised - was welcomed by the Living Documents Team at the DC-Cam's Public Information Room. The group attended a full morning of legal training divided into two parts. In Part I, attendees were introduced to the Center's activities, its objectives and the reasons for participation. Villagers also heard about Duch's biography and learned how a few communes from which they were selected are located near his birthplace, while others are located near killing fields, mass graves, and memorials. The team then explained to the villagers about the materials distributed to them, including ECCC's trial's schedule, the report of examination of Duch, survey questionnaires and the textbook "The History of the Democratic Kampuchea," written by DC-Cam staff member Dy Khamboly. The audience was very interested in the textbook and asked for more copies. They were also enthusiastic to receive information on Duch's background. A few among the group had heard of Duch and recognized his birthplace. Other villagers were eager to know where this former Tuol Sleng prison chief was from. One of the audience members raised his hand to tell the group what he knew about Duch. He claimed that Duch was born and raised in a small floating village by a Khmer-Chinese middle-class family. Others in the audience nodded their heads in agreement.

In Part II of the session, Legal Response Team leader Dara Vanthan explained what they were going to see in the courtroom the next day. Mr. Vanthan introduced villagers to the ECCC. He then addressed key issues that would be raised at the hearing, including applications by the civil parties, witnesses and experts, and protective measures sought by them. Mr. Vanthan noted that during the hearing any preliminary or procedural issues that

might have an impact on the conduct of the substance hearing would also be discussed, such as the newly discovered child survivors of S-21 prison. In the last 15 minutes of his presentation, Mr. Vanthan explained what the courtroom looked like and the roles of all the parties, and drew a picture showing where all parties in the hearing were expected to sit.

After nearly an hour of presentations, villagers were provided an opportunity to ask questions. Some questions were: 1) If this Court is not ordinary, are the crimes to be convicted different from ones applied in the local court system? 2) Why can't all the victims participate in this trial? 3) Why do you use term "genocide" to define the Khmer Rouge regime? I think this word is much less serious than the term "Khmer killed their own nation." 4) Will there be justice? 5) Is there still corruption at the Court? 6) Why are there lawyers to defend the accused? 7) If the Court keeps being delayed, how will it deal with the aging KR leaders currently in custody?

That afternoon, participants watched the documentary film "Behind the Walls of S-21: Oral Histories from Tuol Sleng Prison." The film documents the true stories of two former prisoners and one former guard describing how they arrived at the prison, endured torture, and survived. There was complete silence during the screening. When the film ended, the Team discussed the stories in the film with the audience and asked if they could follow the narration. Most said that they could. For them, the film brought back vivid memories from the Khmer Rouge regime. Mrs. Sam Han from Takeo was shocked by their experiences in Tuol Sleng and was surprised by their courage to speak of their stories to the camera and to the public. She then talked about Kraing Ta Chan prison in Tram Kak district where some thousand victims were imprisoned and killed.

After the film screening, four participants who had requested assistance in filing complaints were helped in doing so by the Victim Participation Team. Among the four, only one had brought an identification card, which is necessary to complete the form. The others promised to give their ID number to the team after they returned to their village. The complaint preparation lasted about one hour and a half. The four complainants had heard on the radio about the tribunal and the opportunity to file complaints, but hadn't known how to go about filing. Only after the participants had participated in the program and received information about the availability of DC-Cam assistance in submitting the application were they able to file a complaint with the Court. Mrs. Yim Mayany, 54 years old, who was waiting for her turn to receive assistance in filling out the complaint form, said, "I wanted to file a complaint because I want this court to find justice for me and other victims." Mrs. Yim explained, "Justice means a lot of different things to me. It can mean a fair trial or transparent tribunal, or simply mean the unbiased participation of victims in the proceedings." Mrs. Yim filed a complaint in the hopes that her neighbors and other victims would be able to be informed about the proceedings and information related its progress.

February 17, Duch Initial Hearing



On the second day of the program, the group of villagers traveled by bus to the ECCC's Courtroom located 16 km from the city to attend the opening of the initial trial hearing. We observed that the Court received a significant number of attendees including numerous media groups, varied groups of villagers, students, NGOs, and individuals from all walks of life. The DC-Cam group queued in the long lines for a security check before entering in the Court area. After about half an hour waiting in the queue the group entered the viewing room, whose seats were already more than half full.

The room was well equipped with two viewing screens in the middle front of the seating area, allowing the audience in the middle row to view the hearing close-up. This hearing, similar to the last one held in December 2008, was equipped with new audio equipment. Audience members who preferred Khmer language could listen to the hearing through this new audio equipment without having to wear headset. But those who needed English or French translation still had to use the headphone equipment. The auditorium's seats were labeled with notes reserving them for groups, media, and NGOs, and were filled by the time the hearing began.

Before the hearing commenced, a limited number of photographers and video cameraman were allowed to take photos of the accused on the stage where the hearing was held. Duch, with his new glasses, had a much healthier look than his last public appearance. He sat in a designated area behind his co-defense, Ka Savuth and Francois Roux. He occasionally spoke to his lawyers without caring about the media representatives pointing their cameras in his face. The photographers were then instructed by the Trial Chambers to leave the room, and soon after the hearing commenced.

The President Judge, Nil Nonn, began by asking all parties present to make preliminary remarks. Each party was asked by the Chambers to raise concerns about any legal issues that were likely to be

discussed before or during the substantive hearing.

International Co-Prosecutor Robert Petit was the first to speak. He said that he intended to again raise the concept of Joint-Criminal Enterprise, a mode of liability with which he wants to charge Duch. The Co-Prosecutor's previous request to include JCE in the Closing Order against Duch was earlier rejected by the Pre-Trial Chamber. Next, the defendant's international co-defense lawyer Francois Roux said that he intended to raise Duch's provisional detention in the Cambodian military prison during the substantive trial hearing. He stated that his client has been imprisoned for 9 years without trial, which he considered unacceptable. The Defense also submitted its objection to the national crimes for murder and torture included in the Closing Order due to the expiration of the statute of limitations for those crimes.

Following some discussion of preliminary issues, the rest of the day was devoted to victim participation, the list of civil parties, protection measures, and the parties' witness and expert lists. After a break, the hearing reconvened, but was closed to broadcast recording because of the discussion of confidential information about civil parties and witness. Nevertheless, the audience in the public seating area was still allowed to watch and listen to the proceedings.

The civil parties were divided into four groups represented by Cambodian and international lawyers. About sixty civil parties were allowed to attend the initial hearing, and six of these were allowed to sit in the courtroom. The others sat in the public seating area. According to a report read by the Judge, 28 civil parties applications had been accepted in the case, 45 were recognized provisionally, and other 21 applications were awaiting a decision. Regarding protective measures, a majority of witnesses requested measures to protect their identity from the public. However, only 7 civil parties requested such protection. Each civil party and witness who made a protection request was identified by a nick-

name or number to protect their real identity.

The discussion during the rest of the morning centered on two main issues, the request of the husband of a civil party who had passed away to participate on her behalf, and the late civil party application of S-21 child survivor Norng Chan Phal. Civil party lawyer Karim Khan requested to the Chamber to allow the husband to participate and to accept Norng Chan Phal's application to become a civil party although he had filed his application two days later than the deadline. There was a strong objection from the Defense Francois Roux arguing that acceptance of the late application would be a violation of the rights of the defendant. Mr. Roux noted that Duch had repeatedly acknowledged his guilt and argued that he should not be confronted with new evidence and testimony at this late date. Both submissions were noted by the Chamber, which will render a decision on these matters before the start of the substantive hearing.

The audience and all parties then broke for lunch. The team had an opportunity to conduct a short interview. Ie Sovanna, a 19 year-old student who had requested the Living Documents team to bring him to the initial hearing, said he hoped to find out from this hearing why Khmer killed Khmer. He had not yet learned the answer to this question. As he told the Team, "I have always wanted to hear the truth from Duch directly, although I had heard that he acknowledged his guilt through the media." Ie lives with his parents in Phnom Penh and studies at the National University of Management and the Institute for Foreign Languages. He believes that many victims of his parents' generation are still trying to come to term with the past. He himself learned the history of the period 1975-1979 from books and radio programs. He was concerned that this history remained unclear for victims as well as members of the younger generation like him. He said that if he had a chance to observe the substantive trial hearing, he hoped that it would shed some light on this dark history. Ie told us, "This tribunal is

for me, my generation, and our future."

After an hour and a half lunch break, the participants again returned to the public viewing area to continue observing the proceedings. There were significantly less people in the public viewing gallery. The session continued with a discussion of the list of witnesses and experts. The Co-Prosecutors presented a list of 35 witnesses and experts to the Chamber. Roux objected to the inclusion of three witnesses who were connected to prison M13. He argued that the prison was out of the court's temporal jurisdiction because the prison no longer existed in 1975 and therefore requested that the three to be removed from the list. Mr. Roux also asked that two psychiatric experts who examine Duch a year ago and who would be called to testify before the Court see Duch again before the hearing.

One after another, the other parties were asked to submit their witness and expert lists. Civil party lawyers presented 15 names and the defense submitted 13 names. Co-Prosecutor Robert Petit challenged the list of experts submitted by the Defense. The Defense argued that their experts



would be able to explain Duch's character.

At the end of the first day of the initial hearing, the DC-Cam's group left the courtroom with various emotions. One man in the group told the team that what he wanted to see the most at the hearing was evidence collection. He stressed the importance of collecting evidence and witness testimony in bringing charges against the defendant. Nevertheless, he was not sure if justice could be done even if all necessary documents and evidence was collected. He wanted each party in the courtroom to play their roles effectively to assure transparency of the trial.

Some other participants thought the Defendants' actions during the regime were done from fear from threats by his superiors. For example, when asked about Duch, a woman from Kampong Thom expressed her sympathy, blaming all his mistakes on his superiors. She said, "If Duch did not follow orders, he and his family would be executed as well."

Ai Sah, a 50 year old Cham Muslim woman from Baray district, Kampong Thom, lost her sister and 9 family members to the regime because her family was labeled as "new people." Her sister's

family was evacuated to live in Kampong Cham with base peoples' families. The Khmer Rouge made her raise pigs for about four months, during which they made her eat dog meat, threatening her that otherwise she would be sent to a "new land." She had no idea where it was. When asked what she wanted from this tribunal, she said "I want communal compensation. I wanted them to build a Mosque, wells, and any other public symbolic things dedicated to those who lost their lives to the regime."

February 18, Second day of Duch Initial Hearing

The group of villagers returned to the courtroom on Wednesday morning to continue observing the proceedings. The session was closed for about half an hour after which a debate was held to establish the rules for substantive hearing. The Defense first challenged the right of civil parties to address sentencing. This was opposed by both the civil party lawyers and the prosecution. Civil party lawyer Hong Kim Suon requested that the civil parties should be allowed to speak before the court on this issue.

The session also addressed new evidence submitted by the prosecution, including ten-minutes of footage filmed at S-21 by the Vietnamese in January 1979, a few days after the liberation of Phnom Penh. Cambodian Prosecutor Chea Leang deemed the film as crucially important because it showed the situation at S-21, the child survivor, and the cameraman was still alive. The film was donated to DC-Cam by the Vietnamese government on December 28, 2008, but, as stressed by Chea Leang, the prosecution was not aware of it until one week after the deadline for evidence submission. Cambodian Defense lawyer Ka Savuth objected to the prosecution's submission, claiming it was a propaganda film and questioning supposed inconsistencies in the film. He expressed surprise that 15 survivors from S-21, including a couple who were now civil parties, were not shown in the movie. Also, the child in the footage did not appear unhealthy after having gone without food for several days. Lastly, he doubted



Ka Savuth

the child survivor's memories of what happened in S-21. International defense counsel Francois Roux was surprised that 52 new pieces of evidence were supplied late to the court, and argued that their acceptance would slow down the proceedings. His argument was opposed by the international prosecutor, who emphasized that the evidence was important for establishing the truth.

The hearing ended around the midday, with the Trial Chamber's decisions on the arguments raised that day to be issued during the substantive hearing.

Ai Sah, who experienced the hardship during the Khmer Rouge and was aware of punishment her relatives had suffered, followed the full session of the hearing. She was interested the many different issues raised during the hearing and was pleased that the process was moving forward. The debates on evidence and witnesses attracted her the most, although the hearing did not provide her the opportunity she expected see the witnesses. She found the process time-consuming. Ai Sah said she was glad to see the tribunal working its best for Cambodian people and that she would bring this news to her community.

Nuon Mom from Takeo experienced torture by the KR, as she was too hungry and stole food. She is now a member of her commune working to serve people in her community. She hoped that participating in the proceedings would help her to cope with her experiences under the KR. This was the second time Mrs. Nuon joined the program. She was eager to see the process moving because it helps lessen her anger toward the KR. She trusted in the ECCC's judicial proceedings, although it doesn't respond to her desire to have the process done quickly. She emphasized that she wanted to see results from the trial proceeding soon so that she can be relieved.

