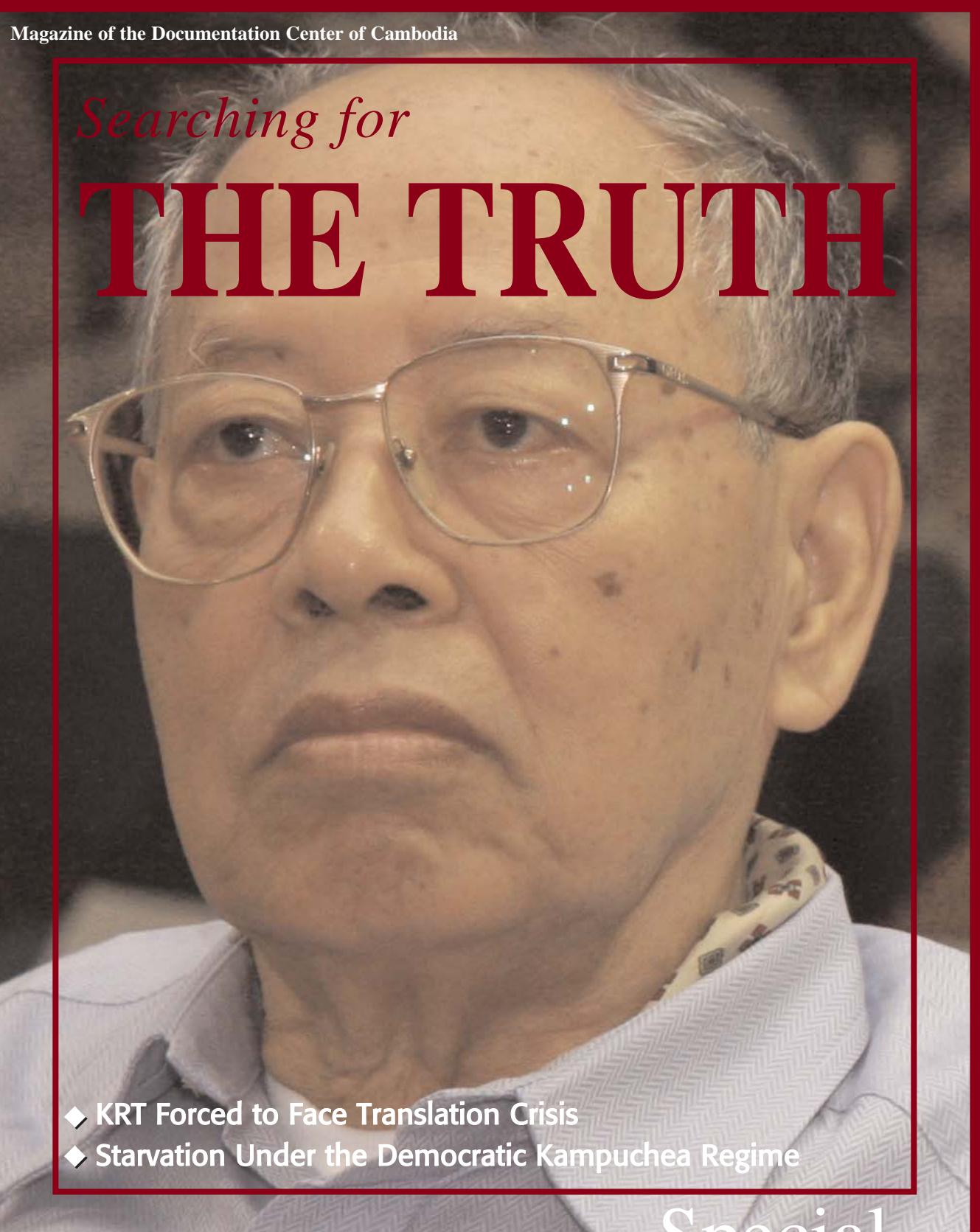


Magazine of the Documentation Center of Cambodia

*Searching for*

# THE TRUTH



- ◆ KRT Forced to Face Translation Crisis
- ◆ Starvation Under the Democratic Kampuchea Regime

*“The great victory of 17 April 1975 brought our nation, people and army great honour which we must preserve, consolidate, expand and prevent from being tarnished and lost.”*

*-- Nuon Chea*

Special  
English Edition

Second Quarter 2008

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Special English Edition, Second Quarter 2008



Ieng Sary at the Hearing in 2008

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Editorial:

## KRT FORCED TO FACE TRANSLATION CRISIS

*Kok-Thay Eng*

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At DC-Cam we do extensive translations, both from Khmer to English and English to Khmer. We have so far published several English-written books into Khmer and thousands of pages of Khmer Rouge texts into English. Surely, translation is not an easy task. But one can speed up or slow down output by changing the quality of the translation. One can translate very quickly by giving a very basic and brief summary of the original text. This type of translation does not take into account many contexts given in the original documents. A second way of translating is to look very closely at the most exact words to use in place of the original words. If one is able to do that he can represent exact mood and meaning given in original texts. This process of translation takes a very long time to complete. A translator who can do that is hard to find. However one can rest assured that the translated text is reliable, even usable in court. There are several obstacles in following the second process. First to get the same meaning is not so difficult, but to get the same mood and contexts is bit harder. This is primarily caused by the way Cambodians express meaning and feeling distinctively from an English speaking person does. This problem is compounded by the fact that there are very few Cambodians today who can understand English-speaking culture well. The situation with French might be less difficult as 90 years of colonial rule might close the gap between Cambodian and French cultures. The problem is also accentuated by the fact that the Khmer Rouge themselves seem to have a distinctive dialect different from today's version of Khmer language. Therefore the Khmer-English/French translator needs to

understand quite well the Khmer Rouge history. Also each 16000 pages of documents are not visibly related so as to cause problems for the translator to understand contexts.

When the Documentation Center of Cambodia began its works in collecting, cataloguing and studying Khmer Rouge documentary materials we faced similar problems with the translation of the original documents for foreign scalars to understand the texts. Those problems were very difficult to overcome at first but as we worked on them we were able to find very close equivalence between Khmer and English. This was put in a glossary. One can request that at the Documentation Center of Cambodia. A number of books by notable Khmer Rouge scholars such as David Chandler, Ben Kiernan and Steve Heder provide excellent English equivalent of special Khmer Rouge concepts.

