

*Searching for*

# THE TRUTH



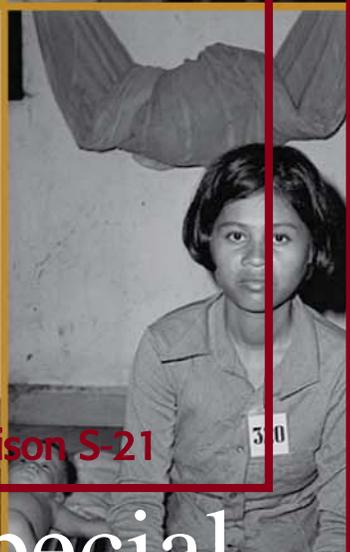
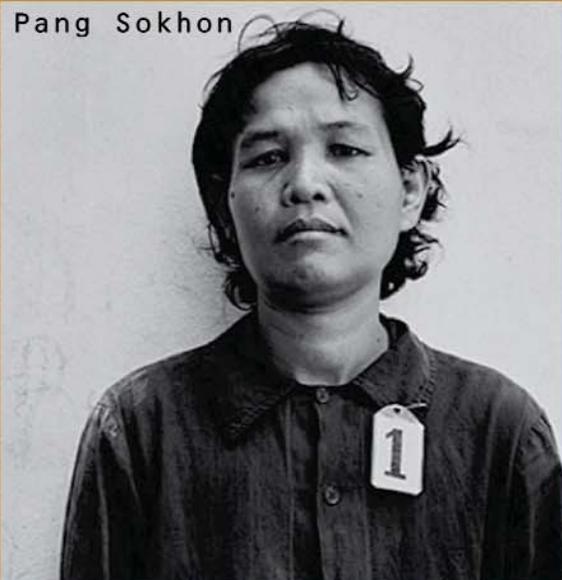
Chheouy Narang



Pang Sokhon



Chraeng Sam Ol



- ◆ Complementary Justice
- ◆ Fact Sheet: Pol Pot and his Prisoners at Secret Prison S-21

**Special**  
English Edition  
First Quarter 2011

*«As Duch confirmed or refuted the stories of each witness, it seemed that he was the one who would decide what the history of this period would say. If Duch confirmed testimony, then it was true.»*

*-- Judy Ledgerwood*

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Mawlid ceremony in Kampong Tralach district in February 2011

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LETTER FROM YOUK CHHANG:

# COMPLEMENTARY JUSTICE: DESIGNING A MECHANISM FOR MEMORY AND RECONCILIATION IN CAMBODIA

*Article by Laura Goodwin and Edited by Youk Chhang and Jaya Ramji*

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## Introduction

The Extraordinary Chambers in the Courts of Cambodia (ECCC) has achieved its ambitious goals of prosecuting "top leaders" of the Khmer Rouge. A transitional justice mechanism that focuses on Cambodian preferences, addresses their desires for justice, and provides the reparations that Cambodians see fit would be a natural complement to the tribunal. Truth commissions are often proposed because of their flexible nature and ability to provide culturally relevant accountability processes. A successful transitional justice system in Cambodia must be tailored to Cambodia preferences and the Cambodian cultural context.

A truth commission offers promise in addressing the needs of the Cambodian society; however, like any other form of transitional justice, it will pose challenges. To date, almost all truth commissions have been established in predominantly Christian nations. In order for a truth commission to enable reconciliation and justice in an overwhelmingly non-Christian nation, it will have to incorporate Buddhist and Muslim reconciliation processes. A culturally-sensitive truth telling commission in Cambodia should highlight Buddhist and Muslim values, placing these religious leaders at the center of the process; address the needs of Cambodians; and include both symbolic reparations and those that would develop social capital. In exploring the best designed model this memo draws upon needs of the Cambodian society as highlighted in a 2009 survey carried out by the Human Rights Center at the University of California at Berkeley, experiences learned in other truth commissions, and Cambodian

responses to the ECCC. Ultimately, a successful truth telling commission could lead to accountability and help Cambodians to paint a larger picture of this dark period in their country's history.

## Truth Commissions

A truth commission is a transitional justice mechanism empowered to investigate and remedy past human rights abuses. Truth commissions are harder to define than other forms of transitional justice, such as international tribunals, because they tend to be more narrowly-tailored to each society and situation. Some general characteristics of a truth commission include "an attempt to provide a larger picture of abuses rather than an emphasis on a discrete event,...and the possession of some authority allowing greater access to information and security." Unlike international courts, truth commissions are not prosecutorial bodies and therefore do not conduct judicial proceedings that result in the declaration of guilt. Some of the most crucial ambitions of a truth commission can be acknowledging crimes, enabling victims to have a voice, and providing a historical account of the various factors that lead to mass atrocities. Truth commissions aim to ensure that future generations understand what happened in their country's history with the ultimate goal of preventing the recurrence of such atrocities.

Much like international tribunals, truth commissions have a variety of strengths and weaknesses in addressing human rights abuses. The two most common concerns voiced by scholars are that truth commissions, despite being viewed as responsive to local preferences, can fail to expose

the whole truth; and that a thorough investigation of past abuses might not be appropriate or culturally sensitive to a truth to a society traumatized by mass violence.

For example, truth commissions have failed to address international actors' involvement in mass atrocities, been unable to incorporate cultural preferences, or overlooked indigenous forms of resolving conflicts.

Although generally held out as highly successful example of the form, the South African Truth and Reconciliation Commission had its share of detractors. Some victim participants felt as though they were unable to tell the "truth" or receive the reparations that they most desired. The TRC in Sierra Leone raised other concerns about a truth commissions in the aftermath of mass atrocities. For example, Sierra Leoneans had a particular way of dealing with conflicts that "reintegrating combatants, reworking relationships, and rebuilding moral communities", and practice social forgetting as a mechanism used to "cool the heart" and reestablish the community. It is possible that the TRC in Sierra Leone disrupted this process.

### **Cambodian preferences**

A Cambodian truth commission, if carried out in a manner which has Cambodian preferences as its main consideration, can complement the work of the tribunal through a long-term mandate with wide-reaching participation and recognition of victims. The 2009 UC Berkeley study of Cambodian preferences found that 85.5% of respondents agreed with the statement that "it is necessary to find the truth about what happened during the Khmer Rouge." A Cambodian truth commission should aim to document and analyze experiences of the Cambodian people in the periods leading up to, during, and in the aftermath of Democratic Kampuchea; produce a historical narrative of the Khmer Rouge regime and abuses, including rationale and motivation; and educate survivors and younger generations about Cambodian history.

Any response to the Democratic Kampuchea period that aims to contribute to the rule of law, feelings of justice and reconciliation must begin by asking what the members of the society that lived under the regime want. The UC Berkeley study highlights a couple of important themes that should be addressed in establishing a truth commission so that it may reflect contemporary Cambodian preferences.

First, the study reveals that Cambodians are eager to find out the truth about what occurred during the Khmer Rouge regime. Second, Cambodian attitudes towards living together with former members of the regime highlight the complexity of reconciliation and punishment in the Cambodian culture. Truth commissions are heavily dependent on the cooperation of perpetrators and therefore understanding Cambodian attitudes towards lower level cadres is vital. Overall, the study showed that Cambodians wanted to see those responsible for the Khmer Rouge regime to be held accountable, and believed that justice was a process of revealing the truth.

The UC survey depicts a Cambodian population that for the most part, wants to know what occurred during the Khmer Rouge. Seventy seven percent of those living under the regime stated that they wanted to know more about what had happened during the Khmer Rouge and eighty five percent of those who did not live under the Khmer Rouge regime wanted to learn more. Although Cambodians, both of whom had lived under the regime and those who had not, were eager to find out the truth about what had happened during the regime, less than fifty percent of those surveyed were willing to be part of a public hearing and talk about their experiences.

The views expressed by contemporary Cambodians on accountability reflect an overwhelmingly strong support for holding those responsible for the Khmer Rouge regime accountable. Though ninety-four percent of those surveyed in the UC Berkeley study defined themselves as Buddhist,

the survey did not focus on culturally relevant punishment. Further research is needed to determine exactly what shape such punishment might take. Moreover, though the Muslim minority is small, their religious views should also be incorporated into the truth commission, particularly in predominantly Cham areas.

Ian Harris, an expert on Theravada Buddhism, has argued that there are three consistent themes for Cambodian Buddhists when it comes to accountability. These are limited support for international dimension to any tribunal, a desire to ensure that accountability conforms in some manner to Theravada Buddhism, and a focus on reconciliation "understood as a reconciliation of the world in accord with dhamma."

Cambodian Buddhist sangha provide further guidance on what a culturally relevant sense of reconciliation would look like. For example, Dr. Lao Mong Hay, former Executive Director of the Khmer Institute of Democracy, has advocated for national reconciliation because it is consistent with Buddhist philosophy. The emphasis on uprooting anger in Buddhism is to clear the mind through mental calming and protect relationships between the parties.

Scholars have argued that national apology, a formal truth act, witnessed by members of ecclesiastical hierarchy, and presided over by the king, "could be a symbolically potent focus for national reconciliation." A communal ceremony, resembling Pchum Ben, could be organized to address the souls of those who lost their lives under the Khmer Rouge regime and to begin the mourning, healing, and reconciliation process. Addressing individual and collective needs for mourning will be no easy task; however, Cambodian culture provides guidance. Much like in Pchum Ben, a successful truth commission should provide a space for individuals to remember those who have passed away in a manner that is culturally significant and sensitive. Finally, a truth commission will be dependent upon the contributions of each individual and therefore fostering an environment

which does not divide between perpetrators, victims, and mourners may very well foster memorializing, mourning and reconciliation.

For a large number of those surveyed, living with former members of the Khmer Rouge evoked strong feelings of animosity; many wished to seek some form of revenge. This is especially troublesome because those who have experienced deep, long-term fear, trauma and direct violence may sustain an image of the enemy and may be extremely vulnerable and susceptible to manipulation. Another problem is that former middle and lower level Khmer Rouge cadres are now living closely with victims. As the UC Berkeley study notes, it is possible that respondents "could forgive individual Khmer Rouge but still have feelings of anger towards the leaders or the Khmer Rouge violence in general." Given Cambodian attitudes a proper mechanism to address suppressed anger may be necessary. Reconciliation is a deeply personal endeavor, but perhaps a conflict resolution system based on Cambodian principles could give people the chance to tell their stories as both victims and perpetrators and address issues of culpability.

Though a large body of information on the crimes of the Khmer Rouge has been gathered over the years by various organizations, this information has yet to be compiled and distributed in a form that is accessible to the average Cambodian. For example, the *Renakse* Petitions brought together testimony from thousands, yet that information was not publicized. A truth commission could analyze and disseminate such information, involving Cambodian villagers in the process.

To this end, the truth commission might draw upon the Swedish Government's experience. Faced with concerns that young Swedes knew little about the Holocaust, with some doubting its existence, and the growth of right-wing groups spreading their propaganda in schools, the Swedish Parliament created the Living History project. This project aimed to tell the story of the Holocaust through various mechanisms, including resource packages for schools, films,

conferences, and concerts. It convened the Stockholm International Forum, which consisted of four international conferences that aimed to create a "meeting place for an exchange of information, knowledge, ideas and perspectives between experts, decision-makers and practitioners." Before the first conference, the Swedish government published a book, titled *Tell Ye Your Children*, that discussed the Holocaust in Europe. Over 1.2 million copies of the book, which was translated into Finnish, Arabic, Turkish, Serbo-Croatian, English, Spanish, and Persian, were distributed to every Swedish family with school age children. After the conferences, the Swedish government published another book, *Beyond the "Never Again"*, highlighting the findings of the conferences and including interviews with select participants. Of course, a similar project of awareness-raising in Cambodia would need to be tailored to the Cambodian cultural context, but this multi-pronged approach provides a useful model for a Cambodian truth commission.

**Proposal**

The current proposal is for a project that will begin with simple collection of testimony from Cambodian people about their experiences related to the Khmer Rouge regime by trained teachers at the community level, aided by monks; the effort will evolve over the next three to five years to feature

more prominently on the national level and attempt to answer questions about Khmer Rouge motivations and impact on Cambodia. Teachers could be best employed to conduct interviews, compile information and lead educational campaigns. DC-Cam's ongoing Genocide Education Program seeks to reverse the recent trend to avoid teaching Khmer Rouge history in Cambodian schools; current students of all ages have received nearly no formal education on this period, despite its importance in modern Cambodian history and in shaping the trajectory of the country today. After the creation of a history textbook, *A History of Democratic Kampuchea*, and corresponding teacher guidebook, DC-Cam provided training sessions to teachers at three levels to introduce this curriculum into high school classrooms. These teachers, because of the respect they receive in their local communities and the knowledge gained through DC-Cam trainings, are well positioned to expand their activities from teaching students to broader community outreach on history-related efforts.

The textbook forms one part of a program of educational outreach aimed at those born after the Khmer Rouge regime. Recently, DC-Cam has been working on placing anti-genocide slogans in Cambodian schools to raise awareness among students and teachers about genocide and genocide prevention. A Cambodian truth commissions could



National Teacher, Mom Meth, expressing her views at the conference



Discussing group during the teachers' conference in Preah Vihear Province

build upon and systematize these efforts.

In a country that is overwhelmingly Buddhist, monks are well-respected sources of advice and wisdom. Though the French introduced a Western judicial system, an indigenous conflict resolution model has persisted. Like in other dispute resolution systems, the relationship between the parties is of vital importance. Moreover, Cambodians "view conflict as an occurrence that naturally punctuates all long-term relationships." Religious elements also play an integral part in dispute resolution models. Monks continue to hold a place of reverence and would be considered interested third parties in traditional conflict resolution forms. As such monks are in a strong position to design strategies for co-existence in Cambodian villages and discuss punishments that are in line with Theravada Buddhism. Religious leaders from the Cham minority should also be involved in designing a Cambodian truth commission.

The project will start with a working group of teachers who have been trained by DC-Cam through the Genocide Education Program. These teachers will be primarily from high schools, drawn from national, provincial, and commune levels to allow for greater representation and reach across the country. Of the two hundred teachers who will be initially involved in the project, a small executive

committee will be selected to help organize and lead the group. The executive committee will consist of five to seven teachers selected by DC-Cam based on interest and interactions during past Genocide Education training sessions to ensure these teachers are committed to collecting and teaching Cambodian history; as with the larger working group, attention will be paid to ensuring the group is representative of regional geography, gender, ethnicity, religion, teaching experience, and other demographics. The Executive Committee will work on a volunteer basis and their tasks will include keeping open lines of communication with all teachers, establishing timelines for information collection, and planning annual meetings.

The project's opening ceremony and initial annual meeting will bring religious leaders from different regions and 200 teachers together to start discussion and training for the additional skills needed throughout the course of the work. For example, teachers will be instructed in basic psycho-social support skills, interview techniques, and methods of facilitating group discussions. Throughout the year, teachers will work with members in their community to record and collect testimonies about the rise, rule, fall and aftermath of the Khmer Rouge, while monks will design reconciliation strategies.

The overarching goal will be to establish a big picture narrative of this important period of Cambodian history. An exploration of narrative will be the first step in establishing an environment that fosters social healing. This process can begin by engaging communities in narrative which focuses on the way the past has been framed, the current repercussions of the Pol Pot regime, and the victim-perpetrator dynamic. The process should focus on narratives at the village level, indigenous forms of restorative



hear Province



Inauguration ceremony of Anti-Genocide Memorial

justice, and education initiatives that promote unity.

The testimony of former "perpetrators" will be essential since these individuals are in the best position to understand the philosophy of the Khmer Rouge, the regime's structure and functioning, and chain of command. Stories from lower level cadre and victim's stories about people's complicity will help create a comprehensive picture of what led to the crimes. In an ideal situation former perpetrators can work with local teachers and monks to share their own testimony and experience within the truth commission project in order to increase participation from others like them. Getting former perpetrators to cooperate will undoubtedly be a great challenge to any of these processes particularly given that the line between victim and perpetrator is not always so clear.

Each year, an annual meeting will be held with all teacher participants to aggregate the information gathered throughout the year. For participants willing to share their statements, this data can be published directly as testimony and also analyzed by the executive committee of teachers, DC-Cam experts, and other leading Cambodian historians to create a common narrative informed by people across the country on all sides of past events. For any truth commission process, an independent yet authoritative body must be able to use the data as research in answering questions such as regime motivation and most common experiences. Resulting publications will be used to supplement the teaching of genocide in high schools and colleges through DC-Cam's program, and will be made available to the general public to increase understanding of this historical period. Over time, events can be held at provincial and national levels to collect data and disseminate findings.

In addition to the written and oral testimony collection from all affected by the Khmer Rouge period and its aftermath, it is recommended that the teachers in each village or township organize community forums. It must remain clear at all times

to community members that they are under no compulsion to participate. The event will create space for sharing and dialogue around the Khmer Rouge era facilitated by a teacher. Local religious leaders should also be involved as they will be able to draw on the trust they have with the area's residents and their experience dealing with sensitive emotional and moral issues. Beyond public testimony, other forms of culturally relevant expression such as music or poetry can also be used upon initiation by villagers. These forums set the project apart from prior collection of testimony.

The forums might adopt a structure similar to that used in events like the Day of Anger.

Since the 1990s DC-Cam has promoted remembrance of the Pol Pot regime by encouraging hospitals, schools and factories to make banners and posters against the regime to be used in various public meetings and commemoration events. Participants in the Day of Anger meetings, which are often held in culturally relevant sites, are encouraged to come forward and tell their story. These individual acts are balanced with "by an official rhetoric which emphasizes the necessity of a unified emotion and vigilance against forgetting as being essential to national reconstruction." In a similar vein, community for a must reinforce these two goals and provide a place where individuals feel comfortable with expressing anger and pain.

While the teachers will be the primary actors and organizers of the truth-seeking exercise, both the Royal Government of Cambodia (RGC) and DC-Cam will bring essential resources and experience to the undertaking. The government will be able to lend authority and legitimacy to the process as well as garner media and popular attention. In addition, government officials who have been involved in planning events, such as commemoration ceremonies for May 20th or January 7th, have expertise and extensive knowledge to share. Non-monetary resources such as meeting space, official press releases, and public support could be contributed by the government

as well. DC-Cam brings over a decade of experience in testimony collection and analysis and can provide technical advice for publications. Both will have a large role in launching the commission, but as it continues, a long-term advisory committee can be established with representatives from the RGC, DC-Cam, and former commissioners from other truth-seeking bodies.

As the project moves on to stages of publication and events are held above the level of individual communities, high school and university students will also have a role to play. As a hands-on extension of genocide education in the classroom, these students can volunteer to help collect, arrange, and publish the supplementary material. Not only does this fully engage the younger generation and assist in the goal of atrocity prevention, but also aids in lowering the costs of producing new materials. University students may be able to assist the teacher working group in arranging high profile testimony and sharing events as well as ceremonies to celebrate the progress of the truth commission project.

#### **Program Structure Analysis and Recommendation**

The proposed model above has many positive aspects for understanding the past in the Cambodian context. First, this process is informal and minimally intrusive on the lives of Cambodian people or national politics; participation is voluntary for all people at all levels. In addition, the truth commission is complementary to the hybrid tribunal, yet due to its low cost structure can be sustained for a longer period of time. Unlike a trial in which the guilt or innocence of a defendant is the ultimate goal, here, a much larger number of people can be engaged and have their experience officially acknowledged.

As discussed above, Buddhist principles support the idea of a truth commission project as a complement to the tribunal. A truth commission falls closer to restorative justice, unlike punitive measures pursued through prosecution. In Theravada Buddhism, recognition of wrong action and right intention for

the future are essential elements in moving forward beyond abuse; public fora and testimony are avenues through which acknowledgment can take place and set the foundation for healing.

One of the greatest benefits of this model of truth commission is that it begins at the community level. Regional variations can be captured through this grassroots process and real engagement can occur between Cambodian people, not always possible at the national level. Visits and outreach into villages will be performed in a manner sensitive to village dynamics that engages villagers both in public organizational meetings and one-on-one home visits.

Yet as events are held at higher levels and data analyzed to find an overall narrative of the past, lessons from the past and for the future become part of the national consciousness.

All generations can be engaged through submission of testimony and/or participation in forums. By extending the time period from which experiences can be shared, the labels of "victim" and "perpetrator" can be understood in a more nuanced way. As Nwogu writes, each can be a temporary state into which a person can enter. A victim during Democratic Kampuchea may have carried out revenge killings after; by opening space for sharing, these varied experiences can be brought to light.