Sen You Soh, a 48 year-old man from Kampong Thom, was only 18 years old in the KR regime. He was evacuated with his family to live in a village in

Baray district since the KR wanted to purify his family. His mother died two months after delivering a baby because of malnutrition and overworking. You-Soh noted that his family was one among other middle class families that was able to survive by food exchange. He told the Team in the interview that his family had some valuable things left to change for rice with base people. He continued by expressing his opinion on the tribunal that the result from this court would not be able to repay what he had lost to the regime. Nevertheless, it was what the court can do, serving justice for Cambodian victims. As he told the team, "I wanted to see how the court does their work to help appease victims' anger." Previously, Soh could only follow the news about KR tribunal through radio programs. But now he was glad to have an opportunity to sit in the courtroom and view the proceedings. This helped him to share the information with and explain to his villagers what was going on at the court. "This valuable information should be heard by all victims of the KR," he noted. When asked how he felt when he saw Duch's face, Soh responded without hesitation that Duch's public appearance did not cause him anger, but, the torture and execution at S-21 was not something for which Duch could be forgiven. Finally, he told to the Team that the hearing was perhaps one first hand experience helpful for the healing process for genocide survivors.

Several days after the initial hearing, the Trial Chamber released a schedule for the substantive hearing. It started on March 30 and will continue for a period of three months. Hearings are scheduled every week from Monday to Thursday. It is hoped that publication of this information will draw more public attention to ECCC proceedings increase the engagement and confidence of all Cambodians in the ECCC.

Savina Sirik is the Team Leader of DC-Cam's Living Documents Project.

CHEA CHOEUN, FORMER COOPERATIVE CHIEF IN SAMPOEU MOUNTAIN

Thida Chea

Democratic Kampuchea is a regime that Cambodian people throughout the whole country have experienced. As is known, it was led by Khmer Rouge leaders who tortured and forced Cambodian people to overwork, provided insufficient food and killed people. These aggressive acts made Cambodian people hurt, scared, lose their lovely relatives and parents, and almost destroyed the whole economy and culture in Cambodia. However, there were also some generous Khmer Rouge cadres who solved Cambodian people's problems. Chea Choeun, former cooperative chief of Sampoieu Mountain, helped a lot of people who were under his control.

After the overthrow of against King Sihanouk in 1970, government officers and some private staff resigned from work. Choeun gave up his studies when he was in grade 7 because the revolution happened everywhere in the whole country. At that time, Choeun was sent to work as a primary school teacher in Romchhek village, Prey Svay commune, Mong Russey district, Battambang province by the Lon Nol government.

In June 1976, Choeun's family was evacuated to live in Battambang province. Along the way to Phnom Penh, Choeun was ordered to see a movie and visit some work places in Phnom Penh in the evening. The next morning, Choeun caught the train to Battambang provinces. When he arrived there at 9 o'clock in the evening, Angkar divided the people into groups, a sub-district with 10 evacuated families, most of them came from Kampot, Takeo and Kampong Speu province. Choeun and his family and other 8 families were assigned to Nhem, who was the chief of the Northwest zone, and decided to live in Sampeou Mountain. In the village, Choeun was assigned to work as a chief of a cooperative in Sampeou Mountain controlled by Am, chief of sub-district and Tek, deputy of sub-district. Choeun was required to prepare food and build 60 houses for people who had just gotten married. All the people in the cooperative had to do the farming and they were granted equal food to eat under the management of Angkar. Even though the people tried to work hard, they still had inadequate food in rainy season. Angkar said that they could not follow the plan of

Angkar: one hactar, three tons. Because of the lack of food, Choeun assigned the old men's unit to grow vegetables such as wax melons, gourds, pumpkins and cucumbers. The men's unit made palm sugar from 10 to 15 kilograms a day in order to support the communal hall.

Under the plan of higher-ranking cadres, in early 1978, Choeun gathered all villagers in the cooperative to build a dam named "Komping Puoy." At the worksite, he was always



Chea Choeun

kind to people who did not have enough food. In the same year, he moved Ta Rak, sub-district chief, whose position was withdrawn by the higher rank, to position guarding the grapefruit farm. Feeling pity for Ta Rak as well as other villagers, Choeun sometimes gave rice, dried fishes, and palm sugar to those at the work site. The workers were required to work hard with almost no time to relax. Due to the lack of food, some elderly people protested to Choeun. After hearing their complaints, he ordered chefs to cook rice once every week, and provided clothes to everyone. Meanwhile, Choeun helped a lady escaping from region 4 by allowing her to settle in the cooperative, giving her daily food, and later transferring her to live with villagers in the Sompeou Mountain mobile unit. Additionally, he vouched for a man called Hoeun, messenger of Ta Orn, Sompeou sub-district vice chief, who was accused of being traitor,

and helped him escape death.

In late 1978, Vietnamese armies attacked Sompeou Mountain Cooperative causing Choeun and the villagers escape to Srah Keo sanctuary, situated next to Thai border. There, he assisted a pregnant women called Hoeun to find her relatives. He also supplied food and rice to girls, and rescued a 10 year-old boy who was abandoned by his parents in the forest by sending him to receive treatment at a Red Cross Hospital.

During the fighting in the north-west region in 7 January 1979, Choeun moved to Srah Keo sanctuary, and then returned to his previous cooperative. Today, Choeun is a counselor of Treang sub-district, Kamrieng district, Battambang province.

Thida Chea is Volunteer of DCCam's Genocide Education Project

PUBLIC INFORMATION ROOM

DC-Cam's Public Information Room (PIR) is open to students, researchers, government and non-government organizations, and interested members of the public who want to learn more about the history of Democratic Kampuchea and the developments of the coming Khmer Rouge tribunal.

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

The PIR offers four services:

1. Library: Through our library, the public can read documents, books and magazine, listen to tapes, watch documentary films, and view photographs held at DC-Cam, the Tuol Sleng Genocide Museum, National Archives and other locations.

2. Educational Center: DC-Cam shows documentary films and offers lectures on Khmer Rouge history, the tribunal, and other related subjects.

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

Khmer Rouge documentary films are shown every Tuesday and Thursday at 9 a.m. and 3 p.m.

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

GENOCIDE EDUCATION TOUR ON MARCH 29-31, 2009

Sayana Ser

On April 17th, 1975, hundreds of Khmer Rouge cadres marched into Phnom Penh and forcefully evacuated the city. Phnom Penh became lifeless as millions of Cambodian citizens fled to the countryside. Now 30 years later, Phnom Penh is once again a vibrant city where Cambodian culture reaches a global audience and friends from around the world are welcomed with open arms.

For over a decade, the Documentation Center of Cambodia has worked to promote memory, justice, and reconciliation for all Cambodians worldwide. In partnership with the United States Peace Corps volunteers, the Genocide Education Tour aims to promote: an understanding of why and how the genocide happened – an appreciation of its effects, and a consciousness of the many continuing challenges that remain. The goal is for future generations to continue preserving and honoring the memory and humanity of those who suffered under the Khmer Rouge regime.

Over 300 students, 40 teachers, and 8 U.S. Peace Corps volunteers from across Cambodia will

come to Phnom Penh to learn about the Cambodian genocide. During their three day educational tour, the group will visit historical sites such as the Royal Palace, a symbol of Cambodia's venerated monarchy and Wat Phnom, the legendary birth place of Phnom Penh. Students will also visit modern sites depicting the dark chapter of Cambodia's history: the Tuol Sleng Genocide Museum (a former Khmer Rouge prison), and the Choeung Ek Genocide Memorial Center where thousands were killed and buried in mass graves.

Although the Khmer Rouge sought to destroy Cambodia's institutions, this generation of students will revive and strengthen them. Part of this process however involves first knowing the tragedy that befell Cambodia, claiming the lives of two million people. By visiting the important sites on the education tour, these students will leave Phnom Penh with a greater awareness of their country's past and present, so that they can rebuild its future.

Sayana Ser is the Team Leader of Outreach Project.



Genocide Educator Tour Participants and the Photo

A QUIET EVIL

Norman Henry Pentelovitch

It is rare to be in the presence of evil, and there is very little doubt that Kaing Guek Eav is the embodiment of evil. He has confessed to crimes so ghastly that it is difficult to use mere words to define them. Yet words were the focus on the first day of Kaing Guek Eav's (alias Duch) substantive trial.

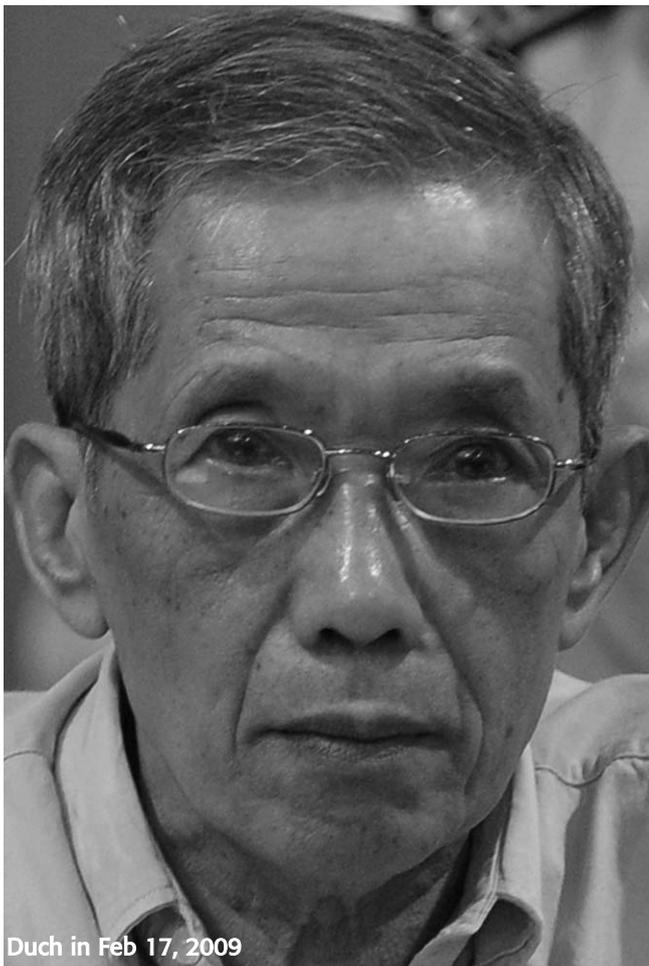
The courtroom of the Extraordinary Chambers in the Courts of Cambodia is part judicial forum, part theater. The participants are sequestered behind an enormous wood and glass wall, a gleaming curve that allows the audience to view the proceedings, as well as see themselves reflected. The "audience" (and the people in the seats are referred to with that word) enters the auditorium/courtroom after

passing through a number of security checkpoints. The line to get in is not long, and the guards are well-trained enough to keep the process brief. Passing through the first of two metal detectors, visitors are shunted down a long fenced corridor to the main court building. Journalists queue outside the fence, snapping pictures of whoever happens to be walking past.

The court building feels as much like a high school as it does a court. Concrete stairwells fixed with iron railings lead to yet another metal detector, where cameras, cell phones, and candy and gum packages that were missed at the initial screenings are collected on a table and kept like a bizarre court concession stand.

There are many chairs on the "stage", though far more on the prosecution side of the room. Attorneys, civil parties, and other court staff filter in and take their seats, variously putting on their robes of black or purple, and their white cravats. As they enter, the audience watches them like animals in a cage while consulting a printed roster of who is who behind the glass shield.

A bell sounds, the audience rises silently, and the seven judges file into the court. Everyone puts on their headphones and prepares to listen. The president, Judge Nil Nonn asks that Duch be brought to the dock by his jailers. The audience is rapt as the slight man with large ears and clean white shirt steps gingerly around his lawyers and sits in the appointed chair. The president directs biographical questions to him, where are you from, are your parents alive, what names have you used during your life, and Duch answers in a low gravelly voice. There is a tense feeling that this is all new and revelatory, though the information is already known and the process a formality.



Duch in Feb 17, 2009

The president informs the audience that the greffiers will read paragraphs 10 through 162 of the closing order which lay out the factual analysis of the charges against Duch. A greffier begins speaking, and the audience settles in to hear what Duch is accused of doing.

Listening to simultaneous translation takes some practice. Part of you wants to listen to the loudest voice in the room, but unfortunately, that voice is not always speaking a language you understand. So you focus instead on the voice in your headphones, a halting, careful English. The system is not perfect. The interpreters have the ability to control the flow of proceedings, and do so occasionally, stopping the judicial activities as a technical glitch is remedied.

The voice of the greffier is telling you terrible things. Things you can hardly believe are true, things you wish weren't true. Yet Duch has confessed to a great deal of what he is being accused of. He disputes only small details: that he intended this, that he knew about that, but not the overall thrust of the charges.

Throughout the morning, Duch barely raises his head. He has produced a pair of glasses and is reading the closing order along with the greffier. His movements are small and precise, nothing that would excite the burly guards seated directly behind him.

At noon, the court breaks for an hour and a half, with only half of the closing order read. The audience is listless and disturbed: two hours of death and misery can do that.

In the afternoon, Duch returns to the court, and the process continues. The greffier continues to read, and the audience is anxious that the trial move on, that the opening statements occur. Again, Duch is impassive, turning over pages and rarely looking up. Finally, the closing order has been read, and Duch's defense lawyer, Francois Roux, stands up to speak. He asks the court that since one hundred and fifty paragraphs of damning material have just

been read to the court, that the ten paragraphs which follow, paragraphs which he claims are exculpatory, be read. The court adjourns for a half hour to deliberate, and upon returning, rejects his request. There is a legal basis for their decision, but it was in no way a foregone conclusion.

The prosecution is asked if they would like to make their preliminary opening statements, and the Cambodian Co-Prosecutor, noting the hour of the day (3pm) and the anticipated length of the opening statements (two hours) asks that the opening be conducted the following morning. A brief conference on the bench yields an agreement to adjourn for the day, which the rustling of the audience indicates may be an unpopular decision. This audience came to hear trial proceedings, not to hear a publicly available document read aloud.