The ECCC cannot overcome the translation backlog of the 16000 pages by attempting to do the second type of translation that is to understand all contexts and meanings. Even when they have more money to do it, they do not have enough experience Cambodian translators to handle the job within the ECCC time frame. They can overcome this problem by first translating a summary of meaning of the Khmer Rouge texts, which is quick, and then prioritize particular documents for detailed translation usable in as evidence.

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*Kok-Thay Eng is the Research Director of the Documentation Center of Cambodia and a Phd student at Rutgers University, USA.*

## THMAR PUOK VILLAGERS TAKE PART IN FILING COMPLAINTS FOR JUSTICE AND COLLECTIVE COMPENSATION

*Sopha Ly*

Thmar Puok is a remote district about 40 kilometers from Banteay Meanchey province, next to the Thai border. Although the Khmer Rouge regime collapsed in 1979, Thmar Pouk still faced serious security problems until the first half of the 1990s. Villagers have been attacked and robbed by the Khmer Rouge soldiers many times.

Only in 1997, after the Khmer Rouge leaders integrated with the Cambodian government, did the situation in Thmar Puok stabilize. However, the majority of villagers who live there, as well as those in other rural areas, know very little information about the tribunal process, especially concerning the development of the "hybrid" court created by the Cambodian government and the United Nations to try former senior Khmer Rouge leaders and those

most responsible for the atrocities committed under the Khmer Rouge.

In order to spread this information to people in remote areas, NGOs have been working extremely hard to set up different projects for propagating the details of the tribunal process to people. Since 2006, the Documentation Center of Cambodia has been working on a project called "Visit to the Extraordinary Chamber in the Court of Cambodia." This undertaking makes it possible for people to visit and witness the hearings taking place in the Extraordinary Chamber in the Court of Cambodia. To date, the Documentation Center of Cambodia has invited 7,040 people representatives from every province and city in Cambodia to take part in the project. Participants will share their understanding and views of the trial



Villagers read DC-Cam's *Searching for the Truth*

to people in their community when they return home.

On April 4, about 14 representatives from Thmar Puok who had filled out victim forms were invited to hear Noun Chea appeal against his provisional detention. These forms allowed victims to describe their suffering under the Khmer Rouge regime and share stories of relatives who had disappeared during Democratic Kampuchea. Additionally, the victim forms provided insight into their expectations for the trial and the need for some form of compensation for their communities. All of the representatives hoped that their complaints would become vital documents for the court. The following are plaintiffs' commentaries.

Yon Yoeun , 47 years old, Council of Kok Romeat sub-district, Thmar Puok district, expressed his pleasure at his invitation to participate in the hearing because this gave him a chance to file a useful complaint for the tribunal. Yoeun said the reason why he had lodged a complaint was because Khmer Rouge policies initiated during their years in power had brought untold suffering to many innocent people, including his own family.

Yoeun lost an elder brother and two uncles in 1978. All three were executed by the Khmer Rouge, who accused them of working for the earlier Republic Khmer regime. This event happened in the evening of the 27th of August 1978, when the cooperative chief called for approximately 300 people in Kok Romeat cooperative to have a meeting for re-education purposes. Yoeun's brother and two uncles were among 73 people who enrolled for the meeting. The cooperative chief gave a pencil and a book to everyone to use during the lesson. In the morning, those who had signed up for the meeting left the village, but no one knew where they had gone to study. Since then, Yoeun has never met any of them again. After 1979, people discovered 73 corpses in 3 mass graves, about 500 meters away from the village. Yoeun claimed that "the corpses discovered in the 3 graves were those taken from the village, because there were 73 bodies".

Nowadays, people farm on the site of these 3 mass graves.

This was the first time that Yoeun had participated in such a program; the first time he had had an opportunity to describe real events that he had lived through during the Khmer Rouge regime; and the first time his story would act as a testimony in a court of law. Yoeun had faced two particularly terrifying events during the Khmer Rouge years. Firstly, in 1977, Yoeun saw Khmer Rouge guerillas kill a man called Ta Chhem who lived in Kandal village, Kok Romeat sub-district, Thmar Puok district. Ta Chhem was sent to a cooperative and lived under terrible conditions with an inadequate diet. Once he returned to the village, he dug up a small potato to eat; unfortunately, Khmer Rouge soldiers caught him and executed him on the spot. Yoeun believes that if one considers the law, Ta Chhem's small mistake should not have led to his death. Yoeun said, "This is a small mistake, only a slightly bigger than a big toe potato, he should not have been killed." The second event is that Yoeun saw Khmer Rouge soldiers escort 40 people from Rong village, eastern Srok mountain to be executed at Kok Romeat village, Kok Romeat sub-district. Yoeun did not see the actual executions take place, but about 7 days later he accidentally saw the corpses in a field called "Prey Kok Trong Moun." Some of the bodies had not been buried completely. Yoeun claimed that he "had seen the Khmer Rouge lead people away a week before. Later while I harvested rice, I went to the toilet, 100 meters away, and saw the corpses. When I counted them, they were the 40 people I had seen escorted away earlier." Yoeun revealed that Son Len was the cooperative chief at the time. Son Len had been sent from the Southwest sector to the Northeast cooperative, and he was the one leading the killing. The executions happened in June 1978, two months before his brother and uncles were sent to be re-educated. According to Yoeun, there were about 600 people killed in his village and some entire

families were killed.