As in any context, truth-seeking and establishing a historical narrative will also have challenges. A major obstacle in the process will be ensuring involvement and testimony submission from former perpetrators. One way to address this challenge would be to reassure perpetrators that if they provide their stories, they will not be prosecuted for their actions. Fora must also be planned in a way that encourages a safe space for all to share and learn from one another, rather than reinforcing labels or stereotypes of individuals. This model would resemble restorative justice and could help foster a peaceful future and rebuild social connections. Most importantly, further studies should be performed to determine how Cambodians think this question of

perpetrator involvement should be approached. The involvement of religious leaders will be an important component in ensuring perpetrator participation.

Another challenge will be creating the group to compile and analyze the information. More than just publishing stories, the project must attempt to answer question of "why" the killings took place found to be so important to the Cambodian public. While much of this will come from perpetrator and victim testimony, experts who will be viewed as knowledgeable, independent, and impartial will need to be invited to join in the effort to analyze and record data as historical truth. Another challenge, which could ultimately be a springboard for addressing other important issues, is that Cambodians might see land disputes, access to education and health care, as more pressing issues in their life and be less willing to participate in the truth commission. For some Cambodians, like those living on the Thai border, the end of the Khmer Rouge regime has brought little justice. These frustrations and indignations could be used as a springboard to not only bring villagers together but also to plant seeds for a more demanding citizenry. While there is no easy answer as to how a truth commission might address these other needs, an innovative and creative mechanism could incorporate these important issues.

One of the first concerns to keep in mind during the planning and implementation process will be how to manage expectations. People must understand the goals of the commission project without expecting that reparations, additional trials, or individual level justice will result. The framing of the activities to each community will be extremely important to the overall success of the effort; before the project launches in a community, those involved in its implementation locally must carefully explain the parameters of the project and what participation entails. During testimony collection or events, continual reminders must be in all printed materials, spoken announcements, and one-on-one

interviews or interactions so that the local people view the mechanism as a unique opportunity for sharing and dialogue and have corresponding expectations from the process.

Because speaking or writing about such difficult experiences has the potential to provoke psychological issues in participants, resources for support should be provided, such as contact information for professional psychologists. Partnerships can be formed with mental health NGOs for sustained presence of trained professionals in the communities during and after testimony collection, particularly when public events are held. Religious leaders can provide religious perspective and faith-based support in this regard as well.

Once teachers are trained to add these facilitation tasks to their mission, the project is fairly low-cost. However, the trainings will take a larger amount of resources. In addition, by using domestic teachers, overseas Cambodians are not reached. Because the individuals who left Cambodia during the 1970's and after also have important stories to contribute to discovering historical truth, an outreach committee should be created in the future to ensure testimony can be collected outside Cambodia's borders. In the case of Liberia, commission representations as well as NGOs in the United States joined together to collect stories from Liberians living abroad; individuals involved in designing that process could help advise how best to accomplish this with the Cambodian diaspora.

The mandate of the project and the goals of the exercise must be clear. These bodies are often called "Truth and Reconciliation Commissions." However, this name confuses multiple goals and sets high expectations for a healing process that cannot be forced; some in Cambodia have also reconciled with their own experiences and with those individuals who harmed or were harmed them. Others will never find reconciliation, regardless of what processes are available to help people come to terms with the past. For Cambodia at this time, the need is to determine

the facts and establish an informed narrative that helps to put each individual's experience into a larger context and answer the question of "why" the Khmer Rouge committed such atrocities. For some Cambodians, the process of giving testimony and participating in a public forum may provide healing. For others, knowledge will be the biggest benefit gained. Ultimately, to have a successful and sustained project aimed at uncovering truth and documenting the past, a focused mandate may produce the best

results in seeking historical truth.

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♦ *Jaya Ramji is an associate professor of law at Temple University.*

## IM CHAEM AND YOUK CHHANG AT PREAH VIHEAR TEMPLE

Im Chaem sits beside Youk Chhang posing for a photograph at Preah Vihear Temple on top of the Dangrek Mountain along the Cambodian-Thai border. Im Chaem, now 67, was a former chief of district where many lives were lost due to execution, starvation and exhaustion during the regime of the Khmer Rouge. On March 1, 2011, Im Chaem visited the millennium-years-old Preah Vihear Temple for the first time in her life. Since the recent dispute with Thailand over the land adjacent to the temple broke out, Im Chaem and people in her village constantly supply both moral and material support to troops at the frontline. She and people in her village, which is located about 90 kilometers from the temple seriously damaged by the recent fighting, have been united and strong in supporting the fight against what they see as invasion by Thailand.

Like Im Chaem, some troops stationed at the conflicted area were former Khmer Rouge fighters and some were even sent from her area to reinforce the battle. They appeared to be committed and determined to fight to protect what they believe to be the sovereignty of Cambodia. John Ciorciari, who is teaching international law and politics at the University of Michigan and a senior legal advisor for the Documentation Center of Cambodia and who also joined the visit to the temple, said that, in reconciliation terms, the Thai government has, in a sense, been doing a favor for the government of Cambodia. According to him, reconciliation to the level never achieved before has arguably been brought about by the recent conflict with Thailand over



the land surrounding the Preah Vihear Temple. "The identity of the Khmer Rouge has changed. They seem to have dropped the 'Rouge' and now see themselves simply as Khmers, proudly fighting and protecting Cambodia from foreign invasion. The Cambodian government is happy with former Khmer Rouge soldiers protecting the disputed area and the temple and many people are happy having the long-time fighters protecting the temple," said Ciorciari.

Terith Chy

# FACT SHEET:

## POL POT AND HIS PRISONERS AT SECRET PRISON S-21

*Dacil Q. Keo*

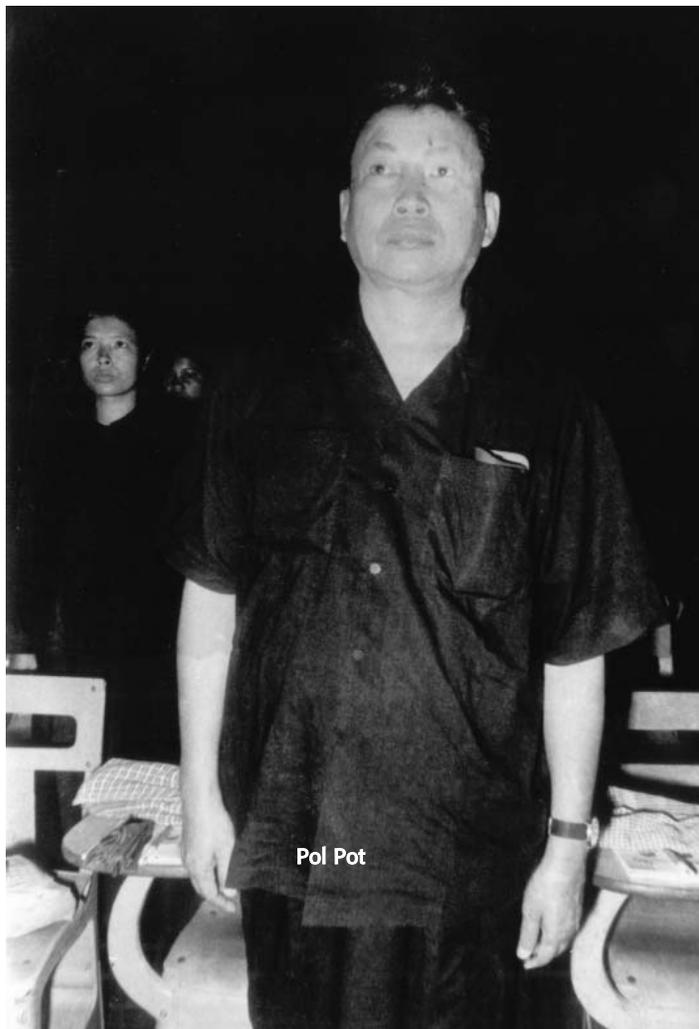
Following the odor of decayed flesh, on January 10, 1979, Vietnamese soldiers drove towards a barbed wired compound that served as the Khmer Rouge regime's highest level security center. At the security center, code named S-21 ("S" for Santebal, the Khmer word meaning "state security organization" and "21" for the walky-talky number of former prison chief Nath), prisoners were brought in, often handcuffed, to be photographed, interrogated, tortured, and executed.

The majority of prisoners taken to S-21 were Khmer Rouge cadre, including high level officials such as ministers, and their family members. They were accused of collaborating with foreign governments, spying for the CIA and the KGB, and hence betraying Angkar. Prisoners were also believed to have conspired with others and thus were forced to reveal their "strings of traitors," which sometimes included over one hundred names. The interrogators at S-21 based their technique on a list of ten security regulations which included, "While getting lashes or electrification you must not cry at all." Although prisoners often had no idea why they had been arrested, interrogators forced them to confess

their crimes. If they did not confess, they would be subjected to physical and psychological torture. However after having confessed, they were marked for execution. Initially, prisoners were killed on the grounds of the prison, but as the volume and stench of the corpses rapidly increased and became unbearable, prisoners were then trucked en mass to an open field located 15km away known as Boeung Choeung Ek to be killed. Waiting at the field was a group of about ten young men led by Teng. Teng, in his early twenties, and his team of teenagers lived in a two-story house that was built on the field in

1977. They were informed ahead of time of the number of prisoners that would arrive at Choeung Ek so that they could dig the graves in advance. According to a former S-21 prison guard Him Huy, it was Teng and his team who executed the prisoners once they arrived.

The Tuol Sleng prison, S-21, located in Phnom Penh, was a microcosm of the terror, paranoia, and brutality that took place across the country under the reign of the Communist Party of Kampuchea from April 17, 1975 to January 6, 1979. The prison was one of 196 prisons that existed, although Khmer



Pol Pot

Rouge leaders claimed that Democratic Kampuchea had no official prisons. The shocking figures commonly associated with the prison—14,000 killed and 7 survivors—rank the prison as one of the most lethal in the 20th century. There is, however, not a clear consensus on these figures among experts.

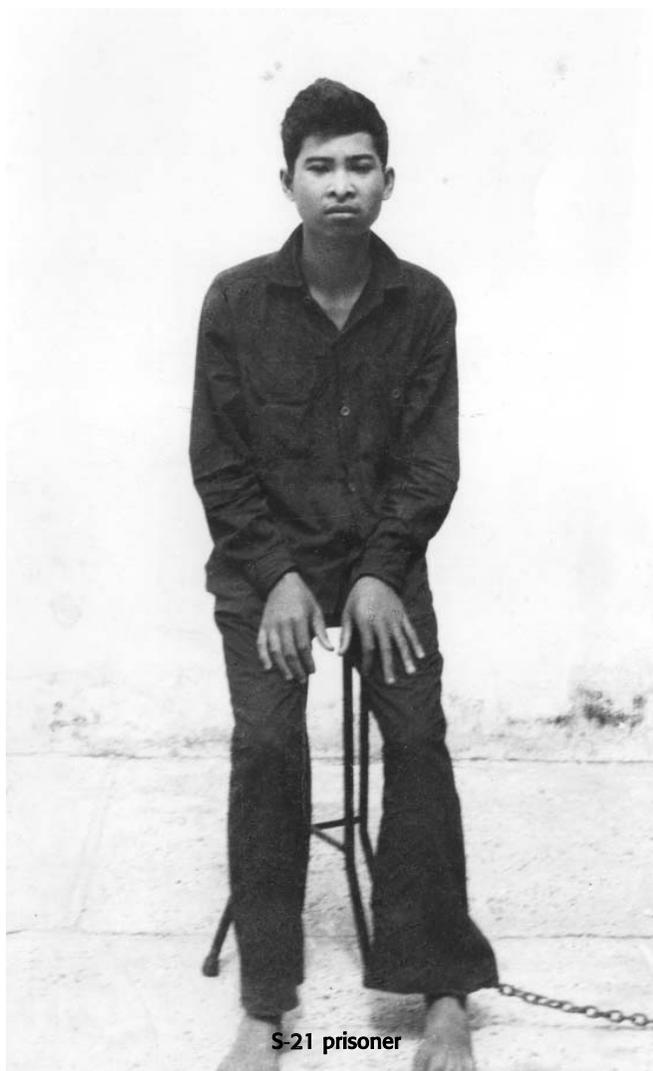
Recently, the hybrid Khmer Rouge tribunal offered their own numbers based on its criminal case involving Kaing Guek Eav, alias Duch, the former head of S-21. The number of prisoners taken to S-21 ranges from the tribunal's conservative estimate of at least 12,273 to a scholar's high estimate of approximately 20,000. The number of survivors has received less scrutiny, however, with most Western media generally accepting the figure of 7 survivors. This figure of 7 has been repeated for over thirty years now, giving S-21 its notoriously brutal image. The origin of this number comes from a 1981 film titled, *Die Angkar* ("The Angkar"), produced by Studio H&S of the former East Germany. In this film, the photograph of seven survivors of S-21 was shown. This photograph has since been featured in notable works including the book, *A Cambodian Prison Portrait: One Year in the Khmer Rouge's S-21* (1998) by S-21 survivor Vann Nath, who has served as a primary source of information for experts and scholars.

There is some speculation, however, that 7 survivors were intentionally shown to parallel the 7th day of January, the "day of victory" in which Vietnamese forces overthrew the Khmer Rouge regime.

After several years of research, however, the Documentation Center of Cambodia estimates that at least 179 prisoners were released from 1975-1978 and approximately 23 victims survived after Vietnam ousted the Khmer Rouge regime on January 7, 1979. The release status of the 179 prisoners (of whom 100 were soldiers) is based on numerous Khmer Rouge documents and interviews compiled primarily by Tuol Sleng Genocide Museum senior archivist Mr. Nean Yin. Most of the 179 who

were released have disappeared and only a few are known to have survived after 1979. Of the 23 who survived after 1979, more than half have disappeared or have died. Several of the survivors who are alive today have recently made the news: Norng Chanphal for being a witness to Case 001 of the Khmer Rouge Tribunal, Vann Nath and Chum Mey for being featured in documentary films, and Bou Meng for having a book published about him. In addition, one survivor of S-21 is currently applying for civil party status for Case 002 of the Khmer Rouge Tribunal.

The names below (surname first) provides the most up-to-date record of survivors of S-21, both those released before 1979 and those who survived after Vietnam entered the country. If known, a person's alternate name or nickname is also given in parenthesis.



S-21 prisoner

**Child Survivors who were found by Vietnamese soldiers on January 10, 1979.**

1. Makara (full name unknown). Makara was named by a Vietnamese soldier after the Khmer word for January, when Vietnamese ousted the Khmer Rouge in 1979.

2. Name unknown (This prisoner, a baby, died of exhaustion upon discovered by Vietnamese soldiers).

3. Norng Chanly

4. Norng Chanphal

5. Socheat (full name unknown)

**Survivors who are alive today**

6. Bou Meng

7. Chum Manh (Chum Mey)

8. Heng Nath (Vann Nath)

9. Nhem Sal

10. Touch Tem

**Survivors who died after 1979**

11. Eam Chann

12. Phann Than Chann

13. Ruy Nea Kung

14. Ung Pech

**Survivors who disappeared (witnesses reported that these men were alive after 1979, but since disappeared)**

15. Dy Phon

16. Eng (full name unknown)

17. Leng (full name unknown)

18. Mok Sun Khun

19. Pol Touch

20. Tuon (full name unknown)

**Survivors who are thought to be alive, but status uncertain**

21. Name unknown (DC-Cam was informed of a former S-21 prisoner currently living in Ratanakiri province, but there are no supporting document)

22. Pheach Yoeun

23. Sok Sophat

**Prisoners (from Khmer Rouge army division 920) released between 1975-1978 before Vietnam entered Cambodia (they have since disappeared)**

24. Bo Boeun (Phal)

25. Chan Chan

26. Chan Chhoeun (Than)

27. Chea Va (Tva)

28. Chhay Sey

29. Chhim Hin (Sey)

30. Chhoeung Soeung

31. Chhum Bun

32. Chhum Than (Cheat)

33. Chin Seng Eam (Voar)

34. Chum Chan (Khem)

35. Chum Mey (Vorn)<sup>27</sup>

36. Chuob Meng Uor (Chev)

37. Chuon Srey

38. Di Don (Vy)

39. Dib Thau (Rin)

40. Dieb Phan

41. Duong Chheng Pat (Rit)

42. Duong Sambat (Chum)

43. Ean Hun (Hak)

44. Hay Run (Rin)

45. Ham Cheum (Khom)

46. Hang Han (Huon)

47. Hang Lay

48. Hem Muon (Muon)

49. Heng Ruon

50. Heng (Nea)

51. Hing Muon (Vuth)

52. Ho Phan (Phat)

53. Hun Uy (Chhoeun)

54. Huon Samphai (Muon)

55. Huot Sok (Sokha)

56. Im Boeun (Ly)

57. It Aun

58. Keo Lonh Ret

59. Khem Siem Muoy (Peou)

60. Khuon Tay Eng (Lan)

61. Khut Krauch

62. Kim Leng (Heng)

63. Lach Saom

64. Lach Sarun (Van)

65. Lim Uong (Vin)

66. Lom Lon
67. Mak Thoeun (Thon)
68. Mam Vin (Bol)
69. Meas Lan (Loeun)
70. Meas Noeun (Theng)
71. Meas Set
72. Meun Chin
73. Miech Phon (Phal)
74. Neou Nan (Ol)
75. Nhem Chhon
76. Noem Nem (Sim)
77. Nok Nan (Nem)
78. Nou Chhoeun (Sit)
79. Nouv Samneang (Van)
80. Oeur Phat (Roeun)
81. Pak Thiev (Thon)
82. Pan Kung
83. Pat Fy (Yang)
84. Pech Soam
85. Pen Tak (Van)
86. Phal Nhoeun (Khan)
87. Phauk Sam (Sim)
88. Phon Sun (Srun)
89. Poan Pin
90. Prak Samnang (Tep)
91. Prik Chhon (Rung)
92. Prum An (Rai)
93. Prum Leap (Yan)
94. Sam Mak (Rin)
95. Sam Rith (Hang)
96. San Mab (Ma)
97. Seng Hun (Hat)
98. Seng Yan (Oeun)
99. Siek En (Kren)
100. Soam Phon (Nan)
101. Soeng Tha (Vorn)
102. Srei Yun (Sdaeng)
103. Suon Oeun (Der)
104. Suos Ram (Pheap)
105. Suy At
106. Suy Kim Sat (San)
107. Suy Than (Sim)
108. Svay Kenh (La)
109. Te Na (Thy)
110. Tep Sary (Ran)
111. Thab Ruon
112. Thy Than
113. Thlang Rin (Rum)
114. Uk Van
115. Um Voar (Yi)
116. Un Sao (Sen)
117. Van Ngauv (Pan)
118. Ven Chamroeun (Yen)
119. Yan Yeun
120. Yang Khe (Seang)
121. Yem Yoeun
122. You Han (Phal)
123. Yu Mon

**Prisoners released from 1975-1978 before Vietnam entered Cambodia (only a few are known to have survived while the vast majority has disappeared)**

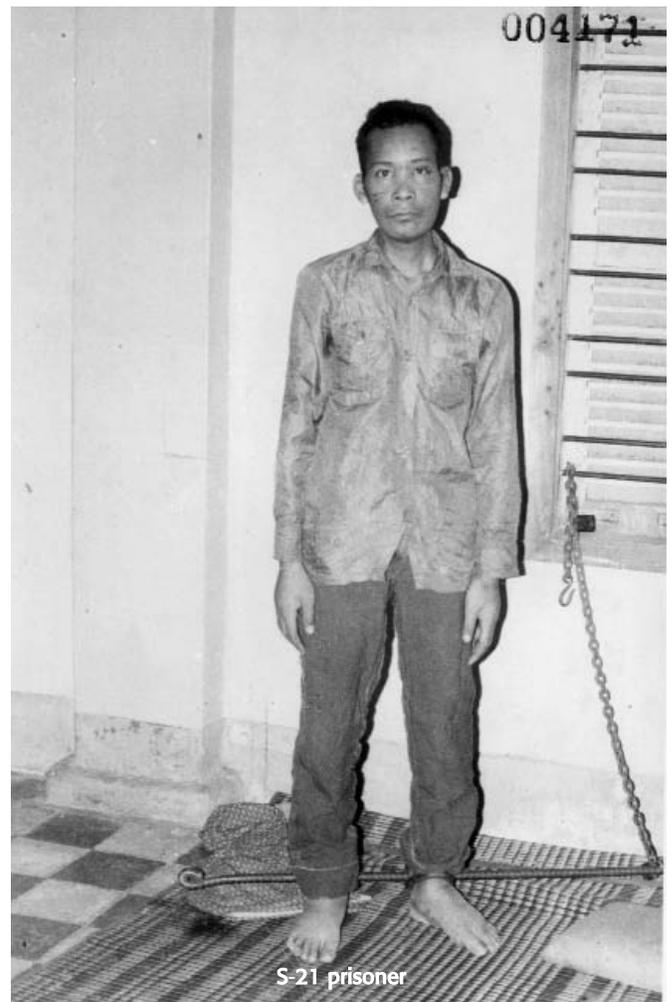
124. Beng Pum
125. Bou Ngorn Ly
126. Cheng Sron
127. Chhean Vik
128. Chheang Pech
129. Chheang Praing
130. Chhem Chan
131. Chhiev Sun Heng
132. Chhim Pauch
133. Chou Pin
134. Dai Peng
135. Ea Chhai Pauv
136. Ea Ho
137. Ea Kok
138. Han Nhauv
139. Hem Sambath
140. Hin Chy
141. Hong Chin
142. Ik Chheng Eang
143. Im Phal
144. Im Saom
145. Khiev Eng
146. Khlauk Sran