Duch exits the courtroom quietly, and a moment after he disappears it is hard to remember he was there at all. His is not a large presence. If left alone with him under different circumstances it would be possible to forget he was there at all. Yet it is impossible to forget the words that describe what he has done. It is impossible to ignore the gravity of his crimes. Tomorrow, and the next day and the next, he will enter and leave the courtroom in his quiet way, and stand trial for some of the worst atrocities ever committed against fellow human beings. And we will watch.

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THE KHMER ROUGE TRIBUNAL: JUSTICE FOR GENOCIDE IN CAMBODIA?

Dr Wendy Lambourne

The quest for accountability for the former Khmer Rouge is a long story of frustration and perseverance spearheaded by the international community and genocide survivors, which is finally about to come to fruition as the Extraordinary Chambers in the Courts of Cambodia (ECCC) gears up to begin prosecutions. Having achieved this remarkable milestone, what is not so clear is whether the ECCC can provide justice for genocide in Cambodia and end the culture of impunity which has pervaded Cambodian society for at least the past 30 years. This paper will consider the political challenges and complexities of pursuing accountability for the crimes of the Khmer Rouge, and will assess the extent to which the ECCC is likely to meet the needs and expectations of ordinary Cambodians for justice in the form of truth and acknowledgement which could answer the pressing question of why such crimes were committed. The ECCC will be assessed in terms of its capacity not only to provide justice for the past, but also to promote justice in the future through the rule of law and respect for human rights. This paper will go further to question the cultural assumptions of the Western legal justice provided by the ECCC and suggest the need for alternative approaches which might be more successful in promoting peace with justice in Cambodia.

The Cambodian Context

Cambodia was once a great nation covering much of Southeast Asia, with its own distinct Khmer culture influenced by India's two great religions, Hinduism and Buddhism. Culminating in the Angkor dynasty, the glorious Khmer Empire lasted from the seventh to the thirteenth century, after which it was progressively weakened by invasions from its neighbours Siam (now Thailand) and Vietnam.

In 1863 Cambodia became a French protectorate and then colony until 1953, when King Norodom Sihanouk regained the country's independence.

After seventeen years of relative peace as an independent country, Cambodia became drawn into the Vietnam War. In 1969 the U.S. Air Force had begun secretly bombing Cambodia in an effort to eliminate the Vietnamese communist bases, and the anti-Vietnamese Lon Nol government took power in Cambodia (renamed the Khmer Republic). Sihanouk, now in self-imposed exile, forged a coalition with the communist-backed Khmer Rouge who fought a civil war with the U.S.-backed Lon Nol government. In 1975 the United States withdrew from Vietnam, Phnom Penh fell to the Khmer Rouge, and the Cambodian people were subjected to three years of the brutal Khmer Rouge regime led by Pol Pot (Democratic Kampuchea) under which an estimated one to two million Cambodians died (Kiernan 1997).

In January 1979 Phnom Penh fell to the Vietnamese, the Khmer Rouge retreated to the Thai border and the country's name was changed to the People's Republic of Kampuchea (PRK). The international community condemned the Vietnamese invasion, and the Pol Pot regime continued to be recognised by the UN as the official government of Cambodia. In 1989 the Phnom Penh government with Hun Sen as Prime Minister renounced communism and changed the country's name to the State of Cambodia, and the Vietnamese withdrew. Elections in May 1993 under the supervision of the United Nations Transitional Authority in Cambodia (UNTAC) resulted in a coalition government with Prince Ranariddh (Sihanouk's son) and Hun Sen (leader of the pro-Vietnamese Cambodian People's Party) as co-prime ministers. However, following a coup against

Ranariddh and his other opponents in July 1997, Hun Sen declared himself sole Prime Minister of Cambodia. The Cambodian People's Party has remained in power since then with Hun Sen as Prime Minister.

30 Years of Impunity

Following the genocidal Pol Pot regime, there were no significant or effective official public processes of accountability implemented in Cambodia, despite the numerous initiatives proposed by the international community and Cambodian government. Nor were there any official international acts of condemnation or prosecution. The People's Revolutionary Tribunal of Khmer Rouge leaders, Pol Pot and Ieng Sary, held in Phnom Penh in August 1979, imposed a sentence of death in absentia for the crime of genocide, but this was not recognised internationally because of due process objections to the trial procedures and the diplomatic isolation of the PRK regime, and the sentence was never carried out (Vickery & Roht-Arriaza 1995: 246; Marks 1999; Etcheson 2005: 14-17). According to Hammer and Urs (2005: 26), by turning the trial into a tool of propaganda, the PRK 'co-opted justice in the name of politics'.

The international community was at first deterred by Cold War constraints, political priorities, and respect for state sovereignty from condemning the atrocities of the Pol Pot regime. Once the Cold War was over, the international community was still constrained by the legacy of Cold War geopolitical alliances, as well as fears that they might also be held to account for their role in supporting the Khmer Rouge. The United Nations played a significant role in rebuilding peace in Cambodia, but the issues of justice and reconciliation were not addressed in the Paris Peace Agreement of October 1991. The final agreement did not preclude the Khmer Rouge from participating in the Cambodian elections, nor did it prevent former officials of the Khmer Rouge associated with the genocide from holding office in the future. Hammer and Urs (2005) attribute the failure to pursue justice for the Khmer Rouge during these two periods

to the 'politics of ideology' (1975-89) and the 'politics of reconstruction' (1989-1996). As pointed out by Etcheson (2004: 182): "issues of transitional justice and accountability for serious violations of international humanitarian law are always intensely political."

The Khmer Rouge, meanwhile, were able to maintain their strongholds in towns such as Pailin near the Thai border. They continued their guerrilla activities with impunity for the next 20 years until the organisation was formally disbanded in 1998 after the death of Pol Pot and the defections of two former Khmer Rouge leaders, Khieu Samphan and Nuon Chea (Etcheson 2005). Ieng Sary had defected after being granted amnesty in 1996, while two other former Khmer Rouge leaders, Ta Mok and Duch, were arrested by the Cambodian government in March and May 1999 respectively. Both men faced charges of treason, torture, murder and genocide as well as breaking the 1994 law banning the Khmer Rouge. Ta Mok died in 2006, but Khieu Samphan, Nuon Chea, Ieng Sary and Duch, along with Ieng Thirith, have survived to be indicted by the ECCC.

The Slow Path to Accountability

The passing of the Cambodia Genocide Justice Act in the US in April 1994 and the Cambodian government's passing of an act to outlaw the Khmer Rouge in July 1994 were turning points in the path towards accountability (Hammer and Urs 2005: 34-5). Early in 1997, the UN commenced efforts to establish an international criminal tribunal to try the Khmer Rouge leaders, and in June the Cambodian co-prime ministers, Prince Norodom Ranariddh and Hun Sen, formally requested UN assistance in setting up a tribunal. However, efforts foundered in trying to find a country willing and legally able to hold and possibly try Pol Pot. Subsequently, a UN Group of Experts' report released in November 1998 recommended the establishment of an ad hoc international tribunal, and in March 1999 the UN Secretary-General submitted a proposal for an international tribunal to both the Security Council and the General Assembly.

Establishment of the tribunal was delayed, however, by the inability of the UN and Cambodian government to agree on the composition and functioning of the proposed tribunal. At one stage, Prime Minister Hun Sen formally rejected an international tribunal as being a threat to the country's fragile national reconciliation, and indicated his preference for national trials with foreign legal assistance. A number of Cambodians in addition to the former Khmer Rouge expressed the fear that a trial could result in further violence. Others dismissed the threat as propaganda promulgated by the former Khmer Rouge to protect themselves from the possibility of prosecution.

A breakthrough in negotiations occurred in April 2000 when US Senator John Kerry helped broker an agreement for a joint UN-Cambodian trial that would include both Cambodian and foreign judges and prosecutors (Langren 2001). A draft Memorandum of Understanding (MoU) was presented by the UN to the Cambodian government in July 2000, but the legislation passed by the Cambodian government in January 2001 failed to satisfy some of the key conditions of the MoU (Köchler 2003: 125). Subsequently, on 8 February 2002 the UN announced that it was abandoning negotiations with the Cambodian government because "as currently envisaged the Cambodian court would not guarantee independence, impartiality and objectivity which are required by the UN for it to cooperate with such a court". The UN and many foreign nations expressed concern that "the corrupt and poorly trained Cambodian justice system was not capable on its own of producing a fair and impartial trial and verdict".

Intense lobbying by the US government and others put pressure on the UN and Cambodian government to settle their differences and negotiations resumed in January 2003 (Chhang 2007: 165). On 6 June 2003 the UN and Cambodian government signed a draft agreement but it took another two years for funding arrangements to be negotiated

and the final form of the hybrid tribunal to be agreed. The ECCC was finally established in November 2005 and by May 2006 the judges and prosecutors had been appointed. Trials were expected to begin by mid-2007, but as of December 2008 only pre-trial hearings had commenced.

Limitations on Justice

The ECCC is one of a small number of hybrid tribunals set up by the United Nations in conjunction with national governments. Because of the extraordinary delays in its establishment, the ECCC is the only internationally-backed court ever to prosecute crimes committed during the Cold War, and it is the only tribunal to begin operations since the establishment of the International Criminal Court. It faces significant challenges in obtaining sufficient funding, overcoming delays in its start-up and ongoing operations, upholding standards of fairness, and prosecuting crimes committed more than 30 years ago.

Even if it manages to meet these legal and operational demands, questions remain as to the ECCC's ability to satisfy the need for accountability and Cambodian desires for truth and justice, and most importantly, an understanding of why such crimes were committed by Cambodians against their own people. The temporal jurisdiction of the ECCC means it cannot prosecute crimes perpetrated by the Lon Nol government which preceded the Pol Pot regime, nor address the role of foreign governments in aiding and abetting the Khmer Rouge, nor crimes allegedly committed in subsequent years by Hun Sen and the Vietnamese-installed government. Its ability to end the culture of impunity still prevalent in Cambodia is bound to be only partial. The personal jurisdiction of the ECCC is limited to bringing to justice "senior leaders of Democratic Kampuchea and those who were most responsible for the crimes and serious violations" (Meijer 2004: 214). It cannot try those Khmer Rouge leaders who have already died, including Pol Pot and Ta Mok, and it will only be able to try a small handful of the remaining key Khmer Rouge leaders. Some have argued that it

would be better to use the additional resources for alleviating poverty rather than an expensive tribunal which will try only a few people. Kek Galabru, President of LICADHO, has asked whether such a tribunal would "bring justice to the Cambodian people and to fight against the culture of impunity? Or is it just a show trial for the international community, especially to appease the donors?"

The culture of impunity which has prevailed in Cambodia is about more than the failure to prosecute the former Khmer Rouge; it is also about the continuing lack of respect for the rule of law in a country which still operates politically on a patronage system where power is more important than the law (PoKempner 2005: 339). The ECCC could build justice capacity in Cambodia, but how effective this will be will depend on the ability to train and equip Cambodians to transform the culture of impunity into a society that respects the rule of law. What is needed in terms of societal transformation is the building of a new national identity which repudiates the narrative of the past and reflects values of impartiality, legality and fairness (353). The value of the ECCC as a forum for reconstituting Khmer identity could be enhanced by accompanying the legal trials with campaigns for public education, community dialogue and reconciliation.

Human rights and other NGOs are working to ensure that ordinary Cambodians are able to learn about the ECCC and to raise issues of concern. For example, DC-Cam has undertaken an outreach program involving 5000 villagers who are being brought to Phnom Penh to visit the Tuol Sleng Genocide Museum, the Choeung Ek killing fields and the ECCC where they are able to ask questions about the upcoming trials. The plan is that these villagers will return to Phnom Penh to attend a week of a trial and that they will then hold public forums about the ECCC when they return to their villages (Chhang 2007: 172). This seems to be a marked improvement on outreach efforts associated with previous tribunals observed by this author in

East Timor, Rwanda and Sierra Leone.

According to Maguire (2005: 192-3), some Cambodians have given up on punishment and 'today they simply seek acknowledgment'. Faith in the ECCC to provide truth and acknowledgement by the former Khmer Rouge is likely to be misplaced, however. There is no sign that former Khmer Rouge leaders who have been indicted by the ECCC will depart from the practice of defending their previous actions as being in the interests of the Cambodian people. Khieu Samphan, in an open letter in December 2003, admitted 'systematic killings', but in his 2004 book he claimed that he 'didn't know' about Tuol Sleng and had no power to stop the atrocities (Fawthrop & Jarvis 2005: 250). Nuon Chea feels no remorse for the past (Fawthrop & Jarvis 2005: 251), admits only that the regime made some mistakes and blames the Vietnamese for the killing fields (Maguire 2005:192). Both portray themselves as patriots (Maguire 2005: 192). All blame Pol Pot.

Even if these former Khmer Rouge leaders continue to deny their culpability, the finding by the ECCC of individual guilt could provide a strong counter to this denial and the punishment meted out could satisfy the calls for retributive justice. The symbolic potential of the ECCC should not be underestimated in this regard. As described by a genocide survivor whom I interviewed in Phnom Penh in October 1999: "We have to punish [the former Khmer Rouge] ... a matter of national responsibility ... biggest case of impunity in the world and the mother of other smaller impunities in Cambodia."