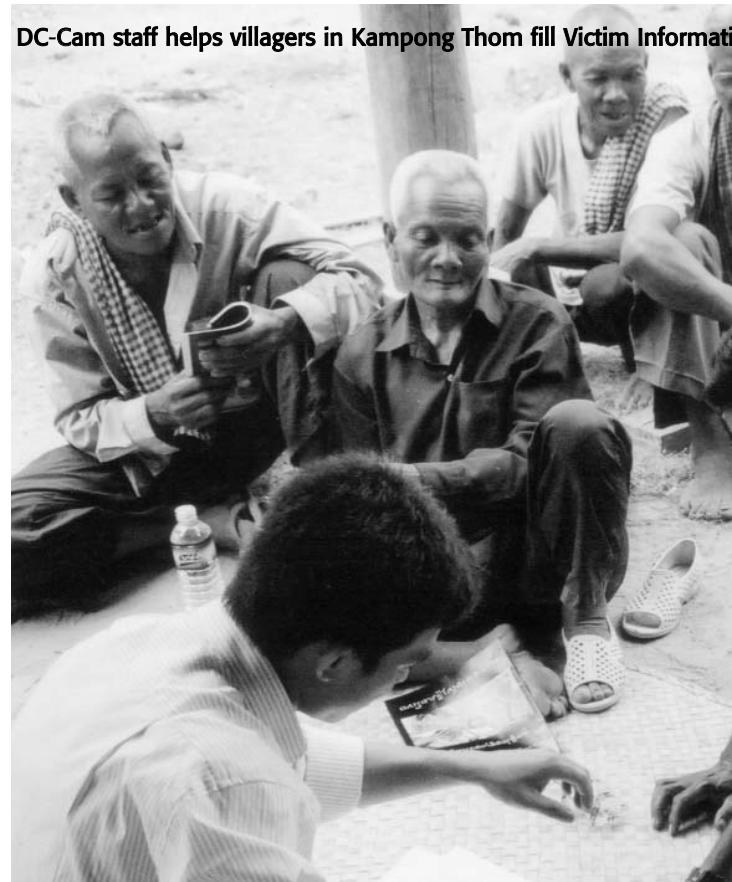
During the Khmer Rouge years, Yoeun was a youth in the Srok Preah Net Preah mobile work brigade. He was appointed to build a dam at Ang Tropeang Thmar, and was forced to work very hard there despite receiving poor rations and insufficient amounts of food. As a result of this, he caught a swelling disease. Due to lack of food, Yoeun went to pick leaves of trees which could be eaten to supplement his meager diet. "I even ate Kh-cheap (a kind of leaf), and I ate any kind of leaf that was edible." Yoeun did not have the chance to meet his parents and relatives again until 1978. That year, there was an accusation from the Southwest sector that Northwest villagers had betrayed Angkar. Consequently, some senior leaders were arrested and Yoeun's mobile work brigade was cancelled, allowing him to return to his cooperative and his family.

On October 1978, Yoeun got married to avoid being drafted as a soldier to fight in the war against Vietnam. After getting married, however, Yoeun was accused of having a bad personal background because his older brother had escaped to Thailand (most recently, he had lived in France). Yoeun left his wife to hide in the forest, until the day of victory in 1979 when it was safe to come back and live with his wife.

After the Khmer Rouge regime collapsed, Yoeun did take part in filing a complaint, but at that time people only made a collective petition. There was a representative in the village or sub-district who surveyed the villagers, in an attempt to determine how many people had been killed by the Khmer Rouge. Yoeun did not regard filing this complaint or petition as useful and at that point in time did not expect there to be a Khmer Rouge tribunal as there is today. The only thing on Yoeun's mind at that time was what life would be like after the Khmer Rouge. Yoeun said that "I did not know further, they asked me to fill, I just followed them, I did not even know the meaning of justice. Usually when you

have just escaped from death, you don't think of the future." Yoeun expressed his great pleasure that his complaint was having a much more pronounced impact from the one he filed 30 years ago, because he now has a specific purpose; he understood many other situations and the process of the Khmer Rouge tribunal well. Moreover, he was obligated as a citizen and as a representative of relatives murdered by the Khmer Rouge to find justice. "All of us wrote about the activity of our relatives and ourselves, as opposed to before when we only provided the names of Khmer Rouge victims. On behalf of the victims who perished, I should do this, so that their spirit will know I have worked for them and myself too." Yoeun added that "I am fulfilled because I have lodged a complaint for the tribunal; further more, I have participated in a real hearing."

Another representative participating in the hearing was Roeun Ren, aged 57, and a member of the sub-district council. Currently, she lives in Treas village, Kok Kathen sub-district said that she was



SEARCHING FOR THE TRUTH ♦ DOCUMENTATION

happy that she could participate in the trial process because this was her first time to do so since the collapse of the Khmer Rouge in 1979.

Although Ren's family were not evacuated out of the village and none of her relatives were lost, Ren took part in lodging a complaint in order to find justice for the victims who died and were killed under the Khmer Rouge regime. Under the Khmer Rouge, Ren was also a victim of physical torture. Ren described some events she faced in 1977 in her complaint. Ren remembered that once while she was sewing torn clothes in her cooperative, members of the Khmer Rouge military surrounded her village and ordered the cooperative chief to collect the names of people who had previously worked with the army and those who had relations with the Vietnamese. The chief of the Treas village cooperative collected about 20 families' names, and on April 17th rounded them up by lying to them, telling them that they were merely being sent to Svay Chek district. All of them were sent out of

the village at night. In the morning, the remaining villagers discovered what had happened and realized that their compatriots had been killed. Roeun said "deep at night they were sent out of the village. No one knew they had been killed until morning. I saw a newly filled-in grave with blood on the ground, and the victims clothes were sent back to villagers in the cooperative." After killing the first batch of villagers, the Khmer Rouge military encircled Ren's village again to check whether those who maintained relations with the Vietnamese still remained.

Pea Theuy, a 54 year old farmer who lives in North Banteay Chhmar village, Banteay Chhmar sub-district, was another participant in the hearing. Theuy has been aware of the Khmer Rouge tribunal, and had been willing to file a complaint for a long time, but he did not know where to submit his complaint. This was his chance to finally tell his story, and Theuy decided to lodge a complaint that produced additional information regarding crimes perpetrated by the Khmer Rouge. Theuy said that he wanted the tribunal to try Khmer Rouge leaders and bring them to justice not only for his parents but also so that all Cambodian people could feel free of the burden of pain and sorrow that has plagued them over the years and finally see that truth and justice have prevailed.