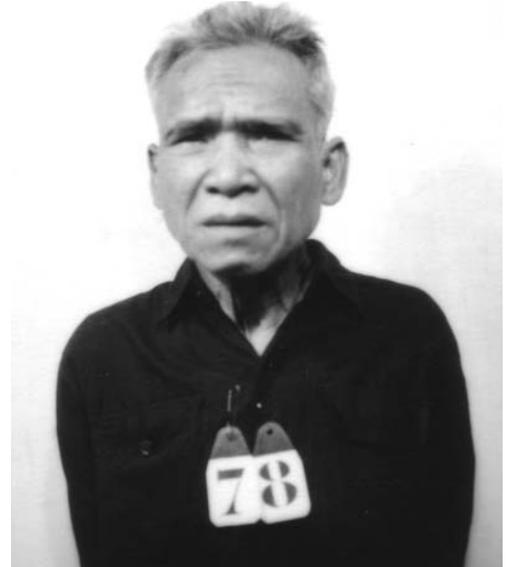
147. Khon Kuoy
148. Kim Sruo
149. Kong Van Tha
150. Kong Van Than
151. Kruy Cheat
152. Kry Sok Heng
153. Lao Seng Kim
154. Long Neng
155. Men Ol
156. Meun Yeng
157. My Sry
158. Min Kan
159. Muo Pech
160. Muong Ny
161. Muy Ruos
162. Ngin Hon
163. Nhem Man
164. Noeu Pheap
165. Pa Chhun Try
166. Pao Chheng
167. Pech Muom
168. Pech Phuong
169. Phay Yim
170. Phan Yoeun
171. Pheng Oeun
172. Pong Pan
173. Prach Torn
174. Proeung Sy Leang
175. Ring An
176. Roeun Leng
177. Sa Ke
178. Sa Sam Ang
179. Sam Sas
180. San Khmao
181. San Song
182. Sao Voeun
183. Saom Song Heang
184. Saut Chhorn
185. Seang Kry
186. Seth Kal Khann (he had an Arab father and Lao mother and was sent to S-21 with his family and an Indian family on April 11, 1976).

187. Sim Yeng
188. Sin In Ny
189. Sla Dek
190. Ta Chy Veng
191. Tao Kim Huy
192. Thong Nget
193. Tim Kim Eang
194. Tim Sy
195. Ting Hay
196. Tit Chuon
197. Tit Kan
198. Try Chak
199. Try Chea
200. Van Yeng
201. Ven Sovan Ny
202. Yun Loeun



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# RECLAIMING CAMBODIAN HISTORY: THE CASE OF THE DOCUMENTATION CENTER OF CAMBODIA

*Sarah Jones Dickens*

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## I. Introduction

In 1876, G. Janneau, a French scholar based in Saigon, published *Preah Ko* (Sacred Cow) and *Preah Keo* (Sacred Precious Stone), which narrates the tale of two statues located in the Khmer capital city of Lovek (pronounced Lung Vek), “a city so large that no horse could gallop around it.” Inside the two “bellies” of the *Preah Ko and Preah Keo*, there were sacred books of solid gold that contained information from which the Khmer could study formula or “learn about anything in the world.” According to the story, the Siamese King coveted the Khmer statues, and raised an army in 1594 to fight the Khmers for possession of these books of knowledge. After relentless battles between the Siamese and the Khmer, the Siamese general ordered that their cannons be loaded with silver coins, which would be fired into the impenetrable barrier of bamboo forest that surrounded the Khmer capital city. As the general predicted, residents of Lovek greedily rushed into the forest to gather the coins, chopping down all the bamboo and destroying the city’s protective shield. When the Siamese army returned, they sacked Lovek and captured the sacred books. According to Janneau’s recounting, the Siamese “were able to take the books which were hidden there and study their contents. For this reason they have become superior in knowledge to the Cambodians, and for this reason the Cambodians are ignorant, and lack people to do what is necessary, unlike other countries” (emphasis added). Although once a story, *Preah Ko Preah Keo* has transformed into a ubiquitous legend in present day-Cambodia.

While no one is sure if the legend existed in the Cambodian consciousness prior to Janneau’s publication, the French colonial regime propagated

the story as part of its larger colonial discourse, which viewed Cambodians as “degenerate, barbaric, and savage” and in need of “saving.” The French repeatedly told Cambodians they were a “vanquished race” and used the legend to reinforce all that was lost and all that Khmers needed to gain. *Preah Ko Preah Keo* was still entrenched in the collective mindset twenty years after the French left Cambodia in 1954: In 1971, the prime minister of Cambodia even drew upon the legend to explain Cambodia’s diminished regional hegemony to the US ambassador. As Catherine Diamond recounted in her essay “Emptying the Sea,” the story presents a “fascinating self-portrayal of Cambodia’s sense of inferiority toward Thailand as well as the perception that the Thais stole Cambodian cultural patrimony; the greed of the people who betray their benefactors and bring destruction upon themselves; the impotence of the king; and the savior in the form of a cow that is linked to the sacred Nandi cow of the Brahmanic religion depicted at Angkor.”

While Diamond may be correct, the story also demonstrates how colonialist tropes have continued to affect present-day Cambodian discourse, knowledge, and collective/self-perception, a continuation of colonialism albeit in different guises. But at the same time, the legend also visualizes the larger Cambodian phenomenon of erasure of *knowing* its past his story: While the tale literally recounts “the sacred books of knowledge” leaving the land and never returning, the story’s origin, like so much of Cambodian history, is unknown. Four hundred years of “dark ages” shadow over the time between the Angkorian era and the Pol Pot era. As Southeast Asian historian Ben Kiernan states in “Recovering History and Justice in Cambodia” (2004) “Time and

again, officials abandoned archives. Rulers erased rivals from the record. International leaders denied Cambodia's history or blocked its documentation."

Despite half a millennium of civil conflict, including a recent history marred by three foreign occupations, seven regime changes, oppression and genocide, recent efforts in Cambodia strive to "Reclaim[sic] History" and account for its past.

This paper maps out of one those efforts in Cambodia through analyzing one archival site, the Documentation Center of Cambodia (DC-Cam), located in Phnom Penh, Cambodia. As the largest repository of Khmer Rouge materials and documents, DC-Cam has made significant strides in recording, preserving, and sharing knowledge about the Khmer Rouge regime to promote both memory and justice. Currently holding over one million documents 6,000 photographs, and innumerable oral and visual testimonies in its archive, DC-Cam plays a pivotal role in shaping individual and collective memory of as well as history about the Khmer Rouge period. This paper will start from the premise that, like all archives, the DC-Cam archive is a site that is "always already" a product of power and authority. Yet the site is concomitantly a "space of translation" so the "subaltern" *can* speak. The latter distinction is crucial within the context of DC-Cam as a discussion on power and knowledge will only go so far to analyze an archival site emanating from traumatic circumstance.

## II. History of Khmer Rouge

Before delving into the history of the DC-Cam archive, it is first necessary to give an overview of the history DC-Cam holds. The Khmer Rouge genocide is pressed between a half millennium of intermittent civil conflict, ethnic violence, foreign invasion, colonialism, massive bombing campaigns, and imperialism. These tumultuous histories coupled with the recent-day prevalence of corruption, poverty, HIV, prostitution, land grabbing, human trafficking, and domestic, sexual, and physical violence continue to perpetuate the cycle of psychological violence on a culture "always already" rooted in traumatic

circumstance.

The Khmer Rouge was a communist regime inspired by Marxism and Leninism and had been fighting a civil war with the Cambodian government throughout the early 1970s. It also had origins linked to the Indochinese Communist Party. By 1973, the Khmer Rouge controlled 85% of the country, and on April 17, 1975, the Khmer Rouge finally captured the capital city Phnom Penh. Most Cambodians rallied in the streets and welcomed the Khmer Rouge, perceiving their victory as an end to Cambodia's civil wars and US imperialism. However, over the next three days, the Khmer Rouge commanded and inevitably coerced all citizens to leave their homes and go to the countryside. Thousands died during the evacuation owing to exhaustion and many more were executed.

For the next three years, eight months, and twenty days, the Khmer Rouge worked to transform Cambodia into an agrarian utopia as part of their "Four-Year Plan." All people were put into forced labor camps, given inadequate food, and made to work twelve to fourteen hour days in the fields under the torrid sun. Concomitantly, the Khmer Rouge abolished currency, religion, education, and familial structure and executed perceived enemies of the state, which included, but was not limited to, doctors, teachers, lawyers, Buddhist monks, and anyone associated with the previous Lon Nol government.

While the Khmer Rouge carried out genocidal campaigns inside Cambodia, they were simultaneously involved in a raging war along the borders with Vietnam, which intensified in 1977. The Khmer Rouge captured and arrested male and female Vietnamese citizens and soldiers in Vietnam, along the border, and in Cambodia and sent them to Tuol Sleng to be executed, along with other 14,000 Khmer Rouge cadres they suspected as betrayers to the party. Finally, in January 1979, an estimated 150,000 Vietnamese troops successfully invaded Cambodia, ousted the Khmer Rouge from power,

and occupied the country until 1990. By the time the Khmer Rouge fell from power in early 1979, an estimated 1.7 million people—one quarter of Cambodia’s population—had died from disease, exhaustion, starvation, and execution. No one in Cambodia was left untouched by a genocide that killed almost one-fourth of the entire population.

After Vietnamese troops toppled the Khmer Rouge in January of 1979, Vietnam controlled Cambodia until 1989. In early 1990s, the United Nations oversaw Cambodia’s first elections under UNTAC (United Nations Transitional Authority in Cambodia). Since 1993, Cambodia has continued to hold elections and has worked to rebuild its government institutions, economy, education system, and tourism industry.

Even though the Khmer Rouge was officially ousted in 1979, they continued to terrorize Cambodians both literally and psychologically. Retreating to the rural areas of Cambodia, the Khmer Rouge continued to pursue their campaigns, fighting with soldiers alongside the borders and in the Cambodian military, breaking into people’s homes, throwing grenades into markets, and killing

scores of Cambodians. The Khmer Rouge leaders finally defected to the Cambodian People’s Party in 1996, the governmental party still in control today.

### III. Overview of DC-Cam Archive

One critical element in postwar nation building that was noticeably absent was the lack of legal accountability of Khmer Rouge leaders. Those who were responsible for the genocide of an estimated 1.4 to 2.2 million people have lived together with those who survived the regime. Many leaders, such as Pol Pot, died peacefully in his home, with no justice rendered. But there is some hope for change. In February 2006, a mixed international tribunal under the supervision of the United Nations was established to bring those leaders who are still alive to justice. The current genocide tribunal is monumental in history: Not only is it the first hybrid tribunal of its kind, but it also has potential to bring Khmer Rouge leaders to trial for crimes committed.

As much academic literature already emphasizes, the archive emanates power and steers politics, history, and memory. The sheer number of visitors who frequent DC Cam demonstrates its importance in present day Cambodian life and the role that the



Phnom Penh secondary school students visiting Tuol Sleng prison

center plays in helping regain and form identity. In 2009 alone, over 1,800 individuals visited the archive center to conduct research, learn more about the Khmer Rouge, and trace family members who were “lost” after the regime. Concomitantly, DC-Cam conducts a number of outreach projects, mounted several visual exhibitions in both Phnom Penh and the provinces, conducted oral history projects, produced many films, led Cambodian student tours to Tuol Sleng and Choeung Ek, and studied and documented the psychological effects of the Khmer Rouge. Through its own publishing house, DC-Cam distributes a monthly magazine *Searching for the Truth*, which contains survivor stories, academic articles, information relating to the ECCC, and other pertinent information on justice. Furthermore, DC-Cam has published and written over 20 books relating to testimonies of guards and prisoners of S-21, the persecution and rebellion of Cham Muslims, and the lives of victims of the Khmer Rouge. In total, the Center does not passively expect the Cambodians to seek out the archive’s information (as many Cambodians do not have the means to travel to Phnom Penh), but rather actively pursues outreach efforts through its Center’s staff, whom are constantly in the villages of Cambodia distributing material and speaking with survivors.

Perhaps most monumentally, the DC-Cam archive has already played a role in the establishment of the international tribunals, the joint United Nations and Cambodian court to try former senior Khmer Rouge leaders who are still alive. A memorandum from the United Nations, A/59/432 dated October 12, 2004 admittedly acknowledges DC-Cam’s significance in the ongoing tribunals. The Memo reads:

It is expected that the Chambers will rely heavily on documentary evidence. Some 200,000 pages of documentary evidence are expected to be examined. The *bulk* of that documentation is held

by the Documentation Centre of Cambodia, an NGO dedicated to research and preservation of documentation on crimes perpetrated during the period of Democratic Kampuchea (my emphasis).

Likewise, the DC-Cam archive also plays a major role in explaining the tribunal and its verdicts to a population, “making sense” of more dense legal terminology.

Recognizing DC-Cam as a forum to facilitate discussion of the voices of the “subaltern” is crucial to Cambodia, and must not be ignored. Even though power structures continue to exert its influences on the archival site, knowledge, and memory, the country and its citizens continue to grapple with and work through enormous traumas of colonialism, conflict, and genocide.

#### **IV. Veil of Silence**

Prior to the establishment of the DC-Cam archive, many survivors did not talk about the Khmer Rouge. This section will briefly describe the silence that pervaded the government, the international community, and the survivors throughout the 1980s and 1990s, and the veil of silence that has been lifted through the outreach efforts of DC-Cam.

Between 1991, when Cambodia gained autonomy from Vietnam, and before DC-Cam was founded, the Cambodian government pursued national policies of “forced amnesia” regarding the Khmer Rouge. Prime Minister Hun Sen enjoined people at a press conference in 1998 and encouraged all Cambodians to “dig a hole and bury the past in it.” For the Prime Minister, who was a former lower level Khmer Rouge soldier, forgetting was the best way to move on from and reconcile with Cambodia’s “dark past.” And that is what Cambodia did: Prior to the advent of DC-Cam, television, newspapers, and other media seldom revisited the Khmer Rouge period.

Yet, Hun Sen’s government was not the only government that supported policies of forced amnesia. Rather, the international community had already spent the last twenty years in silence about

the Khmer Rouge regime. Not only did the UN General Assembly in 1989 decline to recognize Khmer Rouge perpetrators but they also barely mentioned “the universally condemned policies and practices of recent past.” Even during the UN peace keeping elections in Cambodia in 1991-1993, the UN declared that Pol Pot would “enjoy the same rights, freedoms, and opportunities to participate in the electoral process” as others.

The government’s policies of “forced silencing” are not the only reasons why many Cambodians’ did not speak about their pasts. Rather, “silencing” is entrenched in the Cambodian psyche. As a country deeply rooted in Theravada Buddhism, many Cambodians believe that suffering is a result of past bad karma and that pain must be internalized in order to reach Enlightenment. As a result, many Cambodian Khmer Rouge survivors direct their blame inward and rather than “loosing face” chose silencing over speaking. Devon Hinton, a psychiatrist at Harvard University who specializes in Cambodian refugee trauma, identifies several somatic phrases Cambodians use to express the desire to “store away the memory of events” that anger or upset them. According to Hinton, Cambodians “sometimes say that a person takes such anger (or a grudge) and ‘hides it in the body’ (*leak tuk knong kluon*), puts (or keeps) it in the head’ (*tuk knong khuor kball*) or ‘buries (or hides it) in the heart (*bangkop/leak knong chett*). However, as Hinton explains, Cambodians may try to repress their anger, but they never forget.

Additionally, Dr. Chhim Sotheara, Director of the Transcultural Psychology Organization in Phnom Penh, Cambodia noted that survival mechanisms Cambodians learned from the Khmer Rouge regime permeate into today’s Cambodian society. Chhim, pointing to the concept of *dam doem kor*, or “keep your mouth shut,” said that Cambodians became “mute” in order to survive. While silence was internalized during the Khmer Rouge, it also affected the culture after the Khmer Rouge, especially when one considers that the Cambodian genocide did

not for the most part kill along ethnic or religious lines. Rather, they killed each other in a massive and complex patricide, matricide, fratricide, sororicide, infanticide, uxoricide, and siblicide. Khatharya Um, a professor of political science at the University of California at Berkeley, states that “auto-genocide is particularly disorientating because the perpetrators “look like you; they are you:”

The innocent smiles, wide-eyed curiosity, and general openness are still there. But at a deeper level lie the scars. The distrust is unconcealed. It is often in the perfected manner of evading questions, and in the eyes—eyes that betray the loss of innocence. They have seen too many horrors, lived too many horrors. Khmers have said of this innocence: “like freshly worsted cotton; once tarnished, it can never be completely bleached.

Chath Piersath, a Cambodian-American artist who has relocated back to Cambodia, visually represents the problem of silence, and likewise the lack of trust, in Cambodian society in paintings that depict intricate systems of lines connecting Cambodians to one another. Piersath explained that these lifelines symbolize his desire, yet inability, for victims and perpetrators “to feel safe about retelling their story.” Piersath, who was a child during the Khmer Rouge, concluded, “I want to build hope. I don’t want Cambodians to feel afraid to talk.” These aspects of silencing and fear become more compelling in light of the fact that perpetrators and victims live side-by-side in the villages, and as a result, many Cambodians are afraid to speak about the Khmer Rouge to strangers and even in their own family.

The government’s policies of forced amnesia coupled with a culture “always already” rooted in silencing summons a situation where the “subaltern” did not want to speak, felt like they could not speak, or were speaking but they were not being heard.

Sum Rithy, a former prisoner in “Thom Prison” in Siem Reap, Cambodia, exemplifies the latter case. On June 17, 1979, Rithy filed a complaint about his experiences during the Khmer Rouge to the 1979 “People’s Revolutionary Tribunal,” a court the new Vietnamese-backed government established to try Pol Pot and Ieng Sary for crimes committed during the Khmer Rouge. Hailed as a “show trial” the PRT lasted one week and convicted Pol Pot and Ieng Sary *in absentia* of genocide. Rithy even acknowledges that the court did not validate his claims, candidly stating, “even with the 1979 court, they did not *hear* the complaint that I sent to them” (my emphasis). For the next twenty-five years, Rithy rarely talked at all about his experiences until a staff member, Sophearith Choung, at DC-Cam approached him in 2003 while collecting data for a study on trauma in Cambodia. It was then Rithy began again to testify, speaking, painting, and writing about his experiences. But this time he was heard.

DC-Cam serves an important role in enabling Cambodians to reclaim their history and know their pasts. The documents contained within the DC-Cam archive bear witness to the tragic events that have befallen Cambodia, allowing them to seek their own reconciliation and speak about their pasts. As it opens a door for speech to ensue, it does so through legitimating crimes committed as the 600,000 documents it contains “proves” genocide did occur. This is precisely one of the most important aspects—in any society—emanating from trauma: to legitimate and bear witness to past traumas precisely because the victim did not fully bear witness to the events herself as trauma is precisely an experience that dismantles one’s capacity to witness, remember, know, and assimilate the traumatic experience in a normal cognitive function.

As psychiatrists Cohen and Kinston argue in “Trauma and Repression,” (1985) “such events are lived through but not experienced as part of the self that is, as elements suitable for the wish-organized construction and maintenance of an effective

personality. If survived and whether it occurs first during infancy, childhood, or adulthood, the traumatic state results in *an absence of structure* and representable experience in a region of the self... (emphasis added)”

DC-Cam provides this structure, this construction for memory to ensure. As Michael S. Roth states, “History becomes that place to which one turns for continuity, stability, and the possibility of acting in a meaningful, that is, in a non arbitrary way. Without nature or a god to guide us, a *sens de l’histoire* can legitimate an identity as well as program for change.” This is a crucial aspect to remember in societies that come out of massive traumatic experience. In the case of Cambodia, with a historical legacy that is unknown and already with gaps, a reconstruction of a history too stand in for that which is absent is even more imperative.