Whilst a majority of ordinary Cambodians have indicated their desire for such a tribunal, others have argued against the imposition of Western-style legal justice as being alien to Khmer culture. According to Harris (2005: 80), such imposition of foreign systems and universal norms of justice 'may be read by some sectors of Khmer society [those for whom to be Khmer is to be Buddhist] as an expression of contempt for their own traditions'. Some Cambodians have responded by expressing the desire to return

to a Khmer approach to counter the influences of outsiders which have in the past betrayed and neglected the needs and rights of the Cambodian people. They reject the modernist enterprise which privileges the Western rule of law approach, arguing for a need to reassert Khmer identity imbued with confidence rather than fear of the outside invader. PoKempner (2005: 354) argues, by contrast, that the insistence of Cambodians on international standards for the ECCC, far from being culturally alien, is a natural response to insist that their sufferings be considered as significant as those of Rwandans and Bosnians who were afforded the full international legal standards of an international tribunal.

In order to transform Cambodian society, a more holistic vision of justice is required than that provided by the ECCC, one that includes elements of restorative, socioeconomic, political and psychosocial

justice in addition to retributive justice. The idea of a truth commission which could have addressed more of these justice needs was rejected by Cambodians, but, I would argue, for spurious reasons. By considering only the South African model of the Truth and Reconciliation Commission, Cambodians had a limited view of what was possible. They assumed that a truth commission would not work in Cambodia because the conditions did not match those of South Africa: a Christian country with strong religious leadership, facing a political transition from a repressive regime rather than a civil war or genocide. However, there are many other types of truth commissions. The Sierra Leone truth commission dealt with mass crimes, did not include any provision for amnesties, and was operating in a society that is predominantly Muslim as well as Christian. The East Timorese truth commission engaged with local



Students looking at the tomb of S-21 prisoners at TSL

communities and incorporated traditional reconciliation processes and while East Timor had a strong Christian leader, he did not play a significant role in the truth commission.

According to a Buddhist perspective on justice, it 'involves the "undoing" of a crime so that order might be restored' (Harris 2005: 81) and the goal of harmonising the parties rather than consistency with abstract legal principles (2005: 85). This Buddhist perspective is consistent with ideas of restorative justice which could be pursued via a truth commission or other culturally appropriate mechanism. Dr Lao Mong Hay, Executive Director of the Khmer Institute of Democracy, has advocated national reconciliation (rather than a tribunal) as being more consistent with Buddhist philosophy, and suggested a mass public confession of guilt and request for pardon in the presence of the king (Harris 2005:

86). Harris (2005: 80) advocates the potential of a 'truth act' involving 'genuine acknowledgement of moral failings or virtues' which has 'powerful connotations for Theravada Buddhism'.

Conclusion

After almost 30 years, it appears that some of the key leaders of the former Khmer Rouge will finally face prosecution for the crimes they are accused of committing as part of their quest for an agrarian utopia during the Pol Pot era of 1975-1979. Despite evidence of public support for the establishment of a tribunal, it seems unlikely that the ECCC will be able to meet all of the expectations of the Cambodian people. From my field research in 1999, I concluded that Cambodians needed to know what happened during the Pol Pot era and why, and they needed acknowledgement from former Khmer Rouge leaders that what they did was wrong. Ten years later, these needs remain unfulfilled. Whilst the ECCC can provide some justice in the form of international acknowledgement and punishment for the perpetrators, which is arguably better than none, it is unlikely to answer the most important question of why the genocide occurred, nor is it likely to encourage the acknowledgement of wrongdoing sought by survivors.

The ECCC is limited in its ability to fully satisfy the needs of justice for the Cambodian people and the international community. Whilst justice is an important goal, retributive justice through a tribunal without truth and acknowledgement is only partial justice and is unlikely to end the culture of impunity prevalent in Cambodian society. Further research is needed to explore the potential for some kind of restorative justice process which rebuilds relationships, strengthens Khmer identity and promotes a sustainable peace with justice for Cambodians.

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Court's view at Duch's initial hearing in Feb 17, 2009

THE ECCC CO-PROSECUTORIAL DISAGREEMENT OVER WHETHER OR NOT TO INVESTIGATE MORE SUSPECTS

Joanna Geneve

To date, the Extraordinary Chambers in the Courts of Cambodia ("ECCC") has charged five suspects. The International and National Co-Prosecutors are currently in the midst of a dispute concerning the appropriateness of commencing new investigations against additional suspects. The International Co-Prosecutor, Robert Petit, has proposed moving forward with the investigations, arguing that the statutory requirements have been satisfied: namely, there are reasons to think that crimes within the ECCC's jurisdiction were committed. The National Co-Prosecutor, Chea Leang, while apparently not disagreeing with Petit that the ECCC Internal Rules' objective requirements for additional investigations are met, nonetheless feels that such crimes should not be investigated due to (1) Cambodia's past instability and the need for national reconciliation; (2) the spirit of the 2003 Agreement Between the United Nations and the Royal Government of Cambodia Concerning the Prosecution under Cambodian Law of Crimes Committed During the Period of the Democratic Kampuchea ("Framework Agreement") and the 2004 Law on the Establishment of the Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed during the Period of Democratic Kampuchea ("ECCC Law"); and (3) the limited duration and resources of the ECCC.

Standard of Review

The ECCC Pre-Trial Chamber is now faced with the unprecedented task of resolving the dispute. The Framework Agreement and ECCC Law define this task as the primary role of the Pre-Trial Chamber: a dispute resolution mechanism for settling disagreements between the Co-Prosecutors and between the Co-Investigating Judges. Thus, when deciding internal disputes, the Pre-Trial Chamber

acts within its core statutory mandate. In addition, the ECCC Internal Rules have bestowed the Pre-Trial Chamber with the tools to conduct a fairly extensive factual review when such disputes arise. For example, Article 71 of the ECCC Internal Rules provides the Pre-Trial Chamber with the authority to conduct an intensive review of the facts behind the disagreement. Article 71(4)(b) gives the Chamber the power to order the personal appearance of the Co-Prosecutors, as well as the production of exhibits. Article 72, on the resolution of disputes between the Co-Investigating Judges, gives the Pre-Trial Chamber similar authority to order the appearance of any parties or experts, as well as the production of any exhibits. These considerations suggest that the Pre-Trial Chamber has the authority to, and should, conduct *de novo* review of the disagreement.

Scope of Review

Since the Co-Prosecutors do not appear to disagree that they possess both the jurisdiction and sufficient evidence to request additional judicial investigations, there is no need for the Pre-Trial Chamber to inquire into the existence of an objective threshold for an investigation; the Chamber should instead limit its scope of review to the topics on which the Co-Prosecutors disagree: whether or not (1) it is appropriate for the National Co-Prosecutor to object to additional investigations on the basis of subjective factors and (2) if so, whether the three factors raised by the National Co-Prosecutor militate against opening additional judicial investigations.

Scope of Prosecutorial Discretion

Turning to the first question of whether it is appropriate for the National Co-Prosecutor to object to additional investigations on the basis of subjective factors, it is important to note that the ECCC Co-Prosecutors, like the prosecutors of the

international/ized criminal tribunals, do possess broad discretion in the selection of cases and alleged perpetrators for investigation and prosecution. However, the scope of their discretion is limited by several factors, including the necessity for the Co-Prosecutors to maintain prosecutorial independence and to obey the Court's mandate (including temporal, geographic, subject matter, and personal jurisdiction restrictions).

This broad prosecutorial discretion is also restricted by the general duty of the Co-Prosecutors under ECCC law to investigate and prosecute crimes within the jurisdiction of the Court. ECCC Internal Rule 53(1) states in part that "[i]f the Co-Prosecutors have reason to believe that crimes within the jurisdiction of the ECCC have been committed, they shall open a judicial investigation by sending an Introductory Submission to the Co-Investigating Judges[.]" The Co-Investigating Judges ("CIJs") must then investigate those crimes: ECCC Internal Rule 55(1) makes judicial investigations by the CIJs "compulsory for crimes within the jurisdiction of the ECCC." After completing their investigation, the CIJs must indict charged persons unless the acts do not amount to a crime within the jurisdiction of the ECCC or there is a lack of evidence against particular perpetrators.

The duty to investigate is further augmented by ECCC Internal Rule 71(4)(c), which provides that when there are disputes between the two Co-Prosecutors on whether to investigate, the investigation will go forward by default unless a majority of the Pre-Trial Chamber judges vote to stop it: "[i]f the required majority is not achieved before the Chamber... the default decision shall be that the action or decision done by one Co-Prosecutor shall stand, or that the action or decision proposed to be done by one Co-Prosecutor shall be executed."

The ECCC Internal Rules explicitly require the Co-Prosecutors to consider only objective factors in the selection of cases for investigation and prosecution. The Statutes of the International Criminal Tribunal for the former Yugoslavia ("ICTY"), the International

Criminal Tribunal for Rwanda ("ICTR") and the Special Court for Sierra Leone ("SCSL") contain similar requirements. In practice, however, the prosecutors of these international courts have also taken into account a wide range of factors in selecting defendants for investigation and prosecution. Moreover, the Prosecutor of the International Criminal Court ("ICC") is statutorily required to consider additional criteria under the guise of "interests of justice" once a "reasonable basis to proceed" has been established. As former ICTY/R Prosecutor Louise Arbour aptly acknowledged,

The discretion to prosecute [before an international criminal tribunal] is considerably larger [than before a domestic court], and the criteria upon which such Prosecutorial discretion is to be exercised are ill-defined, and complex. In my experience, based on the work of the two tribunals to date, I believe that the real challenge posed to a Prosecutor is to choose from many meritorious complaints the appropriate ones for international intervention.

In fact, given the large number of potential defendants and practical constraints, the consideration of other factors by international prosecutors is arguably not only appropriate, but necessary.

Relevant Subjective Factors

Some subjective factors that international prosecutors appear to have considered in determining who to investigate and prosecute echo the concerns raised by the National Co-Prosecutor. These include: the gravity of the crimes, the level of responsibility of the alleged perpetrators, public order, finite resources and national reconciliation. However, none of the factors the National Co-Prosecutor raises appear to militate strongly against moving forward with additional investigations.

The National Co-Prosecutor's first concern, national reconciliation, is emphasized in the preamble of the ECCC's Framework Agreement. However, it is not at all clear that the pursuit of reconciliation in Cambodia would be best served by a limit on the number of prosecutions; indeed, persons involved

with the establishment of the ECCC believed that prosecutions would play a positive role in furthering reconciliation. The Report of the UN Group of Experts advised that the future Khmer Rouge prosecutor should "as a matter of prosecutorial policy ... exercise his or her discretion regarding investigations, indictments and trials so as to fully take into account the twin goals of individual accountability and national reconciliation in Cambodia." The Report further commented that the ECCC was necessary to help Cambodia fully achieve national reconciliation: "If these and our other recommendations are pursued ... we believe they will lead to a process that will truly enable Cambodia to move away from its incalculably tragic past and create a genuine form of national reconciliation for the future." Significantly, there is no suggestion in this Report to support National Co-Prosecutor Leang's contention that furthering the goal of national reconciliation necessarily entails limiting the number of prosecutions; rather, the Report advises striking a balance between national reconciliation and individual accountability.

International tribunals, especially the ICTY and the ICTR, have primarily addressed national reconciliation concerns by encouraging equal treatment of perpetrators from both sides of a conflict. For example, ICTR prosecutors have emphasized that their investigations have focused not only on Hutu but also on Tutsi perpetrators, despite the fact that there have been no Tutsi indictments to date. Luc Côté, a former member of the ICTR Office of the Prosecutor, commented, "[i]n the light of the mandate given to international tribunals to 'contribute to the process of national reconciliation and to the restoration and maintenance of peace,' ... criteria [related to a defendant's belonging or affiliation with a certain group] seem legitimate" in selecting defendants for prosecution.

Moreover, connected to the idea of national reconciliation is the obligation of the Court to tell the "whole story" about what happened and who is responsible—a consideration that has frequently been cited by international prosecutors in explaining

their selection of accused. The ICTY Office of the Prosecutor, in particular, has heavily emphasized the importance of context, or history, from the beginning of the Tribunal's work. Graham Blewitt, an ICTY deputy prosecutor, has commented that the Office of the Prosecutor has tried to look for cases that have particular historical resonance, such as the Srebrenica massacre. Similarly, Minna Schrag, another deputy prosecutor, stated with respect to the indictments against those responsible for crimes at the Omarska detention camp,

We charged the camp commander with genocide and he and the others were also accused of other violations of the Tribunal Statute. That indictment is particularly significant, we think, because Omarska is the first camp in Bosnia that international journalists were permitted to see and film It is largely as a result of their work that the international community began to address the apparent human rights abuses occurring in the former Yugoslavia.

Likewise, ICTR Prosecutor Hassan Jallow has highlighted the importance of telling the whole story of the crimes in Rwanda and has therefore emphasized a geographic spread in selecting targets for prosecution. Geographic spread ensures, to a certain extent, that the different regional experiences are documented. This concept has been specifically discussed in ICTR case law, namely in the Ntuyahaga case in which the Trial Chamber granted the Prosecutor's motion to withdraw the indictment. The ICTR Trial Chamber upheld the Prosecutor's argument that the "withdrawal of the indictment would be justified because the objective of the Prosecutor is to shed light on the events that occurred in Rwanda in 1994 and highlighting the complete landscape of the criminal acts perpetrated at that time, and that such objective would not be achieved through the prosecution." The ICTR further noted that it was the special duty of the Prosecutor to devise a prosecutorial strategy which includes the aim of "shedding light" on the atrocities in Rwanda.