At the time of the Khmer Rouge, Theuy's father was executed by a military cadre because he used to be a first assistant of a sub-district chief and also a chief in the self-defense military during Lon Nol's regime. Theuy was sent to a sub-district mobile work brigade and appointed to build dams at two places, one at Ang Cheug Krus and the other at Ang Tropeang Thmar.

Ang Cheug Krus is about 3,300 meters wide and is located at the North of Banteay Chhmar village, Banteay Chhmar sub-district Thmar Pouk district, Banteay Meanchey province. Ang Cheug Krus was first built in 1977; Angkar drafted about 5 thousand people to build this basin.



All workers were forced to work day and night, and received very little porridge for sustenance. In the evening, after having the porridge, all of the people were required to attend a meeting to discuss the work on the dam, so as to facilitate completion of the assignment. While people were working, Khmer Rouge guerillas walked around and watched them closely. If some one sat down, even if they were ill, Khmer Rouge guerillas would kick them once or twice as a warning; if that person did not work harder, they would be led off and executed immediately. Theuy worked there for nearly a year, and he used to get tortured because he stole food. He was only allowed to eat once a day and he was punished by being forced to dig up the base of a tree, 40 square meters a day. Theuy was released when the work was finished on time.

Ang Tropeang Thmar was located in Tropean Thmar Kandal village, Baoy Char sub-district, Phnom Srok district, Banteay Meanchey province. Male and female youth, as well as villagers who lived in region 5, were sent to dig up the basin. This basin was built in 1975 to late 1976, and had a width of 7 kilometers and a length of 7 kilometers. It could contain 7 million cubic meters of water which would facilitate farming in two districts during the dry season: Preahneath Preah and Phnom Srok district. Theuy worked in Ang Tropeang Thmar for the second step; Angkar gathered many workers and forced them to work on the dam to ensure its timely completion. Theuy faced many difficulties. His emotions and feelings were in constant turmoil, because at night there were arrests, torture, and executions. Theuy got a swollen disease, but he still worked because he afraid that the guerillas would kill him. Theuy used to see people being tortured and executed. He recalls that "they tied people's hands as parrot's wings; guerillas pierced them while they were being escorted away, and later they stabbed the person with a knife to let the other workers see what would happen to them if they did not follow orders." In late 1977, southwest section

cadres began an extensive search to uncover anyone who had ties to Lon Nol's regime. Theuy's aunt and her family were some of those arrested because Theuy's aunt's husband used to be in Lon Nol's army. Theuy stated that "in the village there was executions, 10 or 20 families were killed at a time." Some mass graves contained between 50 and 60 corpses, and nowadays villagers farm over the graves. In Banteay Chhmar village, about 15 families were killed. One of Theuy's friends managed to escape that particular massacre, and currently resides in Canada. After 1979, Theuy helped the villagers excavate the bones of the deceased, which were then placed in a stupa. However, those bones were destroyed completely by the Khmer Rouge when they invaded the village.

Vaing Khei filed his complaint after being motivated by many of the same reasons as those mentioned above; he hopes to obtain justice for his two brothers who disappeared during the Khmer Rouge regime and for all the other people who suffered under the Khmer Rouge. Khei's two brothers disappeared while they were working in a mobile work brigade. At that time, Khei was chief of youth at a base. Khei realized that many of the people executed used to work in the army. He states that "they arrested 12 families to kill to the south; my village was about 3 kilometers away. All of them used to be Vietnamese troops, so they were killed." Victims in 5 villages were transported out, including 3 families from Khei's village. Khei claimed that that day there was a gathering of people from various villages held at his own village. None of the people who had come in from different areas were allowed to leave. In the morning, they were told that they needed to plant corn in the countryside, and were led away. The next day, Khei's father went to get Tru (a type of fishing instrument) from the rice fields. About one kilometer away from the village, he saw blood stains on the ground and recently disturbed earth where graves had been filled in. Some corpses were not buried completely and were

still visible. This execution occurred in late 1977.

#### Demanding compensation for the community

This tribunal was set up to bring justice to the Cambodian victims who suffered through the Khmer Rouge regime. In terms of compensation, victims can only ask for reimbursement that will directly benefit their communities. Yoeun, the representative from Thmar Pouk village, suggests that a pond be built in his village for the collective use of the villagers. "I ask for a "community pond" for compensation in the name of victims who died under the Khmer Rouge," Yoeun said. Theu also needs compensation for his community, and has also requested that a pond be built in his village. Besides that, he also asked for additional documents, newspapers, and magazines to be sent to his village, to increase awareness of the purpose of the tribunal and how it is progressing. He notes that he can only see two channels in his village, Channel 5 and the Bayon Channel, and hopes that the other forms of media he requested will benefit his village. Vaing Khei requests a school so that children in his village do not have to travel too far to get an education, and suggests that a road be built in Thmar Pouk to make traveling easier for villagers.

#### Suggestion

Yoeun hoped that the United Nations and the international community would put pressure on the tribunal to try the Khmer Rouge leaders as soon as possible. Moreover, Yoeun suggested that the Documentation Center of Cambodia help victims who live in remote areas of Cambodia take part in further hearings, so that others would be granted the same chance that he had to participate in the judicial process.

Ren, however, expressed her worry that the Khmer Rouge leaders might never be properly brought to trial. The reason she is worried is that the tribunal always seems to postpone hearings and rulings - for example, the decision on Noun Chea's provisional detention. "Although we can participate in the hearing, we are still curious about the decision of the judge," Ren says. "I really do not understand the reason why the hearings are delayed." Ren's suggestion to the tribunal was that, no matter how they accomplish it, it is imperative that they bring the Khmer Rouge leaders to justice, to ensure future stability and show the Cambodian people that justice has been achieved.

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*Sophal Ly is the Team Leader for Searching for the Truth magazine.*



Villagers in Siem Reap listening to a DC-Cam staff explaining how to file complaints

## THE STRUGGLING OF A 6 JANUARY NURSE

*Lakhena Tat*

After the victory on 17 April 1975, the Khmer Rouge has perished the entire ruling structure of the country, and even the imperialist's tools. The Khmer Rouge started to develop the country base on the agricultural sector by using people's force to replace the machinery, not pay attention on their health. For instance, Van Mon who lived in Samaki sub-district, Oudong district, Kompong Speu province was forced to harvest the rice while she was ill, until she fell down in faint.