The next section will explore DC-Cam’s Genocide Education Project, looking not necessarily to the power structures involved, but rather the ways the establishment of a history enables testimony too ensue.

### **Genocide Education: A Case Study**

In April 2009, DC-Cam signed a Memorandum of Understanding with the Cambodian Ministry of Education. The document grants DC-Cam with the sole rights to train history, morality, and literature teachers and university professors on Democratic Kampuchea history; improve teaching skills and knowledge base of the history of Democratic Kampuchea; ensure the effectiveness of the training process; and perhaps most importantly, integrate Khamboly Dy’s textbook and Teacher Guidebook into Cambodian schools grades nine through twelve as well as all universities. By 2013, all Cambodian schools and universities will teach history on the Khmer Rouge, using their self-published book *A History of Democratic Kampuchea*, authored by Khamboly Dy, a staff member at DC-Cam. Of course, this textbook, like the DC-Cam archive, will have massive implications in shaping collective and

individual memory of the period, and it is already doing so. Yet in a country in which this history is not known and not even believed, there are serious benefits in the education project despite the power structures, the privileging of certain memories over others, and the neo-colonial influences of such histories encompassed in the project.

While no conclusive evidence or reports have been documented, it is likely that the Cambodian education will legitimate survivors' traumas. Currently two lines are dedicated to the regime in high school textbooks, and as a result, many present-day Cambodian students either believe the claims against the Khmer Rouge are either blown out of proportion or are altogether false. Som Borath, a Cambodian history teacher in Banteay Meanchey, commented in 2010 "a [previous] student [of mine] who was born in 1979 didn't even believe that the Khmer Rouge was true." Not only do comments such as these speak to a hole in the educational system, but also speak to the children's denial of their parents' traumas, which is a pervasive problem in Cambodia today. According to Cambodian psychiatrist Dr. Chhim Sotheara, as a result of *not believing*, the children delegitimize their parents' experiences, further perpetuating the cycle of trauma albeit in different means.

Not only does a constructed history afford survivors legitimization of the past, but it also delineates a framework through which survivors can form their own testimony. Maurice Halbwachs in *Collective Memory* emphasizes the importance of collective memory in sustaining individual memory. Halbwachs states, "the individual memory, in order to corroborate and make precise and even to cover the gaps in its remembrances, relies upon, relocates itself within, momentarily merges with, the collective memory." The Genocide Education Project afforded survivors with this "collective memory" through the textbook. For instance, throughout a teacher training process in November-December 2009, teachers would share their own pasts when they conducted

mock lessons to their peers, augmenting the lesson plan through interjecting their own experiences as it related to the textbook. Furthermore, the Genocide Education Project allowed survivors to testify in a safe place and to each other. This was especially crucial given the veil of silence coupled with the insurmountable fear that pervades Cambodian society. Often times, survivors would testify to each other, unasked, volunteering their experiences to the collective group. As Dori Laub writes, "The victims of oppression, slavery, and torture are not merely seeking visibility and recognition, but they are also seeking witnesses to horror beyond recognition." The Project provided these survivors with the collective memory and the group-as-witness, arguably crucial elements for individual recovery and reconciliation.

At the same time, the DC-Cam education project is not only providing a forum for survivors to speak, but also to know their own pasts. Many Khmer Rouge survivors either cannot remember their experiences fully or do not have knowledge about the Khmer Rouge outside their personal and relatives' experiences. A teacher's comment underscores this crucial aspect of the training. She was around twenty years old during the Khmer Rouge regime, but did not, until this day, know the severity of people's experiences in different regions other than hers. After reading the textbook and going through the training process, the woman realized that much of her experiences of starvation and family members' executions were an everyday occurrence. From her conversation with me, the training was crucial to contextualize her own history and also let her know that she was not alone with her suffering. She is quoted as saying, "There is one part in the book that talks about the torture, and it talks about starvation and this is what I experienced. The arrest of my father, my sister, to be killed is also mentioned in the book. That is part of my experience. The starvation that is what happened to my two children. I can relate to it." I suspect that many more provincial

trainees had similar experiences to this woman in Battambang.

This last issue raises questions about the importance of history in a society experiencing massive trauma. In “Nietzsche, la genealogie, l’histoire,” Foucault believes that for history to be “effective” it must be a history without absolutes, is unstable and introduces “discontinuity into our very being.” According to Foucault, this “effective history” is one “systematic[ally] dissociate our identity” so that we “undermine the very foundation to know ourselves.” Foucault believes this is important for a few reasons, one of which “is to destroy the knowing subject by uncovering the hidden vicissitudes of the will to truth.” Yet in a “culture of trauma” or in a place where massive trauma resides, such as in Cambodia, this type of history Foucault calls for may not only be “ineffective” but also dangerous to the survivor. As trauma is precisely an event of “not knowing” it is one that concomitantly requires a reaffirmation or reconstitution of “historical reality.”

### Conclusion

In the 9th century, Khmer King Yasovarman built the temple site known as Preah Vihear currently located in the northwestern corner of Cambodia bordering Thailand. Situated on top of an 1800-foot hill in the Dangrek mountains, the current peripheral site was once central to and centered in the Khmer kingdom as it was built to house a shrine dedicated to the Hindu gods. But like the books of knowledge in Lovek, recounted in the introduction, foreign forces robbed Cambodia of Preah Vihear after the demise of the Angkor Empire as the Siamese army took and sacked the temple complex.

While Cambodia will never be able to get back the “mythical” and intangible books wrapped in gold that contained all the knowledge in the world, they can—and have—reclaimed their temple site. But doing so wasn’t easy. In the early 1960s, after receiving independence from France, the Cambodians sought to reclaim their temple from Thailand. The process ended following a bitter legal

dispute at The Hague, which awarded the Cambodians with Preah Vihear. In 1979 following the Khmer Rouge genocide, thousands of Cambodian refugees poured into Thailand. Four months later, Thailand, wanting no more responsibility for these “degenerate” and “barbaric” people, told the United States, France, and Australia to come and “take their pick.” After the “litter” of 1,200 was chosen, the remaining refugees were loaded once again in a bus and taken to Preah Vihear. In a sickening recourse, the Thai troops forced an approximate 42,000 of the 1800-foot cliff to their deaths after surviving and living through four years of “living hell.” Since then, Thailand has built roads to the site, claiming it as their own.

In the early 2000s, the Cambodian government, back on its feet, began to pave a road to reach Phnom Preah Vihear, and in 2008, UNESCO awarded Cambodia as the sole bearer to the world heritage site. Cambodians ran into the streets. Vendors sold Preah Vihear memorabilia. National pride was high as Cambodia took strides to get back what was lost. On December 25, 2010, over 200 teachers trained in “core” programming in 2009 reconvened at Phnom Preah Vihear, as part of the Ministry of Education and DC-Cam’s working group entitled “**Reclaiming Cambodian History.**” Of course, power and politics are all involved in the archive, but the discussion can go further than what a post-structuralism discourse affords as the history emanating from power is also one that concomitantly helps one testify to and work through its past: As 200 teachers travel along the newly paved Cambodian road to see the temple that they can now claim as their own, they too will mount an invisible flag on their own histories, and begin to steer their country in the course to reclaim and to know its own past.

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# ANTI-GENOCIDE SLOGAN INAUGURATION CER



# CEREMONIES IN PHNOM PENH HIGH SCHOOLS



ing High School



Boeng Trabek High School



Boeng Trabek High School



Chea Sim Santhormok High School

# ISLAM IS CHANGING IN CAMBODIA: INTERNAL STRIFE WITHIN IMAM SANN COMMUNITY IN KAMPONG TRALACH DISTRICT

*Kok-Thay Eng*

In Imam Sann community in Kampong Tralach district, one village decides to build a separate mosque four hundred and fifty meters from the old commune mosque to the disagreement by the community's mufti. Islam is changing in Cambodia. Muslims are benefiting from changes and international aids from global Islamic institutions often at the cost of refashioning their Islamic practices according to donors' preferences. Imam Sann followers remain committed to their syncretic Khmer-Cham-Islam system under enormous pressure to develop.

Cambodian Islam is composed of three main sects: the orthodox Islam which commands the following of the majority of Cambodian Muslims, the Chvea Muslims of coastal regions and the Imam Sann group. The first group follows the Shafii school of Sunni Islam. The second and third groups follow a variance of Sufi Islam. Approximately 80% of Cambodian Muslims belong to the first group which has most contacts with and receives influence from the Muslim world. Their practice of Islam has most resemblance from the one done in the majority of the Muslim world. They pray five times a day. For some members of this group, especially those people in Svay Khleang district (Kampong Cham province), dog is forbidden to keep as pet as it is considered not clean. This group is believed to be coming from *Champa* and mostly influenced by orthodox practice of elite Chams who came to Cambodia. With influence from outside practice, through charity organizations from Kuwait, Saudi Arabia, Malaysia and other countries, their mixture with local cultures begins to wither away over the years. Their observance of Islam becomes more orthodox.

The second group of Muslims lives mostly along the Cambodian coastal area. They number

about 40,000 members. This group does not speak Cham language. They are also called Chvea Muslims who originally came from Southeast Asian archipelagos as maritime traders. This group was also believed to be the original Muslims who converted Cham refugees from Hinduism to Islam when they first arrived in Cambodia after the capture of Champa's capital by Vietnam in 1471. They were also the likely group who influenced Champa's decision to make mass conversion to Islam through trade connections between Champa, Sumatra, Malaysian peninsula and Middle Eastern traders. They are less orthodox than the first group. They pray one time in seven days, and their cultural practice is most resembling of the majority Khmer culture.

The third group of Chams is the followers of Imam Sann, an old and devout Muslim, who died and



Mawlid ceremony of the Imam Sann in Kampong Tralach district

was buried on Oudong Mountain (the old capital of Cambodia). This group is the smallest among the three and is numbered about 38,000. They live mostly in Kampong Tralach district (Kampong Chhnang province), but they can also be found in provinces such as Kandal, Pursat, Battambang and Kampot. According to the group's mufti, Kai Toam, there are currently 53 mosques and *suravs* for Imam Sann group in Cambodia. This group is considered by other groups as less orthodox in their practice of Islam as they only pray one time in seven days. The manner of their prayers, Islamic practices and everyday costumes are also different from other groups. For example, they do not wash their face when they pray. The men do not need to keep beard. The men's headscarf or Khimar is not the cap-like, wrap-around style used by the first group. Some men used the Khmer *Krama* as headscarf. Indeed, one can see no specific headscarf guideline among the men. Some men wear Khmer-like white scarf around, but not covering, their heads. Other men do wear Khimar. Old men wear simple, white, long-sleeved shirt and long pants. Without their head-scarfs, they look just like Buddhist priests. During the Mawlid ceremony, single women wear green robe while married women wear black robe. However, they do not cover their heads or faces in any Islamic fashions.

The Imam Sann group follows the practice of Islam from a mysterious and yet famous Imam Sann who was recognized by a Cambodian King and given a location to build his mosque by the King at the foot of Oudong mountain. He was a close counsel to the King. Some Muslims say that Imam Sann knows magic which indicates the influence of Hinduism. Imam Sann's way of Islamic practice was distinct and strong enough that it commands a devoting group of followers. Today this group is in somehow danger of being assimilated into the more orthodox, majority Sunni group. Presumably Imam Sann group speaks Cham language and writes Cham better than other groups. They also believe themselves to be the preservers of the original Cham cultural

heritage. According to Kai Toam their number is decreasing. Some charity organizations provided funds to develop community with some conditions for them to follow their Islamic practices, for example, to pray five times a day. Some Muslims believe that their ways of practicing Islam reflects their lack of understanding of broader Islam. Osman Hassan believes that once this group understands that they are different from other Muslims in the "world," they would change. But Osman Hassan did not want to force them to change or provides aids to them with conditions for them to change. But Imam Sann Muslims believe that are already close to God so there is no need to pray five times a day.

Recently there is an emerging strife within the Imam Sann group. In Orussey commune of Kampong Tralach district, there are three Imam Sann Muslim villages: Chan Kiek, Orussey and Sre Prey. Chan Kiek has 205 families. Orussey has 160 families and Sre Prey has 280 families. Each village has its chief, but it also has an Imam who oversees religious practice within their respective community. In the past years, Mawlid ceremony was conducted at the commune *surav* in Sre Prey village where the Imam Sann mufti Kai Toam oversaw the festivities. In the past two years the three villages have conducted their Mawlid ceremony separately which Kai Toam vehemently disagrees. The village of Orussey has built its own *surav*. Chan Kiek is also building a new mosque.

The decision by Chan Kiek to separate conducting festivities causes conflict between Kai Toam and Chan Kiek villagers led by their Hakem named Sou Ly. Kai Toam said that he has no trouble seeing Orussey doing their ceremony separately because it abides by the law and traditional practice of separation. According to Kai Toam the law says that a community can build a separate mosque/*surav* when that location is 2 km away from existing mosque/*surav*. When this distance is an extended field, then the new mosque/*surav* must be built further than the eye can see. If this distance is covered by

forest, then the location of the new mosque/surav must not hear the sound of the drum beat from original mosque/surav. If there is a river between the villages which makes it difficult to cross to an original mosque/surav, then it is permissible to build a new mosque on the other side of the river. Kai Toam said Sou Ly's decision to build a new mosque does not follow these rules as the location of the new mosque is just 450 meter from the old mosque.

However Sou Ly explains that previously the villages in the commune were small. Today they have expanded several times. The old mosque is too small to accommodate everybody. He also points out that Orussey has already separated, so he would like to have his own village mosque. He and his villagers said that many communities are developing and changing, with funding from overseas like Kuwaiti charity organization, so they want their village to have a new face and a new mosque built for them and their children, as opposed to going to the same mosque shared among the whole commune. Sou Ly added that recently a Kuwaiti organization intends to provide help with the construction of his new mosque but he said if they force him to pray five

times a day he would not accept the donation. Sou Ly added that the conditions set up by Kai Toam that prevent him from building a new mosque has no foundation in any written guideline. He stresses that they have no practical purposes and is quick to point out that the mosque a Muslim builds the better it is for Islam.

The conflict above is a conflict between leader and followers. It is also a conflict between conservatism and modernization under the pressure of Islamic change in Cambodia. One can only hope that the conflict can lead to good results for both parties. Kai Toam remains open to negotiation and would welcome the return of his Sou Ly join him in the practice of Mawlid ceremony and Islam. It is important to note that in the leadership hierarchy of Imam Sann sect, Sou Ly the third deputy of Kai Toam. Both men were also invited to visit the Khmer Rouge tribunal by DC-Cam and participated in DC-Cam's Cham Muslim oral history project.

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Cham women of Iman Sann Community carrying traditional cakes to the ceremonial hall

# GEOGRAPHIC EDUCATION AS GENOCIDAL POLICY UNDER THE KHMER ROUGE

James A. Tyner

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It is well-established that the Khmer Rouge, upon assuming power in 1975, set out to destroy the existing societal infrastructure: health, education, commerce, religion, family. However, what is less discussed is that the Khmer Rouge intended to *construct* an entirely new state and society. The objective of Pol Pot, Ieng Sary, Khieu Samphan, and other leaders of the CPK was to make an entirely new, modern, and productive communal society. This goal of the Khmer Rouge was in fact two-fold: to first erase all vestiges of the previous society and, second, to erect an entirely new, socialist-based society. It was with this understanding that Cambodia ceased to exist, replaced by Democratic Kampuchea (as the country was renamed by the Khmer Rouge). Indeed, it was Pol Pot who declared, "*There are no schools, faculties or universities in the traditional sense, although they did exist in our country prior to liberation, because we wish to do away with all vestiges of the past.*"

In this chapter, I suggest that organized mass political violence—genocide—was explicitly adopted by the Khmer Rouge as an instrument of *post-conflict* political construction. Furthermore, I maintain that a *geographic-based education*, as manifest in a political textbook produced by the Khmer Rouge, was a key to the CPK's post-war project. As such I provide a needed corrective to our understanding of both post-conflict societies and the 'causes' of genocide.

**Genocide as Post-Conflict Reconstruction**

Although the close association between 'war' and 'genocide' is well-documented, the form of this relationship remains open to debate. Genocides, for example, frequently occur during, or in the immediate aftermath, of war. This is clearly seen in the Armenian genocide of 1915, the Nazi-perpetrated Holocaust

of the Second World War, and in the Rwandan genocide of 1994. Scholars assert that the upheavals and uncertainties associated with war contribute to the conditions that make possible the targeting of 'enemy' civilians. The common understanding is that genocide is extension of war. However, there remains the possibility that genocide may be approached as a *political instrument of post-conflict (re)construction*. In the case of Cambodia, genocide was perpetrated during a period in which the war was believed over. Indeed, for the Khmer Rouge, the date of their military victory marked 'year zero'—a tangible clue that signaled *their* understanding of war's end. The Cambodian genocide followed in the wake of civil war; the termination of conflict however did not bring about peace as this concept is normally understood.

On April 17, 1975, thousands of war-hardened Khmer Rouge soldiers poured into the streets of Phnom Penh, Cambodia's capital city. Coinciding with the cessation of the broader Indochina War that engulfed neighboring Vietnam and Laos, the Cambodian Civil War (1970-1975) was over. In five bloody years, the Khmer Rouge had defeated the US-supported Republican forces of the Lon Nol government. In the process, tens of thousands of people had died; many hundreds of thousands found themselves refugees in their own land—what we would now describe by the innocuous term 'internally displaced persons.' But for the majority of Cambodians, post-war society was anything but peaceful.

The victory of the Khmer Rouge would mark the termination of years of military conflict but not the end of widespread violence. In the weeks and months that followed, the cities and towns of Cambodia were evacuated, their inhabitants forced

onto agricultural collectives in the countryside. Hospitals, factories and schools were closed; money and wages were abolished, and monasteries were emptied.

Upon assuming power, the Communist Party of Kampuchea sought to transform Cambodia into a modern, communal utopia. As such, Party members attempted to replace what they saw as impediments to national autonomy and social justice with revolutionary energy and incentives. In their attempt to create—not recreate—a utopian society, the leadership of the Khmer Rouge embarked on a massive program of social and spatial engineering.

Rather than *reconstructing* a war-devastated society, the Khmer Rouge explicitly attempted to erase time and space to construct (in their minds) a new and pure communal society. This is seen most clearly in the Khmer Rouge's decision to forcibly evacuate Phnom Penh and all other urban areas of Cambodia. But it is also seen in the justifications for the mass violence of all facets of daily life—including the promotion of education.

### (Geographic) Educational Policies of the Khmer Rouge

The Khmer Rouge understood the importance of education in their post-conflict construction of Democratic Kampuchea. Indeed, education was vital to their revolutionary project in that it would provide support and legitimacy for associated political and economic programs. When the Khmer Rouge stood victorious on the streets of Phnom Penh on April 17, 1975, they constituted neither a centralized, efficient political party nor military force. Having achieved 'military victory', the Khmer leadership understood that they would have to centralize power and 'build socialism'.

With such a tentative hold on the populace—and its own political power—the Khmer Rouge leadership sought to solidify their position through various means. On the one hand, the Khmer Rouge utilized a practice of state-terror. Within Democratic Kampuchea, for example, the public display of torture and execution served to reify the authority of the



Cambodians farming in August 1978

Khmer Rouge. Moreover, the systematic violence and the killing of its own populace were understood by the Khmer Rouge as a prelude to the construction of a moral and properly ordered post-war society.

On the other hand, the Khmer Rouge turned to education—generally considered a ‘positive’ peace building exercise—as a means of establishing both legitimacy and political control. However, education under the Khmer Rouge included both *destructive* and *constructive* practices. First, and in conformance with other practices, the Khmer Rouge sought to dismantle the pre-existing educational infrastructure. Prior to the Khmer Rouge’s rise to power, for example, Cambodia was home to 5,275 primary schools, 146 secondary schools, and 9 institutes of higher education.

Under the direction of the CPK, however, this infrastructure was literally ‘smashed’ or demolished. Teachers were ‘smashed’, as anywhere from 75 percent to 90 percent of all teachers at all levels were killed during the genocide. Most school buildings were destroyed; libraries were emptied and books were burned. Those buildings left standing were often converted to other uses. A University was turned into a farm. Perhaps most symbolic, a former high school (Tuol Svay Prey) was converted into a detention and torture facility; at this site, now known as Tuol Sleng prison, approximately 14,000 people were detained, tortured, and eventually killed.