The 2006 ICC Report on Prosecutorial Strategy stated that incidents should be selected to provide a sample reflecting the gravest incidents and primary types of victimization. This suggests that the ICC might not always focus on the most senior leaders or on those with the greatest responsibility and will, like the other tribunals, also be concerned with context and telling the full story. Indeed ICC Prosecutor Luis Moreno-Ocampo has emphasized the importance of remembering the broader context; he stated that "the focus on an investigation may go wider than high-ranking officers if, for example, investigation of certain types of crimes or those officers lower down the chain of command is necessary for the whole case."

National reconciliation requires first knowing and understanding the past. The Report of the UN Group of Experts notes that the Government of Cambodia requested the assistance of the United Nations to "encourage a process of reflection among Cambodians to determine the desirability and, if appropriate, the modalities of a truth-telling mechanism to provide a fuller picture of the atrocities of the period of Democratic Kampuchea." The Report also stated that "the Government of Cambodia has responded to what we sense is the desire of the Cambodian people for justice and their knowledge that it is impossible to simply ignore the past. Rather, it is necessary to understand the past and move beyond it[.]" If anything, the importance of uncovering the fullest possible story of what happened for national reconciliation mandates in favor of a greater number of prosecutions.

The ECCC Framework Agreement preamble also links national reconciliation to the maintenance of peace and security. It is notable, however, that the UN experts considering the creation of the ECCC did not view public order as a relevant consideration and that no international prosecutors have mentioned public order concerns in discussing their discretionary decision-making. Before the creation of the ECCC, the UN Group of Experts found that public order considerations do "not warrant precluding ...

prosecutions." The Group's Report noted, many of the possible suspects do not now have armed forces at their disposal. As for the possibility that others who have surrendered might remobilize their forces to mount a renewed struggle against the Government, it is our sense that their followers in general do not exhibit the type of loyalty and military discipline necessary for such an outcome, but are rather interested in simply securing a decent life for themselves and their family. Most important, because the targets of investigation will be limited to those in leadership positions from 1975 to 1979 who were responsible for atrocities, and not Khmer Rouge officials who became leaders of the guerrilla army after 1979 and who did not commit atrocities during the period from 1975 to 1979, the risk of troop redefection becomes smaller.

Although both the Co-Investigating Judges and the ECCC Pre-Trial Chamber have raised public order concerns in determining that continued detention of the charged individuals is necessary, they have not put forth any concrete evidence demonstrating that public order would in fact be put at risk by the suspects' release. Notably, a recent survey by the Documentation Center of Cambodia indicates that of the over 1000 Cambodians surveyed on their views regarding the Co-Prosecutorial dispute, over half did not believe that the investigation of additional suspects would result in public disorder or violence. Furthermore, there is every indication that the Cambodian Government has both the authority and the means to quell any disturbances that could arise.

The second concern raised by the National Co-Prosecutor, the "spirit of the agreement," relates to the ECCC's mandate to try only a limited number of persons: senior leaders and those most responsible for serious crimes. The practice of international/ized courts suggests that the level of defendant responsibility and the gravity of the crimes are not fully distinguishable categories, but instead must be

considered holistically. In addition, these categories have not been narrowly circumscribed, but instead have been broadly applied down the chain of command; ICTY/R Prosecutor Carla del Ponte, for instance, has commented that "some individuals who have no particularly important functional role may have distinguished themselves in committing numerous crimes in the most overt, systematic or widespread manner ... [s]uch individuals often play a great role in setting the example and encourage ... the commission of other gruesome crimes."

The expectation that more than five persons would be charged is supported by the Court's travaux preparatoires; the UN Group of Experts explicitly rejected the idea that there should be strict limitations on which or how many individuals are prosecuted by the future ECCC, commenting, "[S]uch a limitation is arbitrary ... it ignores the principle that criminal culpability should be linked with the degree of personal responsibility of an individual and not partisan political factors - that justice is blind." Furthermore, they state in their Report, "We do not wish to offer a numerical limit on the number of ... persons who could be targets of investigation. It is ... the sense of the Group ... that the number of persons to be tried might well be in the range of some 20 to 30 the Group opposes the creation of a tribunal that would explicitly be limited in advance to the

prosecution of named individuals."

While the ECCC's ability to bring justice to Cambodians cannot be evaluated solely by the number of prosecutions, many of the subjective factors considered by international courts, including national reconciliation, imply that a greater number of prosecutions would be more supportive of the "spirit" of the Framework Agreement by providing victims with a broader understanding of the workings of Democratic Kampuchea.

Finally, finite time and financial resources do not appear to have played a significant role in the prosecutorial decisions of international/ized courts, although all have been confronted with one or both of these considerations. For example, in the Celebici case, the ICTY Trial Chamber noted that the Prosecutor has "finite financial and human resources and cannot realistically be expected to prosecute every offender which may fall within the strict terms of its jurisdiction." At the same time, there is no indication that resource constraints have ever led to a prosecutor not moving forward with an investigation and/or prosecution.

Thus, although international precedent does suggest that the ECCC Co-Prosecutors may take into account subjective factors in deciding whether there should be a judicial investigation, further analysis suggests that none of the objections raised



Robert Petit



Chea Leang



by the National Co-Prosecutor clearly weigh against the commencement of new judicial investigations.

Burden of Proof

The fact that the prosecutorial dispute is limited to considerations raised by the National Co-Prosecutor which go beyond the statutory threshold for investigations, together with the Co-Prosecutorial statutory duty to investigate and prosecute, strongly suggest that she should bear the burden of proving that her concerns should be considered and that they militate against additional investigations. As mentioned previously, no other international/ized court has two prosecutors and hence a dispute mechanism to resolve disputes between the prosecutors. Nevertheless, the presumptions employed by international tribunals in reviewing discretionary prosecutorial decisions also suggest that the burden should be placed on the National Co-Prosecutor.

The ICC is the only international criminal tribunal with a pre-trial chamber somewhat similar to the ECCC's. The ICC Pre-Trial Chamber has the authority to review a decision to investigate in one circumstance: when the ICC Prosecutor initiates an investigation of a situation not referred by a State Party or the Security Council. In this situation, the ICC Pre-Trial Chamber, upon finding a "reasonable basis" to proceed and jurisdictional competency, must then authorize the commencement of a full

investigation.

Only if the ICC Prosecutor decides not to proceed with prosecution after completing an investigation may the Pre-Trial Chamber review his decision and then, only at the request of the referring State or the Security Council, or on its own authority if the Prosecutor's decision was based solely on a subjective "interests of justice" analysis. Thus, the ICC Pre-Trial Chamber has its broadest statutory authority to review prosecutorial discretion when a decision is based entirely on subjective factors: a finding that a prosecution would not be in the "interests of justice." If analogized to the dispute between the ECCC Co-Prosecutors, this practice suggests that if there is no dispute regarding the reasonable basis to proceed, the International Co-Prosecutor's decision to do so should be subject to a high level of discretion. Rather, it is the National Co-Prosecutor's decision not to proceed on the basis of "interest of justice" factors that should be subjected to heightened scrutiny.

How much evidence the National Co-Prosecutor must show may again be analogized to ICC practice. As mentioned above, at the ICC, as at the ECCC, the prosecutor must initiate an investigation if there is a reasonable basis to proceed. At the ICC, however, the prosecutor may choose not to proceed if there are substantial reasons to believe that an investigation would not be in the interests of justice. A similar "substantial reasons" burden would also appear appropriate in the disagreement before the ECCC Pre-Trial Chamber. Following this standard, a judicial investigation should not be opened only if the National Co-Prosecutor can offer substantial reasons why the factors she raises mandate against additional prosecutions. If she fails to carry this burden, which appears likely to happen in light of the previous analysis, the Pre-Trial Chamber should permit the additional investigations and even future prosecutions.

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Harvard Law School 2009



Villagers queuing in front of the Court Room

CHAM MUSLIM COMMUNITY: INEVITABLE TRENDS OF CHANGE

Farina So

The Cham Imam Sann community, the smaller Cham Muslim community in Cambodia, practices the religious cult of Champa in a more traditional and conservative fashion. The cult was influenced by Sufism, which is similarly practiced in various countries in Africa and Asia. Sufism, defined as the mystical dimension of Islam, could be seen taking deep root among Northern African Muslims who practice Sunnis Islam, and among some Indonesians, but fades away among most Muslims in the Middle East and in other parts of the world. The main characteristics of Sufism include zakat (almsgivings), tariga (way of reaching God), al-insan al-Kamil (following God, achieving perfection), sheikhs (elder), and charisma (leader). Sufism is not practiced by the larger part of Cambodia's Cham Muslim communities because these communities have adopted several versions of Islam from Arab and Southeast countries in the past decades. Both larger and smaller Cham Muslim communities are said to have been affected by globalization and transnationalism, the scale of impact however is not equal. This impact is shaped by two main factors: religious practices and dominance of outsider's perspectives.

The arrival of the Khmer Rouge regime in 1975 eradicated all religions in Cambodia including Islam. Most Cham intellectuals and ulamas (traditional religious scholars) who pursued Islamic studies in the Middle East during the Sangkum Reastr Niyum era prior to 1975, lost their lives under the Khmer Rouge regime. Between 1979 and 1992, many Cham Muslims reconstructed their cultural, religious and social identity and advocated the revival of Islam. Although this was seen as a period of local reconstruction of religious beliefs and community, actual change among Cham Muslims was minimal; at most some young Cham Muslims received scholarships to study in the Middle East or in other Muslim countries in Southeast Asia.

After 1992 however, UNTAC (the United Nation's Transitional Authority in Cambodia) and free market economic policies brought globalization and transnationalism to Cambodia. UNTAC introduced Muslim peacekeepers and officials to Cambodia while the liberalization of the Cambodian economy fostered greater ties between Muslims at home and those abroad. This consequently brought changes to the religious beliefs of the larger Cham Muslim community. After 1992, many forms of Islamic sects and cults were introduced thereby influencing the reconstruction process of Islam among Cham Muslims. Specific changes include the wearing of the hijab (including the manner which covers everything except the eyes, which rarely practiced by Cham Muslim women prior to this contemporary period), the creation of the Dakwah groups, and small division in communities (Wahabism, Tablighi Jemaat, and Salafism). Evidence suggests that money in the form of aid and scholarships from the Middle East and Southeast Asia, Saudi Arabia, Kuwait, Indonesia, and Malaysia... produced changes in the religious beliefs of Cham Muslim communities. Most mosque reconstruction projects are said to have been funded by various Islamic countries and organization which practice different forms of Islam such as Salafism, Wahhabism, and Tablighi Jemaat. In order to strengthen Islam, Middle East countries and Malaysia offer religious teaching in the Cham Muslim community and provide scholarships to Cham Muslim youth to study in their countries. Most Cham Muslim youth who pursue their studies in the Middle East major in Islamic studies, those in Malaysia major in Islamic studies or secular subjects. Cham Muslims who accept such scholarships and funding view this as not just an opportunity of reviving and modernizing Islam, but also the chance they would expect to receive reward from God thereafter.

The similar form of religious change has also been seen in many other post conflict countries of Asia and Africa in the past decades. In Indonesia, Saudi Arabia began funding Islamic study after the Iranian revolution of 1979. Professor Collins of the Classics and World Religions department at Ohio University, argues in "Islam is the Solution: Dakwah and Democracy in Indonesia," that the funding of Neo-Salafism in Indonesia was the result of Saudi Arabia's concern that Shiite Islam by Iran would spread in Southeast Asia.

The impact of Islamic transnationalism upon the Cham Imam Sann community (the smaller Cham Muslim community in Cambodia) is not as great in comparison to the larger Cham Muslim community largely due to three reasons. First, beliefs in traditional Islamic culture (Sufism) have been rooted and well preserved in this smaller community. Second, there is psychological isolation from the larger Cham Muslim community (by custom, the leader of Imam Sann community is appointed by Cambodian King while the leader of larger community known as Mufti is appointed by Cambodian Prime Minister). Furthermore, the smaller Cham Muslim community is supported and preserved not by Muslim countries, but by non-Muslim foreigners in academia such as researchers and scholars and those working in NGOs. Very few Cham Muslims from this smaller community have received scholarships to study in the Middle East. Nonetheless, the conversion of some members of this community from traditional Islam to modern Islam has occurred recently, as evidenced by the research of some foreign scholars.

Another area of investigation of the Islamic transnational trend in Cambodia concerns the researchers and scholars themselves, who are labeled by some as "parachute researchers" because of their disregard for local practices and understandings. These parachute researchers, who are predominantly Western, frame the Cham Muslim community in largely unfavorable light based upon ethnocentric

perspectives. Their work has even created tensions among Cham Muslims. The dominance of such perspectives leads to an imbalanced representation of local perspectives. For example, in the past three decades the construction of new mosques totaled less than 200, which is less than the number of Christian churches in Cambodia. Research into the rise of Islam however fails to mention the spread of Christianity, let alone the underlying need of identity reconstruction of local people in post conflict countries. Researchers also pay little attention to how Cham Muslim women and women in general in Cambodia struggle to balance their culture and tradition with the consequences of globalization.

The influence of outsiders (the Arab world, Asia and the West) has changed way of life for Cham Muslims through the process of transnational interaction. The analysis of this translational trend however is unfortunately shaped by predominantly Western views which do not take into consideration the process of identity reconstruction and religious revival and that challenge Cambodia's Cham Muslims as they are dealing with a horrific past while coping with modern socioeconomic hardships. Such processes have occurred in many parts of the world in countries devastated by war and conflict, as in Indonesia after Suharto's regime. Islamic transnationalism in Cambodia can be transformed into a useful tool for development. For this to occur however, the community, and in particular the younger generations, must seriously evaluate the suitability and appropriateness of adopting certain Islamic practices and beliefs into their own culture and way of life. It is highly recommended that the Cham Muslim community must reunite and concentrate on secular education in order to foster development in the community and prevail over any unfavorable portrayals of the community.