Mon was born in a farming family; she was the first child among one daughter and four sons. Mon hometown was at Chheung Ruas sub-district, Oudong district, Kompong Speu province. After Mon's mother passed away by illness in 1973, she had to look after all her brothers and sister because her father worked at a far away place. Because Mon had to obligate his father's work, she could not go to school like other students. To avoid her siblings had no knowledge as her, Mon sent them to study with a teacher named Nou Muon.

After the revolutionary forces won in 1975, the Khmer Rouge began to separate Mon's family, and sent her to work in mobile unit at Ang Snuol district. Her fathers and siblings were assigned to Koh Kong province. Mon was in Battalion 321, this unit contained 300 members. All of them had to build the dam, do the dry-season rice field, and harvest the rice from 6 o'clock in the morning until 11 o'clock at noon time, and from 1 pm to 10 pm. Mon tried to work extremely hard, she even had no free time, but she could only eat porridge with the bindweed.

### Becoming ill

Having been working in the mobile work brigade for a period, Mon became ill, but she did not dare to ask for relaxing although she had been ill for 10

days. Mon recalled that she used to ask for a day off from a unit chief called Rin, but she instead blamed her that "you did not work hard, only have a weak illness, do not try to act like you are so feeble, next time do not do that, otherwise, I will report to the upper rank cadres." Due to this speech, she has never suggested for day off again, and tried to harvest the rice until comatose at Somrong Rong Kandal pagoda. After falling down in faint for a day and a night, Mon waked up in a hospital which did not looked like a hospital at all, because it was just a long house with thatched roof with 5 nurses wearing black uniform working inside. Mon was receiving the infusion, her wrists and ankles had been tied with the hammock ropes by the bed because she had a serious fever. Angkar's doctor provided 3 tablets of medicine (like rabbit excrement) to Mon for taking two times a day. This medicine was not so efficient, that's why the doctor granted her infusion. Mon noticed that the serious patients were allowed to stay on the bed, but when they recovered they had to stay on the floor. However, if they were ill for too long time, the doctor would not give them any more injection. There are many patients here, but none of their relatives came to visit them, Mon stated that, "if I died, none of my relatives knew." She described that if anybody wanted to visit their relatives, Khmer Rouge cadres would ask that "Are you a doctor? If you are not, no need to go; however, if your visit could not make the patients get well, you would better stay and work for Angkar."

After staying in the hospital for a half month, Mon completely recovered from her illness, and she returned to her unit. Before she left, hospital chief gave her a letter and told her that, if unit chief ask you, please give this letter to him because it had my signature. After seeing this letter, unit chief named

Rin assigned Mon to work normally. Mon became worried about her safety, because she noticed that patients those had been sent to the hospital, no one could come back to the unit, and she heard that Angkar sent them to execute. For this reason, Mon worked harder than before although the job was difficult.

#### **The job at 6 January hospital**

About 2 months later, Angkar appointed Mon to work in Phnom Penh. At that time, she thought that Angkar may send her to kill, because she was the only one among the members in her unit selected. Mon refused to go, but unit chief said that she must go because her name was chosen by Angkar. "I was very frightened, and I did not know where I send to." Two days later, a big vehicle transported Mon, and about 40 people from a variety of units, most of them were about 17-18 years old, the car stopped at the Central market, 3 guards were controlling there. At night, Mon slept in a stone house with neither blanket nor pillow, male and female stayed in separated place.

In the morning, Angkar appointed all of us to work at different sections. Mon had asked a person come with her, but the answer was "Just follow them." Mon then was called by a woman to a place, after calling out about 10 people, that woman escorted Mon to go out. Meanwhile Mon was extremely horrified, and afraid that she may have no chance to meet her father and siblings again. She wanted to escape but she could not, because she did not recognize the way. One hour after walking across the calm road and house which had no owners, she reached the 6 January hospital. Mon had never learnt the medication before, so at first, she was appointed to wash patients' clothes in the morning, and in the afternoon she studied how to give injection and enclose the wound. Once she understood, hospital chief let Mon be responsible for the entire second floor, and looked after 100 patients with 3 doctors from 6 am to 12 am. Mon revealed that the majority of patients sent here were injured by

combating, because every evening she saw two vehicles placed the patients into the hospital. The wounds were not harsh and nobody died, the grave wounds were sent to cure at 17 April hospital. Mon had the ability to do this job even though she was illiterate. When she gave the injection to the patients she knew that Penicillin for the wounded one, Bedus for lacked blood patients. A part from her job, in the free time, Mon had to clean the floor. The diet, sometimes she had rice, sometimes porridge with M-Chou Kreung soup, the diet was prepared by a cook for the patients and the hospital's staff.

At there, Mon used to go welcoming Pol Pot once, but she did not see his appearance clearly, because he sat in a car followed by 4 vehicles. Before he arrived, Angkar granted Mon a new cloth for wearing during welcoming him, and told her to applaud while his car reached the point.

#### **Returning to her house**

About a half month later, after hearing that the Vietnam armies arrived, the hospital chief ordered the patients to leave the hospital. Mon found out that those who used to work for the Khmer Rouge soldiers would be made a hold on their ears, so she decided to escape with the patients by taking a train to Bavel district, Battambang province. Every meal time Mon went to ask for the diet from the villagers, she has lived there for 3 months. Mon thought she could not struggle with this living condition, so she made up her mind to go back to her home town. Along the way she backed home, Mon saw many corpses. Once she reached, she saw that the village she used to live was quiet, and her house had been completely destructed. Finally, Mon met her father and siblings, then they lived in a happy life; a month later, she got married. Nowadays, Mon is a farmer; she has 1 daughter and 4 sons.