Along side these destructive practices, the Khmer Rouge forwarded a number of (in their view) constructive practices. This marked the second phase of the CPK’s educational agenda: the construction of Democratic Kampuchea. Simply stated, the Khmer Rouge leadership proposed a new educational system, one that was intended to promote a national political consciousness and in turn provide legitimacy to Khmer Rouge rule. In fact, the Khmer Rouge explicitly sought to justify their political and economic programs through education.

Education in general, but *geographic* education specifically, is far from a neutral activity. Indeed, with

respect to the latter, it is now well-understood that the teaching of geography is important in the development of a political consciousness. Geographic instruction, firstly, provides students with basic knowledge about people and places: the ‘facts-and-figures’ of geography, or the traditional ‘capes-and-bays’ form of knowledge that appear on maps and in text-books. However, there is also a ‘hidden curriculum’ (or subtext) in the teaching of geography. Indeed, geographic education may facilitate the construction of ‘national identities.’ This is seen, for example, in the re-drawing of political maps following war. And, in fact, following the victory of the CPK, a new map appeared, one that symbolically spoke to the new state of Democratic Kampuchea. The Khmer Rouge’s map portrays the administrative divisions of Democratic Kampuchea. At the broadest scale, Democratic Kampuchea was divided into seven geographic zones, identified by cardinal compass directions: North, Northeast, East, Southwest, West, Northwest, and Center. These zones were apparently derived from military designations established by the Khmer Rouge during the war (1970-1975). These zones, significantly, did not conform to any pre-existing political division of Cambodia. The Northeast, East, and Southwest zones, for example, included the former eastern portion of Stung Treng province and the provinces of Ratanakiri, Mondulakiri, Prey Veng, Svay Rieng, eastern Kompong Cham, Kandal, southern Kompong Speu, and Kampot.

The political geography of Democratic Kampuchea as delineated on the map is very significant. Certainly, one sees evidence of the militarized society promoted by the Khmer Rouge. The fact that political divisions, for example, were derived from military necessity is certainly important. However, the map also reveals how the Khmer Rouge sought to erase previous regional identities, to be replaced by an imaginative geography that suppressed regionalism and provincialism in favor of a broader nationalism. The entire political geographic organization of Democratic Kampuchea was based

on an abstract system composed of cardinal direction points and numbers and, in the process, the Khmer Rouge's cartography signified 'egalitarianism' in that all regions were identical; there was nothing to distinguish one zone from the other.

The *production* of geographic knowledge, whether in the form of maps or school texts, thus assumes a primary place in post-conflict construction. State schooling practices, serve to establish and reinforce specific ideologies of nationalism. In turn, these practices may be used to justify and legitimate political processes and practices—including mass violence and genocide.

### Political Geography under the Khmer Rouge

Apart from agricultural and industrial development, education was seen by the CPK to be of prime importance in the building of Democratic Kampuchea. In part, the importance of education is related to the place of children within the new society. A traditional saying in Cambodia holds that 'clay is molded while it is soft.' According to Henri Locard, this slogan was often used to signify that only young children could be selected by the CPK to become loyal servants of Angkar. This idea, in fact, was developed by Pol Pot, who said of the young: "Those, among our comrades, who are young, must make a great effort to re-educate themselves. They must never allow themselves to lose sight of this goal. You have to be, and remain, faithful to the revolution. People age quickly. Being young, you are at the most receptive age, and capable to assimilate what the revolution stands for, better than anyone else."

Given that education within Democratic Kampuchea was so important for the cultivation of a political consciousness, it is not surprising that the Khmer Rouge produced school texts. Text-

books for the CPK imparted an authority to which students were expected to respect without question, and thus complemented the role performed by the secretive 'Angkar'. In Democratic Kampuchea, the Khmer Rouge was known to have published at least three text-books, including two books on geography. The first, a general geography text, was intended for first-grade use; the second, a text on political geography, was designed for second-grade use. It is the latter text that occupies my focus for the remainder of this paper.

In 1977 the Ministry of Education published a second-grade text entitled "Political Geography of Democratic Kampuchea." Numbering 72 pages in length, the text is composed of twelve 'lessons' or chapters. The first chapter provides an overview of the nation and people of Democratic Kampuchea; the second chapter details the organizational structure of Democratic Kampuchea, including its provinces, regions, zones, and districts. Lessons three through eleven cover the various provinces of Democratic Kampuchea. Between 1975 and 1979, the state of Democratic Kampuchea (as administered by the Khmer Rouge) was composed of 19 provinces; these were further divided into 112 districts, 1,160 communes, and innumerable villages. These provinces



Secondary School students in Takeo province reading textbooks

were also aggregated for administrative purposes into larger regions and zones.

The text, in effect, constitutes a fairly traditional regional geography of Democratic Kampuchea. Lessons Three through Eleven are identical in structure. Each lesson begins with a brief summary of the province(s), followed by a (repetitive) lesson summary and series of questions. Lesson four, for example, identifies Kandal Province as being “situated around the intersection of...four rivers” and having Takhmao as its provincial town”. These brief summaries give further elaboration on neighboring provinces and/or physical features. In short, each lesson begins with the basic ‘site-and-situation’ of the province. Next, the text informs students of the various districts which compose the provinces, along with specific communes. Stung Treng Province, for example, consists of four districts, including Siem Bok; this latter district is further composed of three communes. Lesson chapters are illustrated with photographs. As a regional geography, however, the text is far from idiographic; rather, it is normative in approach, *commanding* students to learn not only the political (i.e., administrative) divisions of the country, but also the *politics* behind the establishment of Democratic Kampuchea.

Having established the basic political boundaries of each province, lessons subsequently inform students of the *relevancy* of each location to the overall revolution. Thus, with respect to Kandal Province, students learn that Democratic Kampuchea’s “poor peasants at all revolutionary strongholds in Kandal Province stood up to struggle against the secret agents, soldiers, police, and the exploitative class of all forms, who infiltrated, repressed, and slaughtered our brothers and sisters”. Likewise, students learn that for both Siem Reap Province and Oddar Meanchey Province, “our people ... [but] particularly the poor peasant farmers, joined the rest of the people in the country in the revolutionary struggles against the American imperialist, its puppets, and the traitorous Lon Nol clique with bursting energy and enthusiasm”.

Chapters conclude with ‘lesson summaries’, in which the main points of the preceding relevancy sections are repeated, followed by ‘suggested’ questions for discussion. One question, for example, asks students: “During the period of over five years of revolutionary war, how did our people in Preah Vihear province participate in the struggles?”.

Lessons are brief, direct, and repetitive. They entail basic geographic concepts (i.e., site and situation), followed by political lessons designed to promote a particular geographic imaginary of both the revolutionary struggle and the contemporary state of Democratic Kampuchea.

Significantly, these lessons provide insight into the establishment of citizenry for Democratic Kampuchea. Students learn who was to be included within the state, and for what reasons; likewise, students learned who was to be excluded—or ‘smashed’. Consequently, these lessons could be applied in the students’ everyday lives, as a means of providing justification and legitimacy to other Khmer Rouge practices, such as detentions, forced labors, and executions.

The Khmer Rouge understood the construction of Democratic Kampuchea’s ‘new’ geography from its ‘old’. As indicated in the political geography text book:

“Over the past two thousand years under the administration of the feudal and capitalist class and the iron yoke of the old and new colonialists and the foreign imperialists, our Kampuchean nation has nothing remained but an empty shell and a mere label. The true nature and essence of the national unit were entirely shattered. For the nation suffered territorial losses and the country and people became subservient to foreigners. Furthermore, everything associated with the national identity from politics, economics, culture, arts, literature, and traditions to social order,

attitude and behavior, language, clothing fashion, and so on were foreign imports or were transformed by foreign influences”.

Lesson One, therefore, is quite clear as to whom was to be included (and thus allowed to live) in Democratic Kampuchea. The lesson explains that the “people of Kampuchea are Kampucheans of all ethnic origins, including the Khmers and all ethnic minorities who are based in regional localities and other areas throughout the country and who were born and have earned their livelihood from farming in the territory of the Democratic Kampuchea since a long time ago”. However, the text also notes that the ‘nation’ consists of “people of all ethnic backgrounds who are collective laborers and peasants who have a long history of audacious struggles against the oppression and exploitation of the feudal and capitalist reactionaries and the invasion of foreign imperialists and colonialists of the old and new kinds”. According to this ‘second-grade’ text book, here is a clear *political* statement as to who was to be included or excluded from Democratic Kampuchea. In other words, we may view the political geography text as providing a lesson in citizenship.

The lesson is brutally self-evident. The Khmer Rouge ideologues were not content with *reconstructing* Cambodia, but rather in construction a new Democratic Kampuchea. The CPK believed itself to be justified in its *planned and deliberate* actions, through the use of genocide as a post-war political tool of construction. The transformation of Cambodia into Democratic Kampuchea was, from the perspective of the CPK, literally to ‘smash’ all pre-existing histories, geographies, and societies.

Citizens—as students were taught—were to be economically and/or politically useful; citizens were to live only for the state. The Khmer Rouge saying ‘If you live there is no gain. If you die, there is no loss’, approaches this conception of the sovereign’s right over life and death. This is the lesson that was taught in the second-grade text-book.

The killings that were sanctioned and justified by the Khmer Rouge were designed, in part, to centralize authority; likewise, the tortures, forced confessions, and executions were enacted to justify and legitimize the sovereignty of the CPK. Hence we see in Democratic Kampuchea, that genocide had a clear and distinct *post-conflict* purpose: a systematic eradication of persons who did not conform with the imagined geographies of a sovereign Democratic Kampuchea.

### Conclusions

When fighting ceases, it is often assumed, peace is at hand, and a process of reconstruction begins. Unfortunately, the reality is decidedly more complex. Through an examination of a second-grade political geography text-book produced by the Khmer Rouge, I have argued that the Khmer Rouge used genocidal policies in order to *construct* a new nation-state *following* the termination of war. The Khmer Rouge justified their actions and condoned the death of millions of their own citizens. These deaths occurred via both direct violence (e.g., murder and execution) and structural violence (e.g., starvation, inadequate health facilities).

In the aftermath of war, the Khmer Rouge proposed and implemented a geographic-based pedagogy, an educational curricula designed to formulate a specific geographical imagination and political consciousness. I maintain that the political geography text-book, while traditional in orientation with an emphasis on regional geography, was explicit in forwarding the Khmer Rouge’s justification and legitimacy of both its political rule and organized mass violence. In other words, the text-book itself is an admission on behalf of the Khmer Rouge that it acknowledged, recognized, and condoned the brutal practices that led to the death of approximately two-million people.

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# MALAI: FIFTEEN YEARS AFTER INTEGRATION

*Socheat Nhean*

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Having been living with some bad condition in everyday life for over a decade, former Khmer Rouge supporters in Malai district applaud the development plan in their area. The government is renovating a 50-mile road connecting national road 5 to Malai district. The accessible road to Malai district had been very bad: water flowing on the road during rainy season and being bumpy and dusty in dry season. "Danger Mines" labels are still along the way. More than a decade since the Khmer Rouge political structure collapsed, it is seen that progress has been made. Progress has just been made; however, the mindset of people has changed long time ago—since the integration into the government in the early 1990s.

Malai residents have changed—not only the living condition, but their mindset—from supporting the Khmer Rouge to supporting the government. They love the current Cambodian government as much as what they used to love the Khmer Rouge who brainwashed them into hating the enemy. "Before I loved the Khmer Rouge leaders, but now I love Samdech Hun Sen," said a man whom I called Seng who lost his right arm and right leg to the battle field and who strongly told not to be named. Many people in Malai have the same views as Seng.

Like many other former Khmer Rouge soldiers, Seng feels guilty for serving the Khmer Rouge for over two decades from the 1970s to the 1990s. "I want to regain my reputation by serving the [current Cambodian] government. I do not need more separation among Khmers," recalled Seng.

However, Seng does not want to talk at all about the past. What Seng could say was that he joined the Khmer Rouge revolution since 1970. After serving the Khmer Rouge for decades, Seng recalled that past leaders made him crazy although he did not mention who the leaders were. "I was brainstormed

to be crazy in the past, now I will not be crazy again," firmly said Seng. Seng added that he would not join again if the regime like the Khmer Rouge request people to join the struggle again and he will educate young generation not to join.

Unlike Seng, several Malai women who were wives of Khmer Rouge cadres and soldiers wanted to talk about their life history during the Khmer Rouge regime and during the 1980s. Lay Sim always wanted to speak out about her experience because she had never wanted to live in Malai, although she had joined the Khmer Rouge revolution since 1970. Shortly after the Democratic Kampuchea regime collapsed in 1979, Lay Sim visited home in Takeo province, but unfortunately, she was insulted by her neighbors for supporting the Khmer Rouge. She went back to Malai and continued living there until today.

Malai is one of the districts of Banteay Meanchey province, about 50 miles at the west of the town of Serey Sophorn. Malai is less than half a mile from Thai border. It was a former Khmer Rouge stronghold through the 1980s until mid 1990s under the control of former Khmer Rouge foreign minister Ieng Sary, who is now in detention awaiting trial at the Khmer Rouge tribunal. In 1984-85, the Vietnamese soldiers attacked this area killing thousands of Khmer Rouge supporters.

Malai is currently governed by a former Khmer Rouge intellectual and diplomat, Tep Khunnal, who was promoted to the position in May 2005. Tep Khunnal, who married former Pol Pot's wife, was probably one of very few returnees who did not go through S-21, except being in a "re-education camp" for one year and finally survived the Khmer Rouge regime. He left Cambodia in 1973 for France to pursue his study in engineering and then returned to Phnom Penh in 1977 following

leng Sary's appeal to rebuild the country after the war.

Malai district has four communes, of which Malai commune is the most populated and is the administrative area of Malai district.

Malai residents remembered that they used to love Khmer Rouge leaders in the 1980s. "People here used to love Ieng Sary a lot; he brought food for the people and cared the people," said Malai commune chief Dim Sok, who fled to Malai in 1979 after the Khmer Rouge regime collapsed. Dim Sok, whose original name was Dong Saran, was born in Pursat province and was a Khmer Rouge soldier from 1970 to 1975 in the Northwest Zone. During the Democratic Kampuchea regime, he was a Khmer Rouge cadre responsible for repairing train in Battambang province.

Like other Malai residents, the commune chief Dim Sok has also changed his mind. He now loves the leadership of the Prime Minister Hun Sen and he wants to serve the government. .

What that is not change in Malai is the condition of the road, which is in very bad condition with water flowing on the road at some areas in a rainy season and the soil was sticky and slippery. Over the past fourteen years, Malai residents mainly earned living by growing corns, bean, potatoes and sesame. For

education sector, Malai has from kindergarten to high school. It has a health center despite with some limited medial materials and rooms.

The commune chief Dim Sok is so happy that the government plans to build the road in Malai, which started early this year. "People's living standard will improve as the road is renovated. People had a lot more difficulty in travelling in the rainy season," happily said Dim Sok.

Malai has changed its face from forested areas during the Khmer Rouge control to a more developed currently. With more than 8,000 people in his commune, Dim Sok acknowledges that people's family economic has improved. "Now approximately 85% of the small huts [during the Khmer Rouge] changed to big houses." There is an expectation that living standard of people will be improved as road could provide speedy access to transport agricultural product to other parts of the country.

Dim Sok not only loved Prime Minister Hun Sen, but also knows him so well. "I am 59 years old; I am two months younger than Samdach Hun Sen," said Dim Sok when asked how old he was.

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***Socheat Nhean is the Team Leader of the Searching for the Truth Magazine.***



Road to Malai in Rainy Season

# RESPONDING TO GENOCIDE

Ashley Cooper

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*"A society cannot know itself if it does not have an accurate account of its own history."*

## *Documentation Center of Cambodia*

On April 17, 1975, Cambodians greeted the Khmer Rouge in the streets of Phnom Penh with cheering and excitement. Cambodians foresaw a brighter future under the leadership of this new government. What they received, however, was a brutal genocide that ravaged the lives and spirits of every remaining Cambodian citizen and killed more than twenty percent of their population. In less than four years, the leaders of the Democratic Kampuchea purged Cambodia of much more than its monks, its intellectuals, and its Muslim Chams; the DK purged the Cambodian survivor's trust in the goodness of mankind and each other. Since the genocide officially ended in 1979, survivors have been reeling in their private hells of nightmares with little hope of closure or healing. The responses of their own broken down nation and the world at large has left the majority of survivors in a limbo between past and present that the Documentation Center of Cambodia and the Extraordinary Chambers in the Courts of Cambodia have begun to alleviate.

The various political players acting in response to the Cambodian genocide did little to initiate the immediate healing process of the survivors. The Vietnamese invasion of Cambodia began in December 1978, driving the Khmer Rouge (CPK) out and occupying Phnom Penh by January 7, 1979. The People's Republic of Kampuchea (PRK) came into power backed by the Vietnamese government and army. Though the PRK claimed to be seeking the liberation of the oppressed Cambodians, it in fact aggravated divisions through out the 1980s and inflamed civil and border disputes

with competing factions. Politically, PRK portrayed the genocide through the lenses of Vietnamese heroes, wholly neglecting the needs of the Genocide's survivors.

On January 8, 1979, Vietnamese photojournalists discovered the site of Tuol Sleng, the premier torture camp of the Cambodian Genocide that witnessed the interrogation, torture, and murder of at least fourteen thousand men and women. Tuol Sleng, also referred to as S-21, was shut down as the Vietnamese sensed "the historical importance and the propaganda value of their discovery"; it was reopened by the end of the month to journalists from socialist countries in celebration of the installation of PRK. Contrasting the horrific violence of the Democratic Kampuchea (DK) era with the "open" invitation of foreigners into PRK, the Vietnamese presented themselves as sympathetic liberators in order to establish their presence as not only legitimate, but wholly welcome and necessary. By doing so, the PRK hoped to win the United Nations seat that continued to be held by the Khmer Rouge leadership for years to come.

In March 1979, Vietnamese colonel Mai Lam was put in charge of organizing and archiving the thousands of prison documents that had been left behind in Tuol Sleng and of turning Tuol Sleng into a genocide memorial. In her essay, Burcu Munyas says, "genocide memorialization refers to a society's public display of its interpretation of the genocide," but this was not the Cambodian society's interpretation as Mai Lam attempted to make people believe with Cambodian puppet curator and S-21 survivor Ung Pech. Tuol Sleng features all of the brutality and terror that it encompassed, but with little contextual information, making it into what Nancy Scheper-Hughes calls a "pornography of violence [which] subverts empathetic viewing." Instead of educating

the Cambodian population about the atrocities they suffered and memorializing the victims respectfully, Mai Lam recreated their fear and terror by portraying the skulls, torture tools, and blood stains left behind by their murdered country men. The PRK kept alive the overwhelming terror Cambodian citizens felt towards the Khmer Rouge in their memorialization of their suffering in another attempt to legitimize their authority in the eyes of the populace.

Though the PRK claimed they were honoring the dead and protecting the living, they neglected to respect the cultural customs of Cambodia and, in effect, reinforced what Richard Rechtman labels the CPK's rhetoric of extermination. In Cambodia, it is customary to cremate the deceased so that they may reenter to the Buddhist cycle of rebirth; this liberation is denied when a person suffers a violent death and is not given proper rites. Rechtman explains the "survivor's paradox" as the victims' "interiorization" of this rhetoric and the hesitance to abandon their kin without a symbolic resting place. As a result, the dead continue to haunt the living as *khmoch*, or evil spirits. The display of so many murdered in Tuol Sleng, in addition to the millions lost in mass graves, keeps these spirits roaming the countryside and torturing the daily lives and nightly dreams of survivors and the generations that follow.

Further cementing the present with the past, "Hatred Day" was implemented on May 20. "Hatred Day" translates in Khmer as "The Day to Remain Tied in Anger" and featured anti-Pol Pot demonstrations for school children, PRK officials' condemnation of the DK, and survivor speeches about their horrific experiences. Again, this propaganda did little to alleviate pain or find understanding, but instead opened existing wounds to pour salt on them and inflame antagonistic hatred. Fortunately, since the Paris Peace Agreement in 1991, the day evolved to become a day for remembrance for survivors and their families and serve as a time for healing.