Farina So is a graduate student at the International Affairs/Southeast Asian Studies, Ohio University, USA.

BREAKING THE SILENCE: HOPE REGAINED

Sayana Ser

Will you forgive me, please? Maybe I said this a bit too late.

Tomorrow I will try again. I'm sorry, please forgive me...

Transform the Blood River into a River of Reconciliation. A river of responsibility.

Speak, speak, speak.

Breaking the Silence is a play specially created for Cambodian villagers who survived the turmoil of the Khmer Rouge regime. The play hopes to foster dialogue between survivors about ways of reconciling one's past with the present.

With beautiful narrations, the performances in the play depict daily life under the Khmer Rouge regime and the present day emotional and psychological struggles of both victims and perpetrators.

The play is about regaining hope. It also seeks to give courage to audience members to speak out

about what they experienced and in the process give some the courage to confess, apologize, and seek forgiveness.

Written and directed by Mrs. Annemarie Prins with research assistance from the Documentation Center of Cambodia (DC-Cam), each of the seven stories in the play is based mostly on interviews conducted with survivors in the provinces. The play is approximately one hour and fifteen minutes long.

The Characters

The characters are represented by four female teachers from the Royal University of Fine Arts who play both male and female roles. One character is a woman who suffers from guilt because she stole rice that was for emergencies when she was a little girl. Another character no longer speaks to her son because she suspects that he carried out atrocities as a Khmer Rouge cadre. The other characters are



A part of a modern play ent

young Khmer Rouge soldiers who had a comparatively good life serving Angkar (the Party regime). All seven stories involve similar conflicting emotions and words which the four individuals are scared to express.

A Successful Mix of Music and Dance.

The usage of Cambodian music and dance throughout the play increases its accessibility to village audiences in addition to providing a calming atmosphere. Some audience members were brought to tears. The play is not entirely sorrowful however, as some scenes included traditional upbeat dances such as the monkey dance.

Opening in Phnom Penh

A preliminary performance was given at the Ministry of Culture and Fine Arts for ministers and officials for prior approval. On 21 and 22 of February, the play opened at the Exhibition Hall located across from the House of Parliament. Based on initial responses after its premiere in Phnom Penh, *Breaking the Silence* had a major impact on its audience. A number of people said that the play should be seen by as many people as possible. DC-Cam Director Youk Chhang remarked, "Cambodians have lost their souls for 30 years and I found my soul in this

play." He believes that art such as Mrs. Prins' play can help Cambodians treasure the beauty in the darkness of traumatic experiences.

Prins' *Breaking the Silence* has plans for a nationwide tour with support from the Royal Embassy of the Netherlands and several organizations, including the Documentation Center of Cambodia (DC-Cam), which provided research and will bring the production to various provinces as part of its outreach activities. A mobile theatre was constructed to transport the play outside the capital to the countryside.

First Touring in Kampong Cham Province

On 25 and 26 of February, the play was performed in Rorkarpo Pram sub-district, Thbong Khmum district in Kampong Cham province. The stage was setup in the courtyard of the sub-district office compound. As this was the first tour, it took two days to prepare the necessary logistics including stage design and setup and enlisting the collaboration of local authorities.

The performance began at 7pm on the first night. There were well over 500 people in the audience on the first night with about 100 children seated on



titled "*Breaking the Silence*"

woven mats, 250 adults seated in chairs, and another 200 adults standing to watch the play. DC-Cam also invited a group of 35 students from Norway to learn more about the Khmer Rouge period and its aftermath. Subtitles were shown for them.

The audience applauded vigorously at the end of the play. An old man stood up and talked about the cruelty of Khmer Rouge cadres towards him when he was imprisoned in Kampong Cham. He said that he loved the play but that the cruel acts performed in the play do not come close to his real life experiences during the genocide. During the 45 minute Q&A, many of younger audience members asked questions such as, "Why did Khmers killed Khmers?" and other related question about the Khmer Rouge regime. Mr. Youk Chhang was there to help answer some of the questions on the first night.

On the second day, the show started at 7.30 p.m. There was a smaller crowd, approximately 400 people. The show was also well received. A group of 20 students from Thbong Khmum High School attended the show. This group was organized by Peace

Corps volunteers in Thbong Khmum and DC-Cam's Student Outreach team leader, who helped answer questions at the end. The night concluded with tributes paid to audience members, everyone involved in the production, and local authorities. The second and the third tour destinations were in Kandal and Takeo provinces. The play was schedule for two dates (February 28 and March 1) in Kandal province. However, the first date was cancelled due to rain and strong winds. The play was performed the next night successfully, albeit with some intrusion from numerous insects that flew around the lights creating difficulties for the actors. In all, approximately 500 children and adults saw the play in Kandal province. In Takeo province the play was performed on the weekend of March 7 and 8. The stage was set up in the soccer field in Wat Rumlorck (Rumlorck Pagoda) in Basré sub-district, Angkor Borei district. This fourth tour location likewise drew a large audience, despite light rain in the evening.

Sanaya Ser is the Team Leader of Student Outreach Project.



A part of a modern play entitled "Breaking the Silence"

FORGIVENESS: IS IT POSSIBLE TO FORGIVE AND CAN FORGIVENESS BE TAUGHT?

Kok-thay Eng

I. Introduction

My interest in forgiveness does not stem from having an experience which appeals to my capability to forgive, but from where I came from, Cambodia. My country went through decades of war and suffered from the most horrible crime in human history, the crime of genocide, from 1975 to 1979. With so many people as victims and a large portion of the population as perpetrators, forgiveness is clearly a major concern of Cambodian society if Cambodia is to move on.

Forgiveness is an elusive topic. People usually talk about it with ambiguity. In one occasion forgiveness seems a straight forward process, easy to understand and predictable. Then people begin talking about forgiving monsters, such as the SS men of the Nazis, as highlighted by Simon Wiesenthal's *The Sunflower*, members of the Argentinean dictatorship, Khmer Rouge cadres, South African Apartheid officers, people taking part in the Rwandan genocide, murderers and offenders who were alleged or known to have committed crimes with clear intention and in a systematic manner. Some of the most prominent heroes of forgiveness include Archbishop Desmond Tutu who believes forgiveness is the basis of South African reconstruction, Pope John Paul II who forgave Mehmet Ali Agca, the man who tried to kill him, Jesus who preaches forgiveness in all situations, and many others. It is in this regard that forgiveness becomes difficult to understand and confusing.

In this paper, I place a great emphasis on answering the question "can forgiveness be taught?" If it is always possible to forgive, then forgiveness can be taught. First I consider the possibility of forgiveness through an observation of cases in which people are able to forgive and look into religious forgiveness.

Second, I explore scientific perspectives on whether forgiveness can be taught. Finally, I examine how forgiveness has been taught and look at the potential and limitations of forgiveness education and counseling.

II. Can Forgiveness Be Taught?

Forgiveness in general is seen as tremendously beneficial to one's health, life and social interaction, even to the offenders. Forgiving people talk of being free, happy and whole again. Despite this, forgiveness is a newly emerging field in psychology starting from as early as the 1980s. From the early fifth century to 1970, Enright has found only about 110 writings on interpersonal forgiveness. He calculated that at most there was one writing on forgiveness every ten to fifteen years.

1. Definition of Forgiveness

As forgiveness is a new field in academia, there has been no consensus on a formal definition of forgiveness. Definition is vital because it provides a framework which allows researchers to study further and examine the specifics of the topic.

The Oxford Encyclopedic Dictionary defines forgiveness as "the act of ceasing to feel angry or resentful towards [someone]." The Longman Dictionary of English Language similarly describes forgiveness as "the act of giving up feeling resentment over or the desire to avenge oneself for insults."

Michael Henderson defines forgiveness as "abandoning the right to get equal." Archbishop Desmond Tutu, most famous for his forgiveness conviction, defines it as "taking seriously the awfulness of what has happened when you are treated unfairly ...opening the door for the other person to have a chance to begin again." McCullough and his colleagues propose that "forgiveness is intraindividual, prosocial change toward a perceived transgressor

that is situated within a specific interpersonal context."

The definitions in the dictionaries seem to focus on abandoning resentment and desire for revenge, while Henderson gives similar explanation by putting it in terms of rightful retaliation. Bishop Tutu focuses on accepting the hurt and offering compassion for the offender.

Enright and his colleagues describe forgiveness as "a willingness to abandon one's right to resentment, negative judgment, and indifferent behavior toward one who unjustly hurt us, while fostering the undeserved qualities of compassion, generosity, and even love toward him or her." This definition seems to cover all of the elements of forgiveness given by others. I uphold this definition in the subsequent discussion of forgiveness.

2. Is It Always Possible to Forgive?

The possibility of forgiveness relates to the question if a person can be taught to forgive in a positive manner. The wider the possibility the more likely that a person can forgive, and if it is always possible to forgive, it follows that everyone can be taught to forgive, disregarding the nature and level of offense and the degree of hurt.

It is important to clarify the claim that "only victim can forgive" before proceeding to the case studies.

2.1. Only Victim Can Forgive?

Many contributors to *The Sunflower*, which sets a platform for a discussion on forgiving the Nazis, believe that only Karl's victims can forgive him, not even Wiesenthal. In other words, only the victim who physically and mentally suffers from the hurt, can forgive the offender, meaning that forgiveness cannot be done by proxy. In the case of murder, according to this claim, one can assert that, there is no forgiveness.

However, it is important to note that a murder not only kills the victim, but it also affects the happiness of the victim's loved ones. Close relatives of the victim can talk about forgiveness on their behalf, with the perpetrator. As a victim is an individual, a member of his/her family, and a member of a

community, there should be three levels of forgiveness - forgiveness done by the victim, the victim's loved ones and the victim's community. This also applies to the cases when the victim is not dead. Yet, there is no assurance that the victim who is dead would not forgive. In the case of a victim who is too young, such as a baby or a child, or insane, the whole burden of forgiveness falls on the survivors. After all, forgiveness is for the living.

2.2. Stories of Forgiveness

Forgiving the Oppressor

Nelson Mandela, the first black president of South Africa, was incarcerated for twenty-seven years. In 1962 he was sentenced to life imprisonment in maximum security prison on Robben Island for attempting to overthrow the oppressive white-minority government. His family was harassed. When he was released he invited his jailers to participate in his inauguration as president of South Africa.

The Dalai Lama, the religious and political leader of Tibet, collectively and personally forgives the Chinese for invading his country and bringing death to one-fifth of his country's population. He believes "people should forgive the person or persons who have committed atrocities against oneself and mankind." When oppressed, what he fears most is the loss of compassion.

Forgiving the Kidnapper and Murderer

Marietta Jaeger forgave the man who kidnapped and killed her seven-year-old daughter Susie, although initially had the desire to kill the man with her bare hands and bore hatred toward him. She believed that God is God of mercy and Susie's kidnapper is the son of God who has dignity and worth. She was convinced that the best option for her to be happy, whole and healthy again is to learn to forgive and that retaining a vindictive attitude would make her become another victim of the kidnapper. She talked to the kidnapper by asking him what she could do to help him get through.

Marian Partington's younger sister, Lucy, was abducted, raped, tortured and murdered, then dismembered. Marian struggled hard on her road

to forgiveness. Conducting a project on restorative justice in a Bristol prison, she found that most perpetrators have been victims of abuse in their childhood. She forgave the murderer. For her, forgiveness was not an act of betrayal toward Lucy, but of honoring her.

Forgiving Attempted Murder

Billy Burns, a policeman, was shot in the face by a bank robber. Billy survived the life-threatening injury, but never fully recovered from it. The robber, Stephen Korsac-Acquah, was later arrested and sentenced to life imprisonment. Seven years later, Stephen sent a letter to Billy describing the crime and finally said he was sorry. Billy fully forgave Stephen emphasizing the sincerity of Stephen's remorse and they are now friends.

Forgiving the Bomber

Joe Berry's father Anthony Berry was killed in the IRA Brighton Bombing in 1984. Wanting to know why, she went to Ireland and listened to stories of people who had been caught up in the violence. She came to believe that "no matter which side of the conflict you are on, had we all lived each others' lives, we could all have done what the other did." She met Pat Magee, the man who planned the bomb, when they shared each other side of the story. Over the next few years they got to know each other. She partly forgives Pat and Pat then started to forgive himself.

In 1990, Father Michael Lapsley's hands were blown off, eardrums shattered and one eye become blind by a letter bomb sent to him by members of the South African Government. He bore no hatred or a desire for revenge. He said he has made the journey from victim to survivor and to victor. Although he mentioned that all people could be perpetrators or victims or both, he believes in restorative justice and reparation. He forgives the perpetrators but ask them to look after those they crippled, not as a condition of forgiveness, but a part of reparation and restitution.

In the case studies above, different victims forgave different perpetrators for offenses ranging

from political oppression, execution, kidnapping, rape and murder. I draw two conclusions. First, the fact that there are people who can forgive for almost any offenses explains that forgiveness is always possible. Although only the slain victim of a murder can forgive for himself, we do not know whether the victim would or wouldn't forgive if the he/she were alive.