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*Lakhena Tat is a staff writer for Searching for the Truth magazine.*

# ALMOST DIE IN THE KHMER ROUGE REGIME

*Bunthorn Som*

Before 1975, Kratie province was located in region 505, Northeastern zone. The North of this province bordered with the Vietnam. Due to the difficulties of the Khmer Rouge to transport food and armaments to the armies whose commanders were far, and during the transportation, the Lon Nol forces and the South Vietnamese troops always ambushed the Khmer Rouge armies. In result, they decided to put Kratie province in to autonomous region 505. At that time, The Khmer Rouge accused the villagers of stealing and hiding food for the Vietnamese armies who against Angkar, so many people involved in the enemy string were imprisoned and executed. Although the Khmer Rouge was brutal and killed many people, Soeun, one of the Khmer Rouge cadres helped many people to avoid the tortures and the executions. Soeun was a chief of unit, sub-battalion, disable office, Sa-ang district and Kratie region.

## Revolutionary Art

Soeun was born in Trapaing Kok village, Po Pel sub-district, Tram Kok district, Ta Keo province. In 1968, Soeun graduated his senior high school from the Sam Dech Ov High School (nowadays called

Sok Ann Slakou High School). After graduating, Soeun decided to stay home and help his parents with the farm. After the coup on March 1970, Tram Kok district was controlled by the Khmer Rouge. The Khmer Rouge had propagandized the villagers to struggle for liberating the country from the Lon Nol government and the American imperialist, and invited the King Sihanouk to return to power. Most of the villagers left their relatives, parents, properties, and houses to join the revolutionary movement. Because Soeun were friendly and funny, a teacher at Sam Dech Ov High School selected him to study art at Angkor Chey district, yet his mother rejected and asked the teacher to insert him into the children unit in the village. Although his mother had declined, Soeun decided to leave the village with only a scarf and a set of cloth he was wearing. When Soeun reached Angkor Chey district office, Soeun permitted to stay in a wooden house. There, teacher Somaly taught him Ayay (this required two people answer each other continuously in rhyming couplets). Teacher Chhin Chheang was a deputy director of art. Everyday, Soeun had to learn how to act and sing for performing in the upcoming ceremonies in the village.

In 1972, Soeun was inserted into region 35, Southwestern zone, controlled by Kong Charb, regional chief. Later, teacher Chhin Chheang and Somaly integrated with Lon Nol government, and they went to Phnom Penh, so the art group was cancelled. Consequently, Soeun returned to Tram Kok district to train the strategy of fighting such as crawling, doing push-ups, swimming and gunning. After graduating this course, Soeun was appointed to be a

Art performance during DK



chief of a group having 12 members. In 1972, Lon Non led air and land forces to fight the Thnal Bot village, Ang Tasom market, and Kat Plok sub-district, region35, this war lead many deaths.

In 1975, Soeun became a chief of sub-battalion and governed about 120 armies. He had to lead forces to Phum Srok Kok Andet, Srok Kiri Vong, Srok Angkor Borey, and Srok Tram Kok battle fields. Later, the Khmer Rouge accused the Vietnamese of taking off their flags at the border, moving the border poles and sent Vietnamese ethnic to live and farm in Cambodia without paying taxes. Soon the Khmer Rouge and the Vietnam forces fought each other. At that time, Soeun received an order from Angkar to lead water forces to fight with Vietnamese soldiers at the Anglong Tean River, Kandal province; consequently, he lost one leg.

#### Youth office

After recovering, Angkar appointed Soeun to monitor disable office, region13, Takeo province. This office had 100 disable people. In the early 1977, Angkar gathered all disable people from region 25, 33, 13 and 35, in Southwest zone to live along the Prek Ho Bridge, Kompong Samnahn market, mental hospital and car wheel factory (Takmao district). Seoun was selected to be a disable office deputy director. Three months after the chief of disable office was arrested by accusing him of being traitor, Soeun became the chief of this office. This office located around Prek Rusey pagoda, and contained 400 disable people. These people were divided into weapon-repairing unit, planting unit, and transportation unit. Soeun also had an obligation to select disable people to get married with female workers at the pepper fields, who Angkar had brought them from Kompot province, and solved the problems about divorcing. Soeun had the right to punish the Khmer Rouge cadres who committed mistakes to stay in the water for many hours.

#### District office chief

Prak was a chief of region 25 and Sean was a deputy chief. On June 1977, they both appealed for

Ta Mok to appoint Soeun to work as a chief of Sa-ang district office controlling 10 sub-districts. Sean suggested Soeun to marry his niece, but he rejected. Later, Sean's family and relatives were arrested by angkar and sent to Chrey Ho Phnov prison, charging them of betrayal. Sao Phon was recruited to replace him afterward. On September 1977, Angkar evacuated people from Brosot district (nowadays, Svay Teap district), Svay Reang province to Sa-ang district. At that time, Cheam, chief of Koh Ko office searched for people who were Vietnamese and Chinese ethnic and people who used to work for Lon Nol regime. After that he was ordered to arrest, question and kill all of their relatives. He has also executed many 17-18 year-old girls that he thought they were traitors. Once Soeun knew that, he controlled the name list again, and then sent Cheam to Koh Thom prison, accusing him of killing innocent people. At Srok office, Soeun has released 4 families of prisoners to return to their hometown.

#### Regional office chief

On 1978, Soeun was replaced to region 505, Kratie province (autonomous area), Pok was a regional secretary and Moeun was a military regional chief, they both were controlled by general-staff.

On December 5, 1978, Met, chief of division 502, assigned Soeun to be a Prek Prosob district chief, but he declined due to his inadequate ability. Subsequently, Met appointed Soeun to manage offices at Kratie province, Khsar village, Da sub-district, Kratie district. He supervised 5 offices, Srok Chhlung, Srok Prek Prosob, Srok Snoul, Srok Sombo and Srok Kratie. At there, Soeun called for all the district chiefs to have meetings every month to report about their job, and talk about the lack of supplies such as medicine, oil, bullets, and clothes. After that, Soeun made a statement to the general-staff, and assigned people to transport those lacked supplies from Phnom Penh to the stock in Kratie (Sontepheap hotel nowadays). During this year, many people evacuated from Phnom Penh and Kompong Cham province were charged with being Von Vet's string.