The Vietnamese may have forced the KR out temporarily, but their presence remained strong within Cambodian borders. International governments chose sides and civil war raged to displace an additional half million Cambodians. During the CPK reign, about eighty percent of school teachers were murdered and nearly ninety percent of the country's schools had been destroyed; the education system had to be organized from scratch. Political propaganda from both the CPK and PRK infiltrated education and "all sides manipulated history to instill in youth hatred of 'the other' as whomever and however each side defined it." This ranks as perhaps one of the worst political responses to the Genocide which

had already eliminated the intellectual and educated individuals in the first round of purges in 1975. Children were rarely taught to read and write and instead were trained to hate the enemy and fear invasion, perpetrating not only ignorance, fear and violence, but also poverty. After this, text books cycled through a steady deletion and reinsertion of historical information as its respective government manipulated facts as it saw fit,



People offering food to the monk on May 20 "Hatred Day" at Choeng Ek

sometimes deleting the genocide altogether to encourage reconciliation.

Even today's teachers, who sometimes have no more than a third grade education, are so poorly paid they demand bribes from their students at the start of each school day and sell the answers to exams. As a result of their families' poverty, only 11.5 percent of children who begin school (which is only seventy-five percent of all children) continue on to high school; diplomas are rarely respected as academic achievements. Instead of rebuilding a society, political propaganda and internal corruption further degraded it and continue to hinder Cambodian individuals from establishing and maintaining any sort of personal identity or collective memory.

On the other hand, Tuol Sleng, and the enormous volumes of documents found there and elsewhere catalyzed a commendable historical response to the Cambodian Genocide. The unearthing and documentation of historically accurate information is an integral part of survivor healing, validating the experience of the victims and affirming their innocence. From the beginning, PRK encouraged the academic study of the archival information found at Tuol Sleng and Santebal. Of course, their motivation in doing so was to earn legitimacy in the eyes of the international community as the saviors and leaders of Cambodia. David Hawk, a human rights activist, "assembled a daunting collection of materials from Tuol Sleng that provided ample evidence of the extrajudicial crimes of the DK regime" in the 1980s and, from 1991 through 1993, Cornell University created two sets of microfilms which cover 210 reels of film containing every confession found there.

A very encouraging historical response has been the Cambodian Genocide Project's creation of the Documentation Center of Cambodia (DC-Cam) which works to accurately document the history of Cambodia. Its objective is to educate the Cambodian population in order to propagate healing. DC-Cam

works with two objectives to serve memory and justice, stating that "a society cannot know itself if it does not have an accurate memory of its own history."

In March 2007, the group's team leader Khamboly Dy completed *A History of Democratic Kampuchea* which the Cambodian Ministry of Education has officially approved as the historical text to be implemented in public schools. This, of course, is a huge step in the process of establishing a collective memory and a future for Cambodia's children.

The undeterred documentation and international protection of prisoner confessions and history of Democratic Kampuchea has kept the truth of this period from disappearing. This scholarly commitment, which has catalogued approximately 155,000 pages of KR documents and six-thousand photographs, aids in the healing of survivors who wish to see this period recognized for the horrific genocide that it was. For survivors, sharing their history not only affirms their own suffering, but also pays homage to the victims who were killed at the hands of the CPK. DC-Cam is a not-for-profit "independent and nonpartisan institute in Cambodia [that] disseminate[s] information on the Khmer Rouge regime based on impartial inquiry" and is operated entirely by Cambodians and aided by scholars of Europe, Asia, and the United States. DC-Cam's integrity is greatly respected in the international community and at home which increases the reputability and validity of the information it presents.

Historical documentation also plays the most important role in what many genocide victims see as the most important condition for reconciliation: legal justice and punitive proceedings. The archive at Santebal "is considered the most valuable find of any set of documents from the DK period [which] record the regime's military and security activities throughout the country and may well connect individual top leaders to specific crimes." In his interviews with survivors of the Rwandan Genocide, Kasaija Phillip Apuuli found that survivors saw

punishment of the perpetrators as the most important means of establishing reconciliation. These victims wanted the top authorities in charge during the genocides to ask for forgiveness, to be punished, and to be forgiven by the survivors themselves, as opposed to a government institution.

In August 1979, the PRK conducted the trial of Pol Pot and Ieng Sary, CPK's prime minister and deputy prime minister for foreign affairs respectively. The PRK invited international lawyers, journalists, and dignitaries to sit in on and participate in the criminal proceedings. The five-day trial, which tried the defendants in absentia, included the testimonies of twenty-two victims and forty pages of well documented evidence that attested to the atrocities that the Khmer Rouge inflicted upon the Khmer people. Unfortunately for the Khmers, the United States and China refused to recognize the trials as anything more than a Vietnamese show to gain UN political support. While the trials systematically and elaborately proved the guilt of the KR leadership in crimes against humanity and genocide, the world acquitted them and essentially discredited the stories of the victims. During the CPK reign, the suffering and murders of the Khmer people were largely ignored by the international community due to a heavy veil of secrecy maintained by the CPK leadership. However, when the truth was uncovered but invariably unpunished due to greater political agendas, the Khmer people were left in pain and despair, undoubtedly losing faith in the judicial and government systems that were supposed to protect and defend them.

In October 2010, Kaing Guek Eav, alias Duch and warden of Tuol Sleng, was brought to trial and found guilty for crimes against humanity and war crimes by the Extraordinary Chambers in the Courts of Cambodia (ECCC). Certainly a step in the right direction, the delay of legal proceedings nonetheless directly delayed the healing of Cambodian Genocide survivors. A culture of silent obedience, Cambodian survivors had been stuck between past and present

for over thirty years knowing that their persecutors were living freely while they languished in nightmares, terror, civil war, and refugee camps. Even Duch's trial proved wanting and left many Cambodians unsatisfied with a mere 35 year imprisonment sentence, including time already served, which was then brought under reconsideration for an extended life sentence. The chamber issued no ruling on the domestic charges because of a failure to reach a supermajority decision on the expiration of the



statute of limitations which seems like a trivial and small minded approach considering the political dissent that waged throughout that twenty year period. Despite their initial reaction, the ECCC detailed its decision for the victims who began accepting the trial "as a meaningful step forward for their, and the nation's healing."

Over 30,000 Cambodians attended at least a portion of the proceedings in person while the public radio and television broadcasting of the trial and

hearing reached millions of Cambodians to successfully break through a national silence to begin an open dialogue between Cambodians about their shared experiences. Most importantly, however, was that Duch's trial confirmed beyond all reasonable doubt that the atrocities of the KR actually did occur to the extent that they did, he took responsibility as an authority, he apologized for his crimes against humanity, and he confirmed the existence of the KR hierarchy and specific persons and their roles in the

in attending proceedings, undertake outreach activities [...] and to provide non-judicial remedies for victims" and there are steps being taken to provide greater reparations for victims. However delayed, the legal responses by the ECCC provided the greatest leaps for survivor healing.

Literature, along with advocacy, is perhaps the only channel through which survivors actively seek their own healing. It is through the act of writing that many authors and poets begin to sort out and affirm their experiences. When nothing was being done in their defense, a few Cambodian writers took to the pen in order to bear witness to the atrocities inflicted on their people and affirm their innocence. Poets such as Ok Kork, Trung Huy Kim and Sath Bunrith share their pain and burden with their readers, acting as a conduit for their people and also asking for responses from other victims. Poetry written in the Cambodian meter and language serves to preserve the cultural literary tradition that was severely threatened with the purge of the genocides.

In their poetry, most authors are not merely seeking to establish the facts of the genocide, but are seeking the recognition of their human suffering. In "Cambodian People's Lament," Sath Bunrith speaks for his ancestors, "they should be pitied/ And deeply mourned," in attempt to pay homage and respect to his lost countrymen and perhaps lay their souls to rest. These poets more importantly address the survivors who remain. Bunrith uses his poetry to advocate for his country, "Our people have suffered and suffered again/ Now it is the Vietnamese/ Who come to rob our country [...] Is there a place/ Where they can take shelter/ For even a short while? [...] the relief money for education/ is not enough." Through advocacy, victims find empowerment and purpose and attend to not only their own healing, but the healing of others.

Ok Kork developed a strong poetic voice that looks not only to work through his own pain to reach healing and understanding, but reaches out



Monks and Students walking into the Court Room

Cambodian genocide. Duch was the first authority figure to do so, creating an opportunity for affirmation and the most important step towards survivor healing.

In the case against Nuon Chea, Ieng Sary, Khieu Samphan, and Ieng Thirith—all members of the Khmer Rouge senior leadership—there are 3,993 civil party applicants that will be represented as a group. The Victim Support Section (VSS) has a "mandate to provide general information to victims (especially civil parties), assist and support civil parties

to other survivors. He is bearing witness to the loss of life, tradition, and hope, but he is also calling out to his country men to take responsibility; he is attempting to push life and vigor back into those who have been silenced, "The Cambodian nightmare must be stopped!/ We must put an end to this wickedness/ That is running over our children." Ok Kork uses his poetry as a way to grieve, cycling through many of the processes in print. He says, "I'm telling this story/Out of a rage/That never relents," and he expresses a deep emotion that refuses to be silenced by political intimidation. Ok Kork calls out for a shared grief, telling other survivors that they are not alone, that he feels their pain and they deserve to be angry. Towards the end of the poem, he appeals to this countrymen to speak for their lost ones, "You must try/ To help me think this through [...] Don't let what has happened/ Just pass unnoticed/ By our brothers and sisters./ Please write it down/ So it can be told." The victim is not writing solely for his own benefit, but to record what the pain of the Cambodians means in the hearts and souls of human beings. He invites other survivors to add to his lines, to join him in an open conversation that will allow the Khmer people to develop a collective narrative, something which no culture can survive without.

Loung Ung, author of "First They Killed My Father", intimated in an email with George Chigas that it was through the act of writing and advocacy that she began healing. She wrote, "being an activist has healed me more than all my work with therapists and counselors. As an activist, I'm no longer invisible, weak, alone, powerless or voiceless. I think you understand the POWER in action against injustice. The KR tried to take my power, my voice and it took me years to find it again." In her book, she was able to express through vivid imagery and open expression the personal story of her family and her own suffering. Loung Ung provided faces and hearts, aspirations and fears for the Genocide's statistics and facts; she was able to reach a place of

shared humanity on an international level. While the Khmer Institute saw her account decidedly fictitious and harmful to the historical accuracy of Cambodia's genocide, Loung Ung found healing through her testimony and provided a voice for those who could not raise their own. The Khmer Institute undoubtedly has a responsibility to portray the facts accurately and by responding to literary works they uphold their said duty. However, by sensationalizing their own response to her account and offering contradictory facts, the Khmer Institute not only discredits Loung Ung's account, but also the literature that they themselves deem credible. It is important that they remain unemotional and stay true to their mission in order for their credibility and the stories they support to remain in tact. Otherwise, the Khmer Institute threatens to detract from the healing of those they are attempting to help.

In order for a survivor to heal, a multi-faceted approach is necessary. It is important that the political, historical, legal, and literary responses to crimes against humanity are taken seriously by the domestic and international communities. While political dissention remains in Cambodia, the obedient silence that pervaded the lives of survivors has been broken. The story of the Cambodian Genocide has been historically recorded in accurate details and preserved in the archives of international libraries so that it can never rightfully be denied, and it has been expounded by the personal voices of survivors in preserving not only their own stories, but those of the nearly two million Cambodians killed. What is most important now is that the expediency of the legal proceedings and punishment of the remaining top officials for their crimes against humanity so that survivors may live in a world where evil is not tolerated.

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# ASCERTAINING THE TRUTH THROUGH A PARTIAL PROCEDURE: THE LIMITED OBLIGATIONS OF THE CO-INVESTIGATING JUDGES TO SEARCH FOR AND SEEK EXCULPATORY EVIDENCE

*Gina Cortese*

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## **Background**

The Extraordinary Chambers in the Courts of Cambodia's (ECCC) Internal Rules provide the Co-Investigating Judges with a duty to carry out their investigation impartially and to seek out any inculpatory and exculpatory evidence that may be conducive to ascertaining the truth. However, the duty of the Co-Investigating Judges to respond to the parties, in particular defense requests for investigation, and to what extent they must disclose potentially chargeable modes of liability, their investigation strategy, and their general line of inquiry is unclear.

### **1. Co-Investigating Judges Duty to Seek the Truth**

Pursuant to the ECCC's Internal Rules, the Co-Prosecutors conduct preliminary investigations to determine if evidence indicates that crimes within the jurisdiction of the ECCC were committed and to identify suspects and potential witnesses. The initial work of the Co-Prosecutors sets the parameters for the investigation. The Co-Prosecutors must provide an Introductory Submission to the Co-Investigating Judges, who may then take any investigative action conducive to ascertaining the truth. This power of the Co-Investigating Judges is consistent with Article 127 of the Cambodian Code of Criminal Procedure.

The central purpose of any civil law investigation is to ascertain the truth. Scholar Gregory Gordory explains, "This objective, where the main procedural rule is the search for truth, differs from the common law system, where "the truth" is viewed as the natural and logical result of a pre-determined process." At the ECCC, as in domestic civil systems, the law gives all necessary power to the investigating judges in order to guarantee freedom of action and enable

them to perform their work. This gives the Co-Investigating Judges broad discretion when deciding how to gather inculpatory and exculpatory evidence in ascertaining the truth. It also is why, according to the Co-Investigating Judges, neither the systems put in place for the functioning of the Office of the Co-Investigating Judges, nor the internal discussions within the Office of the Co-Investigating Judges, are part of the case file or subject to disclosure to the parties. The rights of the parties to have access to the "results" of the investigations means access to the product of investigations, such as documents and records in the case file, and not information about the procedure followed by investigating authorities in analyzing the evidence that they have collected.

The ECCC Internal Rules limit the discretion of the Co-Investigating Judges by requiring that in all cases they conduct their investigation impartially, whether the evidence is inculpatory or exculpatory. However, it is difficult to assess whether this occurs in practice when a presumption of impartiality, derived from the Co-Investigating Judges' oath of office, attaches to the judges. This places a high burden on an applicant to displace that presumption, and as scholar David Ormerod pointed out, leaves little protection for the accused against deliberate or negligent failures to perform the investigative task fairly and effectively.

These procedural issues need to be analyzed in the overall context in which they arise—a hybrid court trying senior leaders of the Khmer Rouge for crimes against humanity, genocide and violations of the Geneva Conventions. The presumption of

innocence tends to change when suspects are accused of mass atrocities. It is indisputable that the acts occurred, and it is nearly impossible to deny the involvement of these specific persons. Ormerod, describing more generally the adversarial criminal justice system, pointed out that under such circumstances, the principal trial objective tends to be a focused inquiry into a single closed question: is the accused guilty of the offence charged? This results in a trial process that is “specific rather than sensitive—akin to the treatment of an ailment that has already been diagnosed where the instance is on resolving the problem, not investigating what the problem is.”

The power of the Co-Investigating Judges to take any action conducive to ascertaining the truth, and to refuse requests based on broad legal principals, raises the issue of whether they have a broad, unchecked discretion, limiting the rights of the parties to play a significant role in their own case, or whether the parties have a right to efficient recourse in the ECCC Internal Rules or international precedent and customary law.

## 2. Co-Investigating Judges Duty to Respond to Investigative Requests

Several challenges have been raised during the pre-trial investigation phases of Cases 001 and 002 as to whether fundamental principles regarding the rights of the accused are being protected. Specifically, the defense teams have raised concerns about the obligation of the Co-Investigating Judges to search the shared materials drive for exculpatory evidence; about the Co-Investigating Judges refusal to conduct witness interviews; and about the Co-Investigating Judges ability to request, seek and review exculpatory evidence.

The shared materials drive, or SMD, is a database accessible to all parties and the court through the ECCC search portal, containing documents and videos which have not yet been analyzed and put in the case file but are asserted to be potentially relevant to the case. Documents on the SMD comprise, among

other items, records, interviews, newspaper clippings, and evidence of the structure and organization of the Democratic Kampuchea era. Defense teams have argued that the Co-Investigating Judges have a duty to investigate the SMD for potential exculpatory evidence. However, the Co-Investigating Judges have refused to review the materials on the SMD for this purpose. The Pre-Trial Chamber has upheld the Co-Investigating Judges decisions on this topic.

The defense teams have also expressed their concerns that their clients’ right to a fair trial has been impaired by the Co-Investigating Judges



refusal to conduct witness interviews on behalf of the defense. The Co-Lawyers for Nuon Chea have requested interviews to be conducted and placed on the case file, but the Co-Investigating Judges have repeatedly denied such requests on the basis that similar or sufficient evidence already exists in the case file. This could potentially limit the right of the accused to have exculpatory evidence available, and ultimately their right to a fair trial.

The defense teams also have argued that their access to witness evidence and exculpatory evidence generally is limited due to a lack of clear investigatory standards and tests, as well as

discrepancies in the Internal Rules as to whose burden it is to seek, review and include exculpatory evidence in the case file. Although the parties have a right to request investigative actions, the right offers little assistance when the Co-Investigating Judges have such broad latitude in refusing to comply.

#### a. Investigative Requests Defined

##### i. Types of Requests

The Rules do not clearly define what constitutes an investigative action. Nor do the Rules define the appropriate scope of an investigative request.

##### ii. Specificity of Request

Requests by the parties for the Co-Investigating Judges to make orders or undertake investigative action must meet a certain degree of specificity to ensure that the Investigating Judges understand the nature of the request. However, the Internal Rules do not provide a required degree of specificity, leaving it unclear whether the Co-Investigating Judges abuse their discretion to dismiss requests as unreasoned or unspecific, or whether the

parties act irresponsibly in submitting requests, thereby impairing judicial economy.

Both the Co-Investigating Judges and the Pre-Trial Chamber have held that requests for investigative action must make out a *prima facie* basis as to why the Co-Investigating Judges should undertake the action. Several of the defense teams, including those for Ieng Thirith, Ieng Sary, and Nuon Chea, have contested the *prima facie* basis requirement, specifically as applied to requests to the Co-Investigating Judges to place additional files from the shared materials drive (SMD) in the Case File. The Pre-Trial Chamber stated that in the absence of any specific indication

that any document on the SMD may be of exculpatory nature, the obligation to investigate exculpatory evidence does not, in itself, oblige the Co-Investigating Judges to review all materials contained in the SMD.

Thus, the Internal Rules do not stipulate an objective standard for the Co-Investigating Judges to follow in rejecting or accepting a request for investigative action, instead leaving it the discretion of the Co-Investigating Judges on a request-by-request basis.

#### 3. Reasoned Opinion

The ECCC Internal Rules provide the Co-Investigating Judges with the discretion to reject requests generally for lack of specificity, yet maintain that it is the Co-Investigating Judges' duty to provide reasons when granting or rejecting requests for investigative action.

Unfortunately, the Co-Investigating Judges have often failed to provide reasons, or have vaguely stated their rationale in dismissing requests, or have dismissed requests stating that the requests themselves were not sufficiently reasoned. This has, at times, made it impossible for the parties to determine the Investigating Judges' actual basis for acceptance or rejection of their requests. Furthermore, when the Co-Investigating Judges reject requests, with the only reason being lack of specificity, the lawyers are not given enough information to be able to amend their request satisfactorily to have the investigative action performed.

Ultimately, the Co-Investigating Judges failure to provide coherent reasons for their decisions undermines the ability of the Pre-Trial Chamber to render decisions on appeal. In addition to requiring that the Co-Investigating Judges provide reasons, the Internal Rules stipulate that all decisions of the Pre-Trial Chambers shall be reasoned.

Although the ECCC Internal Rules may require that the Co-Investigating Judges provide reasons, the usefulness of this requirement is lost when it is supplanted by the Co-Investigative Judges right to



ECCC photo

Khieu Samphan

deny requests on the vague reason that the requests are unspecific. In turn, the lawyers and the Pre-Trial Chambers are left unclear on how to make their requests more specific, making it harder for them to perform their own duties.

#### **a. Standard of Review of Investigative Requests**

##### **i. Exculpatory Evidence Defined**

A significant issue with regard to the balancing of rights is whether the duty of the Co-Investigating Judges to seek exculpatory evidence is limited to evidence that is determined to be exculpatory in nature, or whether it also extends to *potentially* exculpatory evidence. Exculpatory evidence is defined as evidence tending to establish a criminal defendant's innocence.

##### **ii. Standard of Inclusion**

Although the Internal Rules require that the Co-Investigating Judges provide factual reasons when ruling on requests for investigative action, the legal test for accepting or rejecting a request is unclear. The standard by which the Co-Investigating Judges must evaluate requests for investigative action turns on whether fulfilling such a request is conducive to ascertaining the truth. However, the Co-Investigating Judges appear to have used several different tests as their basis for evaluating whether certain requests are conducive to ascertaining the truth. This has raised concern as to whether the investigation is a focused inquiry, or whether it is being directed by a partial and subjective discretion of the Co-Investigating Judges.