Second, it is individual aspects, religion and culture that play important roles in the forgiveness capability of a person. What one person may consider a seemingly small transgression could be a cause of deep resentment for another, and be hard to forgive. Temoshok and Chandra claim that "the interpersonal and the intrapsychic dynamics of forgiveness vary according to one's culture as well as one's life situation such as age, gender, socioeconomic status, health status, marital and family status, etc."

Furthermore, some victims like Marietta Jaeger, Father Michael Lapsley, Marian Partington and Joe Berry stress the contributory causes leading the offenders to commit their crimes. In other words they agree that the wrongdoer is subject to outside forces beyond his control, but he makes the final decision whether to commit or not to commit the crime. Harry Wu, a victim of the infamous cultural revolution of China who was imprisoned for 19 years for political disobedience, drawing from his own experience in China, wrote that Karl, in *The Sunflower*, was a part of a horrible and vicious society but he was responsible for his own actions. The Khmer Rouge employed children of about 12 to under 20 as soldiers, executioners and prison guards to serve their regime. The youngsters, poor, uneducated, brought up in a culture of violence and afraid of severe punishment, even execution, did their best to serve the communist revolution. It was unfortunate for them to be in those positions, but still it was also their decisions. In this regard, for Father Michael Lapsley, the wrongdoer should look after him for crippling him as a form of restoration and reparation to the victim. As we blame the social structure for causing misery to many people, we should also blame

it for making a person become vicious through propaganda and political indoctrination, like what happened in Germany during the Nazi rule, China during the cultural revolution and Cambodia during the Khmer Rouge regime.

2.3. Forgiveness in Religions

There is little doubt that in Christianity forgiveness is always possible. The most important phrase is Jesus's words from the cross, "Father, forgive them, for they know not what they do." This phrase signifies the limitless capability of God to forgive. As a serviceman to the Church under four popes and a board member of US Institute for Peace, Theodore Hesburgh mentioned:

"...the sin [Nazi's atrocity]...is monumental. It is still finite and God's mercy is infinite. If asked to forgive for anything, I would forgive because God would forgive. If I had suffered as so many had,...I would still be forgiving... as a surrogate for our almighty and all-forgiving God."

Cardinal Konig, former archbishop of Vienna, warmly explains, "The question of whether there is a limit to forgiveness has been emphatically answered by Christ in the negative."

In Judaism, Elliot Dorff, a Judaic expert, similarly mentions, "...God Himself is forgiving, and so we, in imitation of God, must be so as well," and quotes the Rabbi's words to the Torah that "...just as God is merciful, you too must be merciful; ...just as God is compassionate, you too must be compassionate."

In religions with similar origin such as the Abrahamic religions, which include Judaism, Christianity and Islam, followers are expected to imitate God who is all-forgiving. In many of the case studies, those who can forgive the offenders are devoted religious people.

In Buddhism, there is no direct instruction by the holy book, the tripitakak, for people to forgive. In this religion, rather than imitate God, people are advised to be compassionate and to do good deeds toward others, including not holding grudge. A well-known Buddhist advice is "vindictiveness is ended

by not being vindictive." The law of Karma, which is believed in both Buddhism and Hinduism, is the one which judges if a person should receive bad results of his sin in this or next life. Karma is considered as having the eyes of God which see everything. It takes into consideration all factors which involve in a particular offense. Therefore, there is no need for people to ruin their lives with hatred, bitterness, resentment and all other feelings of injustice; they place all the matters on Karma. Matthieu Richard, a monk and an interpreter for the Dalai Lama, concluded, "For a Buddhist, forgiveness is always possible and one should always forgive."

In conclusion, forgiveness is always possible (although there are situations in which forgiveness is not desirable, it is not impossible) because there are people who achieved forgiveness in a complete range of offenses; and is consistent with the words of God, "they know not what they do." Outside forces are a hidden factor leading the offender to commit an offense, although he makes the "final decision." These outside forces, although they can't justify an offense, make it difficult to hold a grudge. For the sake of justice, the offender has to be accountable for this decision. As it is always possible to forgive, forgiveness can be taught.

3. Psychological and Other Perspectives

Teaching to forgive or learning to forgive associates with individual endeavors to forgive, therapists' assistance to help one forgive or one being taught through religion or formal/informal education to forgive.

The definition given by Enright and his colleagues stresses on "the right to resentment, negative judgment, and indifferent behavior" of the victims. Marietta Jaeger mentioned about the "initial right to normal, valid, human response of rage." The rights to negative feelings imply that those feelings are inherent but controllable. This means the victim needs to make a conscious effort to overcome the short-term anger and to forgive in the long term, that is to learn to forgive.

This interpretation is supported by Enright's

observation that "...many people do not consciously consider forgiving when deeply hurt by another person." Joanna North, a philosopher, mentions that forgiveness is a "willed change of heart, the successful result of an active endeavor to replace bad thought with good, bitterness and anger with compassion and affection." Therefore it is logical to assert that learning to forgive happened to everyone who forgave. Paul Coleman, a family psychotherapist, claims that "forgiveness is making a decision to offer love to someone who has betrayed that love" and "Forgiveness is a must in any family problem where there has been deep hurt, betrayal, or disloyalty. If there can be no reconciliation, forgiveness is the process that enables the forgiver to get on with his or her life unencumbered with the pain of betrayal."

III. How Forgiveness Has Been Taught?

It seems that one of the most effective ways to help people forgive is bringing victims and wrongdoers together. This method is being utilized by the Truth and Reconciliation Commission in South Africa, the Gacaca Court in Rwanda and the Institute for Healing of Memories. It also has been used in the victim and offender mediation work of Barbara Tudor, who says most of her cases ended up in forgiveness. Ms. Tudor has been working in the field for many years. She allows the victim to play a more active role in restorative justice such as giving information and expressing personal pains and needs. Both victim and offender are assisted in face-to-face discussions and other guided processes over an extended period of time, in which they get to know each other's life situations. According to Ms. Tudor, interaction enables them to deal with the aftermath of the offence, put the past behind and begin talking about forgiveness and a better future.

Religion has played an important role in forgiveness. Almost all people who mentioned they could forgive the Nazis in *The Sunflower* are religious people, either Buddhist, Christian or Judaist. They do that by strictly believing and following God's advice that forgiveness is the only best thing to do and also taking pride in the process, raising their

self-esteem.

On the other hand, science develops forgiveness models. Different researchers have different models based on their own findings. A perfect model, which should be effective in helping people to forgive in all cases, is yet to be developed and it is closely intertwined with the definition and understanding of forgiveness; if the definition is flawed, the model will be flawed. The more accurate knowledge researchers have on forgiveness, the better model they can create. For example, Michelle Nelson proposed three types of forgiveness detached, limited and full forgiveness. If forgiveness has types according to degrees as she suggested, it means that the therapist who wants his or her clients to achieve full forgiveness sets a very high goal for them, while ignoring the progress they make.

Enright and his colleagues from the University of Wisconsin designed a four-phase model of forgiveness uncovering, decision, work and outcome. In the uncovering phase, the victim recognizes his pain and goes through a series of psychological response to pain. In the second phase, he makes the decision to start the challenge of forgiveness after realizing that it is a healthy way. After making a commitment to forgive the victim starts working on reframing which results in better understanding toward the offender, but not condoning. In the final phase, the victim notices the benefits of forgiveness, thus gaining self-esteem, which gives him the boost to achieve full forgiveness. In short, in this model, the victim goes through a sequence of natural response, making decision and self-discovery. After using the model with a group of incest survivors over a one-year period, in which forgiveness education was first provided and an instructor was assigned to assist them, the team found the victims made "greater gain in forgiveness, self-esteem, and hope, and greater decreases in anxiety and depression," demonstrating the success of forgiveness education.

IV. Potential and Limitations of Forgiveness Education and Counseling

1. Potential

As agreed by researchers, successful forgiveness education will enable a victim to forgive and forgiveness in turn offers positive health outcomes to the victim (in some cases to both victim and offender). Forgiveness could be "as important to the treatment of emotional and mental disorders as the discovery of sulfa drugs and penicillin have been to the treatment of infectious diseases." Forgiveness education in the educational system for the young could help them to cope with negative feelings resulting from crisis, to be prepared for peaceful resolution of conflict and to promote understanding and respect. Older people can also benefit from forgiveness education in the last years of their lives in terms of eliminating unsolved problems.

The Campaign for Forgiveness Research, a research organization supported by former president Jimmy Carter and co-chaired by Desmond Tutu, claims that forgiveness education has the benefits of reducing heart diseases, preventing crime at the source as vengeful responses are reduced, and healing troubled marriages. Moreover, forgiveness counseling has the potential to help adolescents who have experienced both physical or emotional abuse, Vietnam veterans to cope with disorders resulting from traumatic events in the war, patients of chronic diseases, victims of domestic violence, HIV/AIDS victims, suicide victims and disabled persons.

Forgiveness education has great potential not just for individuals, but for the whole society. In South Africa, forgiveness is not just a method for personal healing, it is "practical politics," upon which the country rebuilds itself from the devastation of the apartheid government. In Cambodia and other countries which suffered from genocide and protracted conflicts where retributive justice could be a compromise for peace, forgiveness offers a win-win solution for personal well-being, national reconciliation, peace and development. The Campaign for Forgiveness Research plans to conduct researches on the role of the social group in influencing behavior, particularly interpersonal forgiveness, in Northern Ireland; to analyze the transcripts of recorded

testimonies in the Truth and Reconciliation Commission in South Africa to further utilize forgiveness's role in rebuilding the country; and to provide forgiveness counseling to families of Hutu and Tutsi groups in Rwanda involved in the 1994 genocide so that life will be much better for them.

Finally, forgiveness education has a world changing potential. It can break the chain of hatred between communities and countries and prevent conflicts. The world has always been at war, with the 20th century as the bloodiest, and this has happened without forgiveness ever been explored as a solution to stop war. There are several possibilities why forgiveness has been ignored by science such as: social sciences and the academic world tend to consider forgiveness as a religious matter; scientific psychology insists on analysis of observable behaviors, thus forgiveness, which is hardly observable, is ignored; forgiveness research has only gained momentum since the 1980s. As Everett Worthington puts it, "increased racial tensions in communities and violent conflicts within and between nations argue for increased knowledge about how to repair the damage." Forgiveness education can and will be used as a method to prevent conflict, promote mutual understanding and inhibit intolerance among rival groups.

2. Limitations

Drawing from twenty years of clinical experience as a psychiatrist, Richard Fitzgibbons has said that forgiveness has some limitations. One observation he made is that forgiveness does not resolve all emotional pain, excessive resentment, hostility and hatred. It helps to decrease the degree of sadness but does not seem to heal the hopelessness or despair resulting from deep hurt. Moreover, for persons whose anger is associated with weak character traits such as narcissism, grandiosity, impatience, and having low moral values, forgiveness seems to be helpless in addressing their problems. However, Fitzgibbons' pessimism cannot be judged as a limitation on forgiveness itself, because there has been no generally accepted definition of what

forgiveness really is and therefore it might be that he conceptualizes forgiveness too narrowly.

There are some difficulties in forgiveness education, though there is no limitations to forgiveness education as forgiveness is always possible. The complexity of the forgiveness process and the lack of scientific understanding of forgiveness are barriers to forgiveness education and utilization for practical purposes. Forgiveness education and counseling could lead to false forgiveness and despair when improperly provided to victims. I notice some of the problems with some written works designed to help people forgive.

Many people find very helpful Smedes' convincing and optimistic book, *Forgive and Forget*, which aims to guide those who are hurt by others and are locked by their own hatred to learn to forgive. It describes issues and myths surrounding forgiveness. Smedes warmly and reassuringly clarifies different aspects of forgiveness and leads the readers to adopt a liberating forgiveness attitude at the end of the book. He divides forgiveness into four stages hurt, hate, healing and coming together. He uses many case studies to show how people forgive, how to forgive people who are hard to forgive and why one should forgive. The book, however, lacks a scientific explanation on why forgiveness works in such a way. For some the book could be helpful, but others who can't forgive after consulting the book will not understand why they can't. It can also lead to "pseudo or false forgiveness" or "superficial forgiveness."

The popular book *"The Sunflower"* is helpful in provoking reflection on the issue of forgiveness. In the book, contributors discuss the confrontation between Wiesenthal and Karl from a many different angles. Some contributors' views are too extreme, others' are too complex, yet others offer premature forgiveness. Still these different views come from personal experiences rather generally accepted ones. The book is a good source of discussion but has no value in helping people to forgive. It is frustrating for those who expect to find some answers to their personal problems from it. The quick "yes" to

forgiveness by some people could cause anger to the victim and bring to them double burdens, that is being hurt and having to forgive like others. At the same time, the varying views are a source of confusion. If there is no forgiveness for murder, Wiesenthal's theme question, "what would you do?," is an invalid question and there should be no discussion, because Wiesenthal's encounter was not a dilemma.

IV. Conclusion

The goal of forgiveness studies is to help people learn how to forgive. In the Abrahamic religions and in Buddhism and Hinduism, forgiveness is always possible. The fact that there are people from different backgrounds and cultures who can forgive for seemingly every offense indicates that forgiveness is always possible. There are outside forces that cannot justify an offense, but make it hard for the victims to hold a grudge forever. If we blame violent social structure as a cause of war and poverty..., we should also blame it as a contributing cause of crimes in favor of the offenders.

From this limitless possibility, we can safely assume that forgiveness can be taught. This claim is also supported by psychological views that forgiveness is a result of learning through education and counseling. However, there are special aspects of society, culture and of the victim which speed up and slow down the forgiveness process of the victim. If people can't find suitable conditions for forgiveness, they are likely to be unable to forgive.