Most of them had a thin body and swelling disease. Even though they were accused people, Soeun allowed all of them to stay in the cooperative with based people, and shared them rice, medicine and blanket. He ordered all of them to build dam 105 and Bos Leav dam, and to farm. After collecting the output, Soeun arranged the transportation unit to store in the sub-district cooperative. There were sufficient rice; however, all people still faced starvation. Angkar arrested numerous people to put in the Kratie district prison (Kosomak High school nowadays), charging that they had hidden rice for Vietnam soldiers who had concealed in the Kratie province; after questioning and detaining, approximately 20 prisoners were executed there. On the other hand, villagers in Kratie province were evacuated to Roka Kandal village, Kroko village and Orusey village. Former Lon Nol's officials, armies, police and teachers were trained at easily affected to malaria place, Khvan cooperative. Soeun's father was also accused of stealing the chicken eggs to boil. Owing to Soeun had had a duty in the military, Angkar freed his father. On December 1978, the Khmer Rouge troops were struggling against the Vietnam armies along the Snol district border, this caused countless soldiers died and injured. The injured people were sent to receive an surgery at Veal Vong hospital, Kratie province; this hospital had 50 staff. If there were seriously injured patients that regional doctors could not cure, Soeun would sent messages to the director of the hospital to bring them by air-plane to the 17 April hospital (Russy hospital nowadays). Soeun had to attend the meeting at Phnom Penh every month to report about his job and the enemy activities. Moeun, military chief at Kratie province was arrested of accusing of being Vietnam string. Afterwards Angkar selected Soeun to replace Moeun. At the end of December 1978, the combat along the Snoul district border became widespread; ship carrying the armaments, and villagers' houses in Prek Prosbob district, Kratie province were destroyed by the Vietnam force. Due to the poor

conditions, Soeun told the troops to escape to Sandann and Baray district, Kompong Thom province. There, Son Sen and Ke Pok reorganized the armies by mixing up the central zone troops with the Kratie zone force.

On April 1980, Pol Pot arranged 700 armies, including 100 female to shelter in Battambang province. He divided these armies into different units for Khmer Rouge cadres to control. Under the order of Ke Pok, chief of division, Soeun scattered the armies to the Dong Rek Mountain. Ke Pok permitted the brigade to control the sub-district, the regiment to govern the whole district. Shortly, Soeun was assigned to supervise 6 sub-districts in the Prek Prosbob district, and 2 sub-districts in Som Bo district, he was in charge of ambushing the village and sub-district chiefs who served for the Republic Kampuchea and Vietnam force.

In 1989, Cambodian government indicted Soeun for doing traitorous activities; therefore, he was detained for 18 months. After the election in 1993, Soeun integrated with the government and went to live with his relatives and got married. He revealed that the Khmer Rouge tribunal should try the lower range cadres, the countries supported the Democratic Kampuchea and those conspired to commit the atrocity crimes. Soeun suggests the tribunal to try them as soon as possible because some senior Khmer Rouge leaders have passed away and the remaining are old.

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

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# ARTISTIC ROLES IN KHMER ROUGE REVOLUTION

*Sok-Kheang Ly*

The Koh Rumduol Buddhist monastery stands at the center of Thkol Thom village, Pursat province. Given its geographical importance, the Documentation Center of Cambodia (DC-Cam) Film Team chose this site for a film screening for nearly 300 villagers. With senior people forming a large proportion of the audience, the Film Team thanked them for attending the meeting even though they were busy with the rainy season's rice transplantation. The Team stressed the importance of the meeting, pointing out that the participants would have the chance to watch documentary films, to discuss the Khmer Rouge history, to hear an update on the work of the Khmer Rouge tribunal, and to learn about the imminent visit by DC-Cam's Victim Participation Project team, who would be providing assistance in filing complaints with the Extraordinary Chambers in the Courts of Cambodia (ECCC).

After hearing about the Film Team's program, many villagers regarded it as an entertaining and effective way to quickly grasp information. Some were even moved to share their personal stories about how art performances were used in their village both before and during the KR regime. Therefore, this article will focus mainly how the KR used art to indoctrinate the people to support their revolutionary cause and to build up the revolution. Interviewees' viewpoints on the screened documentary films also will be discussed.

#### **Artistic Role in Sowing Revolutionary Ideologies**

In March 1970, the Cambodian people entered into a state of socio-political confusion after General Lon Nol staged a successful coup against Samdech Preah Norodom Sihanouk and

created the Khmer Republic. From that point on, the Khmer Rouge movement increased in power in most parts of Cambodia's rural areas and the whole country was dogged by constant fighting.

Ms. Toch Srei Ron said that due to the insecurity at that time, ten groups composed of at least 100 youths were established by Thkol Thom village to prevent the Khmer Rouge movement's attack. According to Ms. Leng Ly, this preventive measure soon proved ineffective. The Khmer Rouge eliminated the Lon Nol regime's presence in the area in late 1970, periodically evacuating the villagers into the jungle in the process.

From the beginning of their control over the village, the Khmer Rouge formed a small number of the village's female youths into an "artistic group." Youth were compelled to join the KR forces and the art performances were used as a tool to indoctrinate and mobilize more youths to fight against "the American imperialists and its lackey, Lon Nol regime."

Ms. Toch's story is reflected in the lyrics of revolutionary songs played on National United Front of Kampuchea radio. Approved by the DK's Cultural and Social Committee of Eastern Zone, the



DC-Cam staff helps villagers in Kampong Thom fill Victim Information Forms

nine and tenth paragraphs of the song titled "We Conquered an Arial War of the American Imperialist" states as follows:

*"...the Kampuchean people and revolutionary forces were most brave and devoted, committing their children and themselves and leaving their fresh blood covered the earth. The American imperialist, a worldly most stubborn and cool-blooded mastermind, was defeated in a most humiliating manner on August 15..."*

Ms. Leng Ly observed that, together with Samdech Sihanouk's appeal to Cambodians to enter the jungle to fight the Lon Nol regime, anti-imperialist songs played a vital role in building up the KR revolutionary forces, strengthening political viewpoints and sowing communist ideologies. While many people supported the KR movement, Ms. Leng Ly's family decided to leave Thkol Thom village for Chhnok Trou village, Kampong Chhnang province. However, their hope to find a more stable place in Kampong Chhnang ended with the KR's total victory over Lon Nol regime in April 1975.