Absent a standard of investigative review in the ECCC Internal Rules, the Investigating Judges may act on an ad hoc basis without considering constraints on their power. For instance, the Co-Investigating Judges may have exceeded their power to reject requests when they determined that any investigative action that could have the effect of delaying the proceedings may be dismissed.

Despite the Co-Investigating Judges' assessment that the right to an unduly delayed trial may be a reason for the preclusion of additional evidence,

Article 14 of the ICCPR does not provide a hierarchy of the rights of the accused. In fact, the right to be tried without undue delay is a minimum guaranteed right, part of the collective right of the accused to a fair trial. Thus, if any hierarchy were to be implied, the right to trial without undue delay would have to be weighed against whether protecting that right would contribute to or impair the fairness of the proceedings as a whole. The rights of the accused should not be divided to cut against one another. Nor may the right to a speedy trial be used as an excuse for the Co-Investigating Judges to avoid a comprehensive investigation into exculpatory evidence—the right belongs to the accused and to the accused alone to ensure his right to a fair trial.

At most, the Co-Investigating Judges and Pre-Trial Chambers have put forth two requirements that must be met in order for the Co-Investigating Judges to agree to a request. The request must relate to a probative fact under investigation and the request must not be for something that would be unduly repetitive given the materials already in existence on the case file.

Unfortunately, neither standard is clear in practice when the Co-Investigating Judges do not explain their methodology in applying these standards. The defense teams need to understand what the Judges will consider "probative" and what exactly is included in the case file in order to be able to make efficient requests for investigative action.

#### **4. Burden**

##### **Standard to be Applied**

The responsibility of the Investigating Judges to collect and review evidence has been a particular issue for the defense lawyers, and one which they have contested before the Co-Investigating Judges and Pre-Trial Chambers. Structurally, the civil law system places the Prosecution and Co-Investigating Judges in a leading position to collect and review evidence and set the parameters of the case. This potentially narrows the line of inquiry and places the defense in a more passive position as compared

with its adversarial and highly active role in the common law system. The defense teams alleged that the Investigating Judges have indeed focused only on proving the guilt of the accused, thereby impairing the right of the accused to the inclusion of exculpatory evidence in the case file.

International precedent, such as that from the ICC and ICTY, suggests that the defense should not bear the burden of searching for exculpatory evidence—that instead the Judges or Co-Prosecutors should bear the burden as both, due to the structure of the Court, have a more active role in the collection of evidence. The Co-Prosecutors thus should initially bear a strict burden of searching for and presenting evidence as part of the preliminary process of gathering materials to make out the case for the Investigative Judges. In overseeing an impartial investigation, the Co-Investigating Judges should ensure that the defense has the means to gather exculpatory evidence—whether this is through the Judges directly providing the means or through enforcing the Co-Prosecutors’ duty to do so.

## 5. Timing for Consideration

### a. Internal Rules

The ECCC’s Internal Rules stipulate that if the Co-Investigating Judges do not agree with an investigative request, they shall issue a rejection order as soon as possible, and in any event, before the end of the judicial investigation. The lack of a specific timeframe in which the Investigating Judges must respond to investigative requests raises several concerns for the parties. If the Co-Investigating Judges choose to wait until the close of the investigation to reject a request, not only do the parties lose the motion, but also their right to effectively appeal the decision.

There appears to be agreement among international courts and tribunals that the prosecution is obligated to disclose the existence of exculpatory evidence to the defense. Implementing similar procedural rules for investigative judges regarding the disclosure of exculpatory evidence might better

ensure a defense’s right to access, and receipt of, pertinent evidence to its case. Furthermore, the ECCC could benefit from mirroring procedural rules in place at other international courts and tribunals, such as Rule 84 of the ICC permitting the Trial Chamber to make any necessary orders for disclosure of documents or information not previously disclosed. The ECCC may use such a rule to outline the timing and duties of the Co-Investigative Judges to disclose relevant evidence in place in other international courts and tribunals. The ECCC may operate more efficiently if such a rule corresponded with specific, articulated duties as to who must ensure the disclosure and within what time frame, rather than leaving it to the parties to make redundant requests for the disclosure of evidence and later appeal when requests are denied. Procedural rules providing for a more active role on the part of the Co-Investigative Judges would also facilitate the introduction of evidence at trial—helping to ensure that evidence is disclosed sooner, guaranteeing a more efficient trial. This would potentially improve judicial economy in that the judges and prosecutors would be required to disclose and search for evidence in the preliminary aspects of the investigation, as opposed to minimal or nonexistent disclosure which may increase delays due to appeals.

### b. Constructive Dismissal

The Pre-Trial Chamber at the ECCC has upheld the parties’ right to seek recourse through constructive dismissal. The Pre-Trial Chamber found that the failure of the Co-Investigating Judges to rule on a request as soon as possible, in the circumstances where a delay in making a decision deprives the Charged Person of the possibility of obtaining the benefit he seeks, amounts to a constructive refusal of the application which can be appealed under Internal Rule 74.

That being said, the Pre-Trial Chamber has made it clear that it would be improper to use the notion of constructive refusal to found a right of appeal where no substantive right exists. The Pre-

Trial Chamber has stated its view that requests to put documents on the case file, such as requests to translate a document, qualify as requests for the Co-Investigating Judges to make an order, not a request for investigative action. The Pre-Trial Chamber noted that this difference is important, because only requests for investigative action contribute to ascertaining the truth. Under Internal Rule 74(3)(b) the right of the accused to appeal is limited to decisions on requests for investigation action, not requests to make such orders. This limits what the accused may appeal and what may be considered a constructive dismissal, in that the request must be appealable under Internal Rules 55(10) and 74(3)(b)—making it necessary that the request was for investigative action, and not merely for the Investigating Judges to act. In this way, the rights of the accused to recourse against the Co-Investigating Judges’ decisions are severely limited depending on how the request is categorized by the Judges and the Chambers.

### **Conclusion**

The most pertinent lacunae in the ECCC Internal Rules with regard to exculpatory evidence are rules surrounding the scope of exculpatory evidence that should be included in the case file, and whether it is the Co-Investigating Judges or the defense teams’ burden to seek, investigate, and review exculpatory evidence. It is arguable that a necessary and natural component of the investigation in a civil legal system is for the Judges to be left with broad discretion in undertaking investigation and responding to requests. However, it is equally tenable that a lack of clear and finely drafted procedural rules results in a significant deficiency in judicial oversight. Judicial discretion when used improperly through ill-intentions or incompetence, jeopardizes the credibility of trial proceedings as a whole. The fact that the Pre-Trial Chamber has corrected the Co-Investigating Judges on the standard by which to respond to requests for investigative requests suggests that the lack of procedural guidelines as to

the obligations of the Co-Investigating Judges has left too much discretion to Judges’ in their investigative process to ensure fairness. Although the Pre-Trial Chamber provides some oversight, it is questionable whether the rights of the defense are any better served when the Pre-Trial Chamber sends requests back to the Co-Investigating Judges on remand. Without a procedural mechanism or the threat of sanctions ensuring that the Co-Investigating Judges review the request on remand in a timely manner with the correct standard, the only purpose the Pre-Trial Chamber’s review serves is to further delay the Court proceedings.

Implementing procedural concepts from the civil law system into the ECCC Internal Rules has been a challenge given the unique circumstances of the Court. The Court’s cases involve national and international law, foreign lawyers with backgrounds in varying legal systems, a range of legal experience and competence, mixed national and international lawyer and judicial teams, and inflammatory charges stemming from a brutal history. Applying vague civil system procedure rules without considering how they fit into the context of the ECCC ignores the complexity of the Court and the challenges it inherently faces as a new court that won’t be around long enough to perfect its process through practice.

Furthermore, if Cambodia is able to justly try the senior leaders of the Khmer Rouge for international crimes, such success may be the most important component to the country’s reconciliation process and future. Alternatively, an impartial and unjust trial would not only leave questions as to the usefulness of the trials, but it could reaffirm international doubts of Cambodia’s competence, potentially leaving Cambodia in the same position as it was before the establishment of the ECCC.

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***Gina Cortese***

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# THE SCOPE OF VICTIM PARTICIPATION BEFORE THE ICC AND THE ECCC

*Charline Yim*

Both the International Criminal Court ("ICC") and the Extraordinary Chambers in the Courts of Cambodia ("ECCC") have been viewed as significant advances in the protection and recognition of victims' rights. The establishing laws and governing rules of both courts reflect recognition of the importance of victims as participants in criminal proceedings and as key stakeholders in the justice process. Consequently, both courts, acknowledging that victims must be provided a meaningful part, have offered victims the opportunity to play an active role in their criminal proceedings. The ICC provides that individuals and organizations can apply to be victim "participants" in the Court's proceedings, while the ECCC allows victims the opportunity to participate as "Civil Parties." While the application process to become a victim participant or Civil Party poses a number of challenges, victim participants and Civil Parties also face procedural limitations and hurdles once the respective court has granted status to participate in a criminal proceeding. As a result of the minimal guidance provided by the governing documents of the ICC and the ECCC, the Chambers of both courts have exercised broad discretion when interpreting the provisions and defining the modalities of victim participation during proceedings.

This Article provides a comparison of the current status of participation rights granted to victim participants in the ICC and Civil Parties in the ECCC. Generally, commentators have considered that, as "parties" to the proceedings, Civil Parties at the ECCC exercise more substantive rights than victim participants at the ICC. The general limitation for the exercise of victim participation rights before the ICC is the requirement that each procedural act must be authorized by the Chamber and is subject

to the limitations and conditions imposed by the Chamber. Beyond this general limitation, if the Chambers of the ICC so determines, the rights of victim participants before the ICC in practice appear to be strikingly similar to that of Civil Parties before the ECCC. Furthermore, recent rule changes at the ECCC and current trends in the jurisprudence of both the ICC and ECCC suggests that modalities of participation granted to victim participants before the ICC can, at times, even surpass the rights of the ECCC's Civil Parties.

## **1. The Provisions: Article 68(3) of the Rome Statute of the ICC and Internal Rule 23 of the Internal Rules of the ECCC**

Article 68(3) of the ICC's Rome Statute ("Statute") provides that the legal representatives of victims are able to present their "views and concerns" to the Court where the victims' "personal interests" are affected. The Court determines what stage of the proceedings and the manner in which such views are given so as not to be prejudicial or inconsistent with the rights of the Accused.

Internal Rule 23 to 23 quinquies of the ECCC's Internal Rules ("IRs") address the general principles of victim participation, the application process to become a Civil Party, the representation of Civil Parties, Victims Associations, and Civil Party claims. IR 23 states that the Civil Party participates in criminal proceedings "by supporting the prosecution" and seeking "collective and moral reparations." Successive amendments of the rules have increasingly restricted Civil Party participation in an effort to address perceived weaknesses in the system during the Court's first case and the large number of Civil Parties who will be participating in upcoming Case 002.

## 2. Legal Representation

Both courts limit the ability of victim participants or Civil Parties to choose their own legal representation. In the ICC, the Chamber may, for the purpose of ensuring the effectiveness of the proceedings, request that victims or a group of victims choose a common legal representative, or may appoint a legal representative to the victims if the interests of justice so require. The Chamber and Registry is directed to take all reasonable steps necessary to ensure that the selection of the common representative is done in light of the distinct interests of the victims and to avoid conflicts of interests, as well as give consideration to the views of the victims and respect local traditions. A victim or groups of victims who cannot pay for a common legal representative chosen by the Court can receive assistance from the Registry including financial assistance.

Similarly, before the ECCC, an individual Civil Party may be directed by the Chamber to join an existing civil party group and share a common lawyer. When organizing common legal representation, the ECCC is required to take all reasonable steps to ensure that the interests of the distinct parties are represented and conflicts of interest are avoided. A group of victims can also organize as members of a Victims Association and are thus represented by the Association's lawyers. Civil Parties who lack the necessary means to pay for legal representation can seek assistance from the Office of Administration.

IR12*ter* describes the new role of the "Civil Party Lead Co-Lawyer" within the ECCC: representing the interests of the single, consolidated group of Civil Parties at the trial stage of the proceedings. The core functions of the Lead Co-Lawyers are to protect the interest of the consolidated group of Civil Parties, and to shoulder the "ultimate responsibility to the court for the overall advocacy, strategy, and in-court presentation of the interests of the consolidated group of Civil Parties during the trial stage and beyond." It is not clear if there will be an

attorney-client relationship between Civil Parties and the Lead Co-Lawyers or if instead the Lead-Co-Lawyers will function as general victims' advocates for the group as a whole.

With the most recent revision of the IRs on September 17, 2010 (Revision 6), it appears that after the Co-Investigating Judges' issuing of a "Closing Order" ending the investigation phase, all Civil Parties are both required and entitled to representation by a lawyer. Rule 23*ter*(1) requires that after the issuing



DC-Cam staff member showing the photos of Khmer Rouge leaders to villagers

of the Closing Order, the Civil Party must be represented by a Civil Party lawyer in order to participate in the proceedings. In addition to this requirement, IR 22 provides that any person "entitled" a lawyer under the IRs has the right to the assistance of a lawyer of their own choosing. Consequently, while no IR explicitly provides that a Civil Party is entitled to a lawyer, this is one possible interpretation of the recent revisions to the IRs. While this would appear to be a potential advance in the legal representation

rights of Civil Parties at trial, it remains unclear what the sixth revision of the IR will mean in practice. Additionally, the creation of the role of Lead Co-Lawyers and the establishment of a pyramid scheme for Civil Party representation before the tribunal raises immediate concerns regarding the diminishing role that any individual Civil Party or Civil Party group plays in the proceedings.

### 3. Participation in the Pre-Trial Stage

Both Courts provide victims limited opportunities



s to villagers

to participate in the Investigation and Pre-Trial stages of the proceedings. While the victim participants before the ICC do not have the right to intervene during the Prosecutor's investigation, victims have been granted the right to actively participate during the confirmation hearing (of which there is no similar proceeding in the ECCC) if permitted by the Chamber. While during the investigation the ECCC grants Civil Parties the right to request that Co-Investigating Judges take specific investigative

actions, such requests can be denied-particularly if the request is determined by the Co-Investigating Judges to exceed the scope of the Co-Prosecutor's Introductory and Supplementary Submissions. The Co-Investigating Judges' rejection of an investigation request can be appealed by the Civil Party, and the Civil Party has the right to participate in proceedings related to the appeals of other parties in this investigatory phase.

### 4. Participation in the Trial Stage

During the Trial, the ICC may allow victim participants to attend and exercise procedural rights in the specific proceeding for which the application was approved, subject to conditions set by the Chamber regarding the form and manner of participation. Before the ECCC, Civil Parties are granted a general right to participate in criminal proceedings, though the exercise of this general right has been limited by the Chamber in practice. Significantly, it remains to be seen to what extent recent revisions of the IRs vest the exercise of procedural rights only in Co-Lead Lawyers or if Civil Party lawyers retain the power to advance the interests of their clients at trial. Because the Co-Lead Lawyers have only an obligation to "seek the views" of and "endeavour to reach consensus" with Civil Party lawyers regarding overall advocacy, strategy, and in-court presentation, in practice the ability of individual Civil Parties to exercise their rights through their Civil Party lawyers may be substantially restricted.

The Chambers of the ICC has allowed victim participants the opportunity to make opening and closing statements. While Civil Parties in the ECCC have the right to make a closing statement, the Civil Parties do not have the right to make an opening statement, and appear to be specifically excluded from that opportunity.

Legal representatives of victims before the ICC have been granted access to both the public and confidential record. The lawyers of the Civil Parties in the ECCC have the right to access and obtain copies of the case file.

The ICC allows legal representatives of victims to submit applications to the Court to question witnesses including the Accused. While the ECCC provides that Civil Parties "shall" be able to ask questions, the permission of the President of the Chambers is required. Whether the "permission" requirement poses a substantive hurdle to the Civil Parties ability to exercise this right is unclear. Before the ICC, if the application of the legal representatives is granted, the Chamber may limit the manner and form of the questions posed by the legal representative. Similarly, the Chamber of the ECCC determines the order that it hears Civil Parties, witnesses, and experts, and also determines the order in which the judges and parties have the right to ask questions. Victim participants in the ICC, if permitted by the Chamber, can be both victim participants and witnesses in the same case. Civil Parties before the ECCC can no longer be questioned as a simple witness in the same case.

The right of victim participants or Civil Parties to offer, lead, and examine evidence has proven to be a controversial issue before both Courts. The Chambers of the ICC has determined that victim participants may submit and examine evidence (including exculpatory and incriminating evidence) as well as call witnesses if the Chamber determines that such actions are (1) necessary for the determination of the truth and (2) the issues addressed involve the victims' personal interests. While the ECCC grants Civil Parties the explicit right to submit evidence, the ECCC has prohibited Civil Parties from submitting/examining evidence in relation to issues of sentencing and the character of the Accused, finding that the interest of Civil Parties is primarily the determination of reparations. The ICC has yet to address the issue explicitly, but appears to have left open the possibility that victim participants can lead, offer, and examine evidence regarding the sentencing and the character of the Accused. In the future, the ICC's determination of this issue will rest on a finding of whether the

"personal interest" of the victim is engaged by issues related to the sentencing and character of the Accused, and whether the evidence proposed by the victim participant accords with the Court's general interest in the determination of truth.

In regards to the final judgment on the merits, victim participants before the ICC can only appeal an order of reparations. Civil Parties before the ECCC have the additional opportunity to appeal the verdict, but only when the Co-Prosecutor's have also appealed. Neither victim participants before the ICC nor Civil Parties before the ECCC can appeal the sentence.

In regards to the substance of a reparations order, the ECCC is more limited than the ICC when determining reparations. While the ICC has the authority to order individual reparations, the ECCC has the power to grant only collective and moral reparations. As noted above, both victim participants and Civil Parties can appeal an order of reparations in their respective courts.

## 5. Trends

While a comparison of the substantive rights of victim participants in the ICC and Civil Parties before the ECCC has rested generally on the difference in meaning between the terms "participant" and "party," developing jurisprudence before the respective court demonstrates that, in practice, there are numerous areas of similarities and convergence. Contrary to what has commonly been noted when comparing the rights of victims before the two courts, if recent trends in the form of participation rights granted to victim participants and Civil Parties continue, it appears that there may be instances in the future where the rights exercised by victim participants before the ICC during certain proceedings surpass those exercised by Civil Parties before the ECCC.

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# SEEING DUCH ON TRIAL

*Judy Ledgerwood*

I attended two days of the trial of Kaing Guek Eav, alias Duch, the former commander of S-21, the infamous Khmer Rouge torture and execution center. During Pol Pot's reign of terror, between 1975 and 1979, an estimated 16,000 people entered S-21 (now known as the Tuol Sleng Museum of Genocidal Crimes), and only about 17 are known to have survived. On the first day I attended, July 16, 2009, the witness was Him Huy, a former guard and alleged executioner. He was asked if anyone ever came out of S-21, or if they only went in. Him said in reply that no one ever came out, they went in and then "*jhop*"—"finished". A murmur went through the crowd of 350 rural farmers from Kompong Thom province that happened to be observing that day "*Jhop*". They were clearly taken aback at the euphemism. No, they weren't just finished; they were murdered, killed, or in the parlance of the

Khmer Rouge themselves, they were "smashed".

On the second day I attended, July 26, 2010, Duch was found guilty of crimes against humanity and war crimes and sentenced to serve another 19 years in prison (of a 35 year sentence). I have been a supporter of the idea of the tribunal, thinking in line with the arguments of the Documentation Center of Cambodia (DC-Cam) that to "search for the truth," to lay bare the details of what happened, is the best way to prevent such violence from occurring again. But across the two days I had very mixed feelings about the trial, on the one hand, I was upset that Duch was at the center of constructing the history of the period; on the other hand, I was pleased with the verdict, with the idea that someone was finally found guilty and a court has ruled that what happened was illegal, indeed an outrage not only against



Villagers watching Duch verdict during live broadcast

Cambodians, but against all of human kind.

I really only ever thought that Duch's trial would be worth anything. The others, Nuon Chea (Brother Number 2 after Pol Pot), Ieng Sary, Khieu Samphan, and Ieng Thirith were all going to say that it was not them, that it had been Pol Pot or Son Sen or others who are dead and not there to defend themselves. This was because only Duch had decided to admit his guilt and to tell what happened during the nightmare thirty years ago. Duch converted to Christianity in Samlot near Thai border. When journalist Nic Dunlop recognized and confronted him, Duch had said, "It is God's will that you are here. Now my future is in God's hands." He has publicly apologized. At the graves of those S-21 prisoners slaughtered at Choeung Ek, where he was taken as part of pre-trial hearings, he wept. When I heard this I thought, the tribunal has value, someone has finally expressed remorse for the killings. The conversion to Christianity makes perfect sense. In Buddhism there is no concept of forgiveness. If you do good, you receive good; if you do bad, you will receive the bad consequences of your behavior. There is no merciful god to forgive you. Only by converting to Christianity could Duch play the system, to try to avoid the inevitability of moral consequences. In the same way Duch seemed to have been playing the tribunal.