Forgiveness education and counseling has great potential. It can heal individuals, families and nations. Forgiveness education has the potential to change the world by breaking the chain of hatred. The complexity of the forgiveness process makes it difficult, but not impossible, to achieve full forgiveness. Until science has a greater understanding of forgiveness, only then can we say exactly how much forgiveness can and can't do for us.

Kok-Thay Eng is Researcher and Deputy Director of DC-Cam.

A LIFE WITH REMEMBRANCE

Sin Dolloh

My name is Sin Dolloh, 56, Islamist teacher, my hometown is Kampong Kandal village, Kbal Romeas sub-district, Kampot district, Kampot province.

On April 17, black uniform soldiers with shoes made of car tires and armed with all kind of weapons entered the city and forced people to depart from their houses. Those who refused to leave and were slow to leave were shot immediately and atrociously. Seeing this, the entire population was extremely shocked. Some of them left on foot with their children in the direction pointed to by black uniformed soldiers with little luggage, others left with no belongings. At that time, I and ten of thousands of residents walked along National Road N.4. Along the way, young black uniformed soldiers checked for valuables on the travelers, such as gold, watches and good clothes. I saw plenty of civil and military persons who died miserably, causing me felt I might be executed for being military or CIA. When I and my 6 cousins together with 2 friends reached Thnal Totoeng, black uniformed soldiers ordered us to walk on a trail to the South until we arrived at Tram Khnar. After staying a night there, we decided to go Kampot province, our hometown, to find our parents and relatives. I tried to look for my fraternal Islamists, but no one was found. Traveling for 10 days, we arrived at Chhnam village, western Chhouk Market, where two Islamic families told me that "Our Islamists were all evacuated to Kampong Trach." After hearing that, we separated to seek out our families, some went to Veal Rinh district, the rest to Kaun Sat district. In early morning, I walked along a trail toward the South with a bag of clothes and then relaxed in a pagoda in Krang Leav village. I met my mother's uncle in a school next to the pagoda. I asked him about where my family who had left Kampot province went to. After learning that my parents were sent by

black uniformed Angkar to Pean Mountain called Leav Mountain, northern Keb Mountain, next to the sea, I went there at 4 o'clock in the next morning. Before my departure, my mother's uncle cried and said, "I do not know when we can meet again, as you know, we do not have exact destinations, and The Khmer Rouge arrest people everyday." Hearing such a speech, I pitied him, then shook his hands and said good bye. The way I walked was quiet, I could see 4-5 travelers after very long time, and at 11am, I arrived Kampong Trach. Because I was exhausted and had nothing to eat, I asked for water to drink from base people. The host looked at me and asked "where do you come from?" After hearing my response "I come from Phnom Penh to look for my family in Leav Mountain," the host asked me in a serious tone, "Are you a soldier? Because you have a strong body, and you do not look like ordinary people." Hearing that, I said "Uncle! For fear that Lon Nol forces would draft me as soldier, I escaped from Kampot to raise fish at Chrang Chamreh. Because I miss my parents so much, I am looking for them following the advice of my relatives." Later, the host pointed out a trail to walk, and said it was about 10 more kilometers. I thought, "Not only militiamen and soldiers, but the inhabitants also search for Lon Nol forces. If the Khmer Rouge was that rancorous, those who were evacuated from Phnom Penh must be miserable." I walked and thought about that until I reached Khvar Mountain, not far from Leav Mountain, in the evening. Then I asked for directions from people living there. As soon as I arrived at a pagoda in Leav Mountain, I saw a man and boy leave the eating hall. Once I realized he was Ta Kaub, my mother's cousin, I jumped up to embrace him. He was surprised to see me because he had not heard about me for 5-6 years. Shortly after, he asked his son to call my parents; a

moment later, I heard a voice "Brother, brother". As soon as I recognized they were my two siblings, I went to embrace them. Next, I said good bye to Ta Kaub and went to Puon Mountain where my parents slept at night. Crossing a rice field where there were plenty of piles of the earth and a quiet forest where no body dared to walk, I saw my parents sit next to a bonfire. I went to hug them and my two siblings with pleasure and tears. My father then asked me about my journey from Phnom Penh to Puon Mountain. After describing my 31 days of traveling, he said "you are fortunate to be granted peace from Preah Aloah since then. I have never expected to see you again because countless people your age have been arrested and tied in lines, and have died all over the place." In the morning, a village chief came up to my house and asked "Did any stranger dwell in your house last night?" My father responded "he is my son, he just discover me here." I suddenly stood up and said "I come from Phnom Penh." With doubt, he continued asking "you came from Phnom Penh, are you a Lon Nol's soldier?" I fled from Kampot to Phnom Penh due to fear of being recruited as a soldier. The village chief did not trust me and added, "By your appearance, you must at least be a captain. Angkar will not hurt you, so do not tell lies, tell the truth." My mother tried to convince him by saying "My son is not a soldier, if you do not believe, you can ask those who traveled here with me, then please insert my son's name into my family." The village chief calmed down for a while and said "let me ask the higher-ranking cadres." He returned to my house again at 5 o'clock in the evening and informed us that "Higher rank officials have agreed to insert his name, but you two (my parents) must promise that if one day he is found to be a soldier, you must be subjected to Angkar. Tomorrow on, let him to work at Veal Suoy with male and female youths who have been digging up trees to create a new rice field." One day when I was working, an ethnic Chinese was brought to be re-educated for the mistake of breaking Angkar' hoe stick. Three days later,

a unit chief said that the comrade was sent by Angkar to work in new village. The one who worked with me did not understand what the new village was. Due to doubt and asking one another about this, a few days later, a man whose relatives were base people said quietly that the person was executed. After hearing that, our bodies were weak and could not even move. I worked every day with less rest, starting from 7 to 11am, and continuing from 1 to 5 pm, but the food granted to me was less and inadequate. As a result, from day to day, many new workers became sick and could not work, and some people decided to steal potatoes and other food without fear of Angkar. Because the diet was less and less from month to month, I had a hemorrhage and lost consciousness, and was sent to a hospital in Phnom Leab Pagoda, called Social Hospital for Treatment. Staying at the hospital for 8 days, my illness did not get better because I was provided only medicine that looked like rabbit excrement. One day, an old man told me to mix Ponley (a kind of plant used in medicine) with salt to cure my illness. After following his suggestion, I became better. Afterward, the hospital chief permitted me to go back home. After being home for few days, all Cham people were moved to settle in different village, while my family and another three were told to reside in Tuol Sranham village.

In early 1977, my 4 siblings were assigned to live with members of female and male mobile unit. We were prohibited from staying with our parents. I and a youth named Ting had to chop a cart of wood per day to supply the cooperative eating hall. We could provide enough wood for the eating hall, hence the base people felt jealous and told the unit chief to mistreat us. Consequently, the unit chief assigned us to cut down a jackfruit tree grown next to a pond and rice field dike. I knew that if the tree we cut fell into the pond we would be accused of being enemy, but we were not able to reject the order. Owing to asking for Dou from Preah Aloah to keep us secure in cutting the tree, it finally fell along the dike, neither into the water nor the rice field.

After the tree was chopped down, the unit chief came to check and asked where did you learn this skill? I replied, I used to do this work before; moreover, my father taught me once at my hometown. After the village chief left us, we kept going on to cut the tree into firewood. Next, the Khmer Rouge assigned me to mobile unit responsible for building a dam in Koh Sla, Kampong Trach district. After two days of traveling, I and members of Kampong Trach district mobile unit including 1,600 male and female youths arrived at Koh Sla. There, I saw a forest covered with tall trees and there were no houses around there. I always worried about my security once my friend who was a candidate told me that "countless people have been executed here, you have to be careful with your speech, and try to work hard although the diet is insufficient." During five months here, we all were provided less food with long working hours causing some of us to get malaria, and diarrhea, and be bitten by snakes, while some others disappeared for no reason, 20 members vanished among 40. Over 400 villagers from Kampot district died, while Tuok Meas district inhabitants also faced death, because both districts had the most insufficient diet. After we finished building the dam, we returned Kep and rested in a masonry house with no window and door. In the next day, we made a door gate and caught fish, and obtained at least 500 kilogram of fish per day.

In June 1978, when I visited my house, I asked to villagers whether they had been supplied with fish. At the time the villagers and my relatives said they had never received it, I doubted where the Khmer Rouge brought it to, and why they did not supply it to the residents, as I dragged the fishnet, and caught fish every day. Subsequently, situation in my district became chaotic because Angkar often lost its properties, and the condition along the border was not well. Two or three days later, a unit chief in the village came to investigate every house including my house to search for spoons and dishes Angkar had lost. Because nothing was found in my house, the unit chief thus went to sit at my sleeping

place. Unexpectedly, he found a bag of my Kitab books that I had hid for along time. Seeing this, my mother was shocked and begged the unit chief that "those are moral principle books." He responded, "Do you want to die, he is a hidden enemy." Not long after he arranged militiamen to replace those books to the eating hall. At night, Angkar approved sending me to Kep. In the morning, a man ran fast to meet me and said "brother, I love you that's why I talk to you. Your books were seized, and they approved sending you to Kep tomorrow, what do you think now?" Hearing this, my whole body was weak, could not move, and then I replied "brother, I do not know what to do." The man continued, "take the boat to Vietnam, if not, you will be killed." While we were talking, a group chief came; therefore, we had to part. I was so sad, and could not even sleep. At about 11pm, I walked forward to the seaside behind my sleeping place, and sat near the boat in which I usually dragged the fishnet. An hour later, I made up my mind to run away; I would not wait to be killed. Suddenly, shooting broke out along Kep Mountain. Soldiers ran from their accommodations and told their neighbors that Vietnamese enemies came by tanks through water way and took control of Khdat. To the East, artillery shells came from Kaun Trom Mountain, and dropped around my village. The fighting was more and more heavy, later some soldiers brought bombs and throw to P.E boat. I heard the commander shouted "we have to depart from Kep to find the fighting along National Road N.2, because our divisions are waiting for us there." At 3 or 4 o'clock in evening, the Khmer Rouge militaries ran in and out to collect their belonging such as rice, plats and pots to put in their vehicles. After hearing from the commander that Vietnamese enemies had already taken power in Rolok Market, we had to move to Kampong Trach. At about 1 o'clock in the afternoon, we all arrived at Trong Andaek Mountain, where thousands of people living there looked worried and scared. Not long after, the shooting sound began heavily in the East of Kampong Trach Market. Meanwhile, I

saw hundreds of black uniform soldiers run along the road and say, "Go back to National Road N.4 we can not fight with Vietnamese enemies anymore." After hearing that speech, ten of thousands of villagers along with black uniform soldiers headed to Voa Mountain. Nevertheless, I and some other people did not leave; we instead waited to see what happened. The shooting sound came nearer and nearer and some people got injured. I had hope in my mind because I thought I would be able to get out of the evil crew and meet my family and relatives in the near future. While I was thinking about that, 4 to 5 militiamen came up to me and shouted that I should run off quickly as the Vietnamese would arrive soon. Due to being frightened, I and my 2-3 friends followed the other travelers. Nonetheless, we escaped them by walking on the foot of the mountain to the West. Traveling for a whole night crossing small and big forests, at 4 o'clock in the morning we reached Nguon Sam Ath's coconut farm where I had cut firewood. After finding that people whom I met were coming from my village, I asked "where are my parents?" An aunt stated they were "over there". I glanced in the direction she was pointing, and eventually I saw my parents

and siblings sitting together. I ran to meet them with happy face.

Once the sky was lighter, I talked to all the people staying there. They said: "We have to go back to Vietnamese soldiers at National Road; we should not stay here. They did not attempt to fight for the land, or the people; stop believing the Khmer Rouge." As a result, I, my family and thousands of people headed to the National Road. Some people walked and carried their belonging on their shoulders, whereas some others rode their carts. Subsequently, I saw tanks, and loads of soldiers. A Khmer soldier holding a microphone shouted, "Go back to your hometown, there is no Khmer Rouge anymore." Hearing this, all of us shouted with enthusiasm "Long life! Long life! Peace light occurred." After three days of walking, on 9 January 1979, I and my family got to my village. I noticed there were no houses except the remaining half Mosque that the Khmer Rouge had not destroyed. We took that Mosque as our temporary accommodation. We have been able to live in peace since then.

Sin Dolloh is a survivor from the KR regime.

SEARCHING FOR MISSING FAMILY MEMBERS

Missing Son

I am Pich Yann, 66, of Trapaing Chouk village, Chralorng sub-district, Baray district, Kampong Thom province. I have four children; one died in 1975. I am searching for my son, Hor Ol, who disappeared before the liberation day (April 17, 1975). At that time Hor Ol was 16; he followed the Khmer Rouge soldiers with Lorn at Wat Kuk Khnong. I have not heard from him since. If anyone has heard about him, please inform me or contact the Documentation Center of Cambodia via phone: (855) 23 211 875. Thank you.

Missing Son

My name is Koh Chann, age 71, I am living in Trapeang Chhouk village, Chralorng sub-district, Baray district, Kampong Thom province. I would like to search for my son Sar Hai, who disappeared in 1978 because Angkar assigned him to the battlefield. At the time, he was 15 years old.

If anyone knows or has heard anything about him, please contact me through the Documentation Center of Cambodia via phone: 023 211 875 or P.O. Box 1110, Phnom Penh. Thanks.

A part of a Cambodian new play entitled "Breaking the Silence"

*...Transform the Blood
River into a River
of Reconciliation.
A River of Responsibility...*

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