The tribunal chambers are behind glass, so



Professor Judy Ledgerwood visiting Tuol Sleng prison

the observers each day are looking in, like watching performers on a stage or a screen. You hear the proceedings in Khmer on speakers or in French or English on headsets that provide near simultaneous if flawed translation. Duch, the accused, sits on the right. His skin has a kind of yellow cast, but other wise he looks strong, alert. He seems to watch the proceedings impassively, leaning forward and staring at witnesses intently. He shakes his foot, rubs the edge of the table, small signs that he might be more nervous than he appears. Occasionally he will look out at the audience, though only for short glances. His eyes flash. Vann Nath, the famous painter and S-21 survivor said to me, you know he is an intellectual, and he had all those years (from 1999 when he was discovered and incarcerated, until his trial began) to plan how he would respond to every bit of evidence. He has every answer ready. Duch is at the center of the performance, and in some sense he relishes it and has decided to play the role as star. So what is the problem? Why do I find it so disturbing?

Duch's guilt is clear. He admits to being the commander of S-21. He has said, "I am the top criminal responsible for all acts committed at S-21." His signature and fingerprints are literally all over the documents. I worked for six months in the Tuol Sleng archive in 1990, cataloging and microfilming the archive. I have seen his comments written in the margins; "ask him about this", "he is lying here", and most ominously, "smash them all" on lists of names. He admits that he had little direction on how to set up S-21 and run it; he was the one who decided on the rhythm of torture and murder, though he says that he knew even at the time that many of the stories extracted under torture were false. People were beaten, shocked, drowned, starved and broken until they told outrageous stories of being CIA

agents, KGB agents, of plotting to overthrow the revolution. Only then were they killed. We have David Chandler's meticulous book and Rithy Panh's powerful, horrifying film, both titled "S-21" to allow us to imagine what it was like.

But at the tribunal, as each person testifies, Duch and his lawyer have the opportunity to question the witnesses and pick apart each line of testimony. The credibility of each is worn away to some degree. After 30 years, memories have faded. Did Duch order the smashing of 16,000 men, women and children or was it ONLY 12,000? Did Duch go to the killing fields at Choeung Ek once or twice or many times? Did Duch ever personally kill anyone, or did he only order his staff to do it and supervise that it was done? As Duch confirmed or refuted the stories of each witness, it seemed that he was the one who would decide what the history of this period would say. If Duch confirmed testimony, then it was true.

Then there are the problems with language. The tribunal in the headphones and the one in Khmer are not the same. I had watched the trial for months online at the wonderful [cambodiatribunal.org](http://cambodiatribunal.org), which carries the proceedings daily with translations. But in the room it is different. When Him Huy talked about the people imprisoned at S-21, he called them *neak toh*, or *neak kat toh*, literally the guilty ones. Translated into English, this became "the detainees". The meaning is not the same; the former contains the notion that all the people imprisoned and killed at S-21 were guilty of something; the latter does not. When prisoners were tortured at S-21 they were asked, what have you done to betray the revolution; Angkar (the organization) does not make mistakes, so you are guilty of something, what is it? The language of the former jailers and murderers still has this tone, though it is whitewashed in the translation. And when Duch addresses witnesses, he is able to berate them, belittle them and attack them though the use of language—for example by attaching the prefix "a" to people's names. There is no direct translation to English, but scholars often

use "the despicable" as in "a-Pot", the despicable Pol Pot. During this bullying Duch jabs his finger in the air and raises his voice. This is not a contrite man, apologetic for his crimes. Here is the man from the 1970s, the math teacher turned conspiracy theorist looking to root out the maggots that had infiltrated the revolution—determined to smash them. This gets translated into English as the benign, "Mr. so and so". We lose in translation the contempt that Duch still holds for his subordinates and former captives.

What was bothering me so much was captured by a peasant woman from Kompong Thom. When the trial went into recess for lunch I was walking behind two women who had made the long journey to see one day of the trial. One turned to the other and said, "*ort jes khmas*", "he does not know shame." That's it. If he was truly remorseful, to Khmer sensibilities he should look down, avoid eye contact, physically demonstrate that contrition; he should show that he is ashamed of what he has done. But instead he is combative, argumentative, attacking those who come to testify against him.

As I rode back into the city with a group of young researchers from DC-Cam, I turned and asked one young woman in her 20s what she had thought of the day's proceedings. She said that she had been surprised. I asked surprised at what. She said surprised that 60 children had been "smashed" literally by having their head bashed against trees. She broke down in tears and turned and faced out the window to compose herself. Nothing in the day's testimony had surprised me. I had read it all before. The process of killing, how they were blindfolded, handcuffed to load on the trucks, how they were struck on the back of the head and rolled into the pits Him Huy told it all step by step, leaving out only his own role as a killer.

Vann Nath in his book on his life at S-21 describes his confrontation with Him in 1996. Him admits to killing only 4-5 people, and says that he had only been a guard, not an executioner. Vann Nath accuses him of lying, saying that even the number

of 2,000 killed that he had previously admitted to could not be high enough. Then Nath asks him about the horrors portrayed in his paintings, are they true or not? Him replies that the scenes are not exaggerated, that there were scenes even more brutal than that. Then Nath asks him about a scene where babies were wrenched from their mothers' arms and he asks where did you take the babies? Him answers, we took them out to kill them. "You killed all the small babies? Oh, God!" Nath replied. The man who had spent his life for the previous 17 years being a professional witness to the horrors of the regime was still shocked at the utter brutality of slaughtering babies—just like the young DC-Cam worker on the bus. It was too much to bear. Nath had always allowed himself to think that somehow the babies had been spared.

I think my reaction on the first day was more culturally Khmer than American. We Westerners like the image of the combative defendant shaking his finger and chastising the witnesses; we like the television images of "Perry Mason" and "Law and Order" (American TV shows about courts). Americans argue in court. But to Khmer sensibilities Duch should show that he is contrite by demonstrating respect to his former victims, not belligerence; physically and with his words he should lower himself before them. He still thinks he is better than all of them. It seems to Khmer to show that he has no true remorse. On that day I thought he was a monster.

On the last day of the trial, he sat impassively, holding a bible as the judges read the verdict: guilty of crimes against humanity, guilty of war crimes. The most powerful moment was when the judge read the names of the "immediate victims": Bou Meng, Chum Mey, Chum Neou and Chin Met as survivors of S-21 or S-24, Chhin Navy for the loss of her husband Tea Havtek, Hav Sophea for the loss of her

father Chin Sea, Phung Guth Sunthary and Im Sunthy for the loss of their father and husband Phung Ton..." and so on. For a moment, Duch's impassive stance waivered; he took a drink of water, he looked down. Listening to all the names being read, they were not just statistics, but real people, husbands, fathers, wives.

The court found that Duch bore individual criminal responsibility at S-21, that he planned, instigated and ordered the crimes. The verdict rejected claims by the defense that he was only following orders or that he was under duress—these arguments do not constitute adequate defense against crimes against humanity.

My reaction to the verdict is that given the hard life he has led, a 19 year sentence will still likely be a life sentence. He will die in prison. And the second case against the others could not go forward without his cooperation. He is the only one who is telling the truth, admitting that he is responsible for the deaths at S-21, and talking about the other top leaders in case 002. So while I resent that we must rely on a mass murderer to tell the story; I must reluctantly admit that I am grateful to this man for doing so.

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# JOHN SHIPLEY DISCUSSES TRUTH AND REMEMBRANCE

*Jane Arnfield*

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As a theatre practitioner in 2008 I was offered unprecedented access to archived material at the Documentation Center Cambodia (DC-Cam). After completing a residency in Phnom Penh in January 2008 where I conducted my research in order to make a seventy-minute piece of physical theatre called *The Gymnast*. (This original production premiered at the Edinburgh Festival Fringe 2008, produced by Empty Space in association with Northern Stage Co-director & Performer—Jane Arnfield, Co-director & Movement Director—Nigel Charnock, Composer & Sound Designer—John Alder, Designer—Neil Murray and Lighting Designer—Malcolm Rippeth.

The root of my theatre practice comes from a personal interest in the process of trauma and how people deal with trauma and continue to seek justice from its affects. The genocide in Cambodia 1975 - 1979 is *The Gymnast's* resource and core. I have used this source to fuel a personal testimony that began whilst I was watching television as a child. Through the BBC Blue Peter Appeal in the late 1970's I witnessed Cambodian people crawling and collapsing over their border into the refugee camps of Thailand. *The Gymnast* offered an opportunity for an audience to witness a thirteen-year-old English girl's memory and its subsequent unravelling, within late 1970's England and in response to news and archive information received concerning the Cambodian genocide.

Since 2008 I have been investigating, exploring and devising a series of ten fifteen-minute solo dance pieces all extracted from the theatre piece *The Gymnast* entitled *The Ten Abandonment's*. The First Abandonment is 'You Shall Not Worship Any Other God But Your Own'. Using this current practice

of excavation from a seventy-minute work of physical theatre into a series of minuets and fragments the aim is to investigate the impact and affect that the subject matter of trauma, its function and perception has within our contemporary society and on an audience. As a direct result of this theatre work, research and through establishing links with DC-Cam I was invited to join the Holocaust Memorial Working Group by the Holocaust Memorial coordinator James Milne. This event takes place annually in January in Newcastle upon Tyne.

As Artistic Director of the Holocaust Memorial event my job was to assemble a collective of artists and together devise a programme that would reflect the legacy and memory of survivors of genocide. The theme this year the 65th anniversary of the liberation by Soviet troops of Auschwitz-Birkenau concentration camp was *Legacy of Hope*. In the tenth anniversary year of commemoration and on behalf of Newcastle Holocaust Memorial Day Working Group the intention was to encourage all ages to participate intellectually, emotionally and physically; in order to further the understanding of devastation incurred by genocide. The programme of work surrounding and supporting the Holocaust memorial event in Newcastle used the art form of theatre as a place for performers, speakers and audience to engage in a shared experience of remembrance.

A forum that enabled the public to hear personal testimony whilst being aware of the epic and collective responsibility that we all carry as humanitarians to put an end to genocide. A place of sanctuary and remembrance where we were able to applaud the living, remember the lost and mourn the dead. I believe everyone is a witness, a diligent

librarian reading the ruins of humanity's past, excavating the finds within the present, archiving the truth for the future. Through the position of Artistic Director I was able to meet and converse with politicians and dignitaries within the City of Newcastle upon Tyne. One of those people was Councillor John Shipley Leader of Newcastle City Council. I asked Cllr Shipley five questions based on my brief from DC-Cam with regard to writing a monthly column for Searching for the Truth magazine.

**Please could you give a synopsis of your role and duties as Leader of Newcastle City Council?**

I provide overall political leadership to the Council and the City of Newcastle upon Tyne, setting out policies and leading implementation of them. I represent the Council at regional, national and international level.

**Please could you describe your visit to Cambodia and the impact it had on both you and your wife?**

We spent some days in Cambodia in April 2009 having visited neighbouring Vietnam and Laos. Our visit had a great impact on both of us. We were impressed by the long history of Cambodia, in particular the awe-inspiring remains at Angkor Wat. We were so impressed by the warm welcome given to us by so many people who are striving for a better future for themselves and their families.

Above all, we were deeply moved by what we saw of the Pol Pot years and felt guilty at the lack of intervention by our own country to stop the genocide. We felt desperate that people could treat other human beings as they did, and were deeply affected by Tuol Sleng and the Killing Fields. Everyone we met had a personal story to tell which in itself was chilling—in many ways it is the story of the individual that can have the most impact. The banks of carefully recorded photographs of victims at Tuol Seng moved my wife to tears as she realised that young children she saw were the same age as our son, Jonathan, at that time and her emotion was increased when I pointed out that one child was the same age as our granddaughter. It was very distressing for

us both—and it still is.

**Please could you discuss the importance and relevance of the word 'truth' to you as an individual and as an elected leader of a city council?**

Truth is the basis of any relationship be it personal or between people and their leaders. It has been the basis of secure family life and good government for generations. Truth is about honesty, trust, justice, and freedom, respect and is the bedrock of a stable society. But it has to be mutual. Henry David Thoreau, writing in America in the 19th Century, said, "It takes two to speak the truth—one to speak and another to hear."

**Please could you discuss the importance and relevance of the word 'remembrance' to you as an individual and again as an elected leader of a city council?**

Remembrance is facing up to the past truthfully in order to follow a path of reconciliation, which can lead to change and a better future. It is a process of evaluating past deeds, facing up to mistakes and building on the good to inform the future.

**Please could you offer a quote from yourself or another that reflects the importance of truth and remembrance within our society today?**

I've chosen Voltaire, who said, "One owes respect to the living; but to the dead one owes nothing but the truth."

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*Jane Arnfield is a theatre practitioner from the United Kingdom.*

## READING HISTORY OF DEMOCRATIC KAMPUCHEA

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

# WHAT WOULD MOK CONTRIBUTE TO CASE 002 IF HE WERE ALIVE TODAY?

*Socheat Nhean*

Chhit Choeun aka Mok, Democratic Kampuchea (DK)'s secretary of the Southwest Zone and later several more zones, was one of the most powerful men of the DK regime. Eighteen years after the DK collapsed, Mok was powerful enough to prosecute his former superior Pol Pot in 1997. Mok served the communist effort from 1949 when he was twenty-three years old until his arrest in 1999 when he was seventy-three. He not only ordered the execution of DK cadre whom the Party accused of being enemies, but also took part in Central Committee meetings to form and implement DK policies.

Mok was one the longest serving senior cadre and was highly knowledgeable about the DK itself. His death in 2006 was a great loss of potential information about the regime that can never be regained. For survivors, Mok's death was a loss of a criminal; for the Khmer Rouge tribunal, his death was a loss of an important accused and source of testimony that might have shed the light on the other accused (Ieng Sary, Ieng Thirith, Nuon Chea and Khieu Samphan).

Kaing Guek Eav alias Duch's testimony at the Khmer Rouge tribunal has helped the court learn more about one accused, Nuon Chea, whom Duch said played an important role in overseeing the S-21 detention center. If Mok were alive today, he would be willing to talk more than the other accused for several reasons. First, he was angry with other leaders who remained free while he was in detention. Second, he did not involve with the Cambodian government, so he had no fear about anything. Third, he would want to find

justice or defend himself by accusing the other detainees of crimes. Fourth, he once said that he would tell everything if the Khmer Rouge tribunal was created.

None of the four accused now in custody at the ECCC admits to their responsibility for what happened during the DK regime, although surviving documents indicated that they were involved in, among other things, the arrest and execution of DK cadre.

Mok's death alerted the Khmer Rouge tribunal that other accused might die before the tribunal completed its work. If one or more do die before judgment, it will be an enormous loss of information about the DK period. Case 002 is the most interesting case at the Khmer Rouge tribunal because it involves DK senior cadre, but the Cambodian people will find it boring and be furious when the accused say that they are too old to sit more than twenty or thirty minutes per hearing.

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*Socheat Nhean is the Team Leader of Searching for the Truth Magazine.*



# LEGACY OF WAR: STILL LOOKING FOR A SISTER AND AUNTS

*Sayana Ser*

Ms. Soeur Somaly, 64, living at Kampong Trabek village, Sandan sub-district, Sandan district, Kampong Thom province, asked the staff of the Documentation Center of Cambodia (DC-Cam) to assist in searching for her younger sister and aunts who were separated more than four decades ago. Somaly had never heard or received any information from them since early 1970.

During the interview, Somaly had a sad expression on her face when recalling her sufferings, experience, and the loss of relatives and family members during the Khmer Rouge regime, especially her aunts and sister who were separated from her for a very long time. Somaly described in despair the Khmer Rouge executions of her cousin named Suntary after she had a baby and an uncle named Yiep Khun who was a former district governor in Stung Treng province.

Somaly's mother was Yiep Chanthep and her father was Tann Chheng Y alias Soeur Y who worked as goldsmith and dentist. Born in Thalabarivat of Stung Treng province, Somaly had only one sister. Since there was a gold mine found at Chi Mountain in Kampong Thom province, the family moved to Sandan when Somaly was five years old.

In 1956, Somaly began kindergarten and dropped out of school in 1961. Right after this, she went to the Kampong Cham province to learn hair-dressing and she opened a hairdressing shop there.

In 1968, Somaly's sister, Soeur Nary, who was 12 years old, went to Battambang to continue her study at the 6th grade at Iep Khut Neth Yang School. There, Nary stayed with her aunt named Yiep Mao, alias Hun, and her aunt's husband, Nuon Seng who was the chief of public work department in Battambang province. Mao and Seng had only one daughter, Nuon Sitha. In late 1960s, Somaly and her father visited Nary in Battambang when the

country was in turmoil. When Somaly and her father asked Nary to come back with them to Sandan, Nary hesitated and decided to stay until she finished her diploma exam. It was the last time Somaly met Nary. Another aunt, Yiep Mao, is also missing.

After the event of March 18, 1970, schools were closed. Nary asked her father to take her back home to Sandan but her father could not make it because all roads and streets were blocked—cutting off all means of transportation—and the streets were all filled with demonstration parades. Since then, Somaly and her parents have never heard any news from Nary. After the fall of the Khmer Rouge in 1979, Somaly continued to live in the village of Kampong Trabek in Sandan sub-district and occasionally visiting her relatives' hometown in Thalabarivath, Kampong Cham, and Phnom Penh searching for signs of Nary and aunts Yiep Mao and Yiep Lai. The endless searches had yielded no result. However, Mrs. Somaly still has hope of receiving information about her sister and aunts one day.

If anyone has information about the lost people, please contact Ms. Soeur Somaly's son, Mey Chumchandra, at 092 761 796 or contact DC-Cam at 023 211 875.

***Sayana Ser is the team leader of Outreach Project.***



Soeur Somaly and her Sister Soeur Nary

Soeur Somaly  
in February 2011

## LOOKING FOR RELATIVES IN THE PHOTO

My name is Jessica Pearson, living in Indiana, the United States. My mother's name is Chak Poline; she was born in Prey Veng province, Cambodia. My father's birthplace was probably in Prek Por, Kampong Cham. My mother came to the United State as a refugee; however, her siblings and relatives remained in Cambodia. My mother visited Cambodia once in 1997, when she joined with the team of Indiana Wesleyan University. On her visit at that time, my mother could not manage to visit her homeland due to instable security and landmine. Instead, she invited her sister and some relatives to meet her in a hotel room in Phnom Penh. They met each other and then she returned to the US.

My mother had never heard from her sister and other relatives again because she did not have a chance to make another visit to Cambodia and she does not have contacts of those relatives. The photo posted here is my mother's sister and her relatives taken in front of the Royal Palace



Jessica Pearson's aunt (second from left) in 1997

when they came to Phnom Penh to see my mother in 1997. Now, my mother wants to connect with those people, but she does not know how. If anyone knows these people, please contact me at [thepearsons09@gmail.com](mailto:thepearsons09@gmail.com) or contact DC-Cam at 016 876 692 or 023 211 875.

## LOOKING FOR A FRIEND WHO DISAPPEARED DURING THE CAMBODIAN CIVIL WAR

The Cambodian embassy in France told me about your website [www.dccam.org](http://www.dccam.org) and I contacted you immediately in order to look for my husband's friend who came to France to study the early 1970s . My husband's name is Colombier Christian. He had a friend from Cambodia whose name is Tan You Leang. In 1972 or 1973, You Leang told us that he was 17 or 18 years old. My husband and You Leang were in the same 5th grade at Berthecot College in Toulouse and I was in that class too. In 1973, You Leang said that he



Tan You Leang in February 1, 1973

needed to go back to Cambodia to reunite with his family because his country was at war. Before he left, You Leang told us that he would inform us when he arrived in Cambodia. However, we had never heard from him again. I had a photo of him taken by my husband on February 1, 1973 in which he was standing next to his Peugeot 104 scooter at Carrefour et Tragano shopping center. I really want to find out what happened to him. If You Leang or anyone sees this announcement, please contact DC-Cam at 023 211 875.

**Régine COLOMBIER**

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



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



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

Please contact Kok-Thay ENG Tel: 012-955-858

Email: [truthkokthay@dccam.org](mailto:truthkokthay@dccam.org)

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