#### Using Arts Performance to Inspire Exhausted People to Build Revolution

A policy of forcibly evacuating people from towns and cities to rural areas was enacted shortly after the KR defeated the Lon Nol regime on April 17, 1975. Ms. Chhuon Leav, 60, of Thkol Thom village

recalled the day she was forced to abandon her home, saying that:

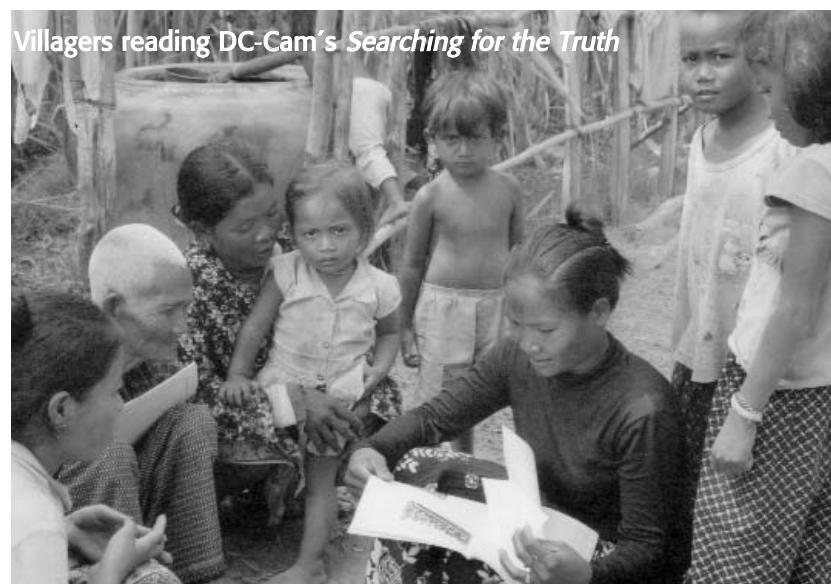
"I did not bring rice or other belongings with me as the KR declared that the evacuation would last within three days. In May, the KR militiamen ordered me to settle in many different places where there was a dearth of food. My baby boy died from malnourishment at the age of nine months old."

The KR leadership adopted a policy of turning Cambodia into an agrarian society where its people bore the same status as the "worker-peasant class." Their vision was to build a "super great leap forward" and in doing so they disregarded the starvation, disease, execution and overwork that would eventually claim the lives of an estimated 1.7 million people between 1975 and 1979. Rather than taking concrete measures to assist the traumatized and exhausted people, the KR Angkar used arts performances to entertain them.

Ms. Prak Lieng, 55, of Thkol Thom village said that during both day and night breaks from the dawn-to-dust working, people in the cooperative were instructed to learn artistic performances. According to Ms. Leng Ly, although the men, women, and child units functioned separately, each unit was similarly required to perform a dance and sing songs. She said that in her cooperative, Ms. Roeung, chief of the women's unit, was responsible for teaching the people at a dam construction site.

To entertain people in the cooperative, Ms. Roeung often selected Ms. Toch to sing and dance during work breaks. Ms. Toch, however, quietly emphasized that she was forced to perform, although the performances were created to please her and her cooperative members and make them smile despite their hunger.

Ms. Toch recalled the time in 1977 when she and another 100 women from her cooperative were told to walk to Kampong Chhnang provincial town to



watch an artistic performance. Asked what the performance was like, Ms. Toch said that it was about the KR's victorious war on the Lon Nol regime and rice cultivation. She recollected the following lyrics from a song titled "April 17, We Liberated Phnom Penh":

*"From all directions, [we] frantically attacked... the [Lon] Nol clique.... Most traitorous individuals and regime were completely destroyed for ever... On April 17, 75, our noble combatants liberated Phnom Penh from all directions..."*

Another song titled "Women of Cultivation Solidarity Group" speaks of the hard work by the women's group:

*"We, women of cultivation solidarity group, are all happy to work frantically... On arrival at the rice fields ... Some ploughed the fields, some transplanted rice."*

Ms. Toch wondered how these performances could have been expected to make her happy when she felt so hungry, drowsy, and exhausted. She explained that after long hours at hard labor, her cooperative members were forced to watch such performances until early morning. Sometimes they had to return to work after spending only one or two hours sleeping. Notably, Ms. Leng Ly said that over 70 of the 140 members in her cooperative had died during the DK period.

#### General Viewpoints on KR Documentary Film

Due to the immeasurable hardship they suffered and the loss of their loved ones, survivors have been unable to forget the KR regime since its fall in 1979. They have chosen many ways to preserve this memory, ranging from informal story-telling to appeals to teach today's school children about the period. The Film Team's visit to Thkol Thom village was organized to discuss these issues. After hearing an update on the proceedings against the five Khmer Rouge leaders in custody at the ECCC, the villagers watched two documentary films "Preparing for Justice" and "Behind the Walls of S-21: Oral Histories from Tuol Sleng Prison."

Ms. Toch felt that through artistic means, such as the film screenings, the villagers would be better able to learn about the Khmer Rouge trials and to help their children understand KR history. Nevertheless, having lived through the bitter times of the KR regime, Ms. Leng Ly found it hard and depressing to recall her memories of those days. She warned against anyone thinking the KR had been good for Cambodia and spoke of the untold suffering they had brought on the Cambodian people as a whole.

Ms. Leng Ly also found the film screening to be an important means by which to inform the villagers about the KR history and KR tribunal. Although she was aware through radio broadcasts that there would be a trial of KR leaders, before the Film Team's visit she didn't know the names of the charged KR leaders or anything about the provisional detention appeals proceedings before the ECCC's Pre-Trial Chamber.

#### Conclusion

The villagers of Thkol Thom took a very keen interest in learning about the KR history and the trials of the KR leaders. Some even spent their busy time giving our Film Team members long interviews about their personal lives under the KR regime. Many recollected that before the KR regime, artistic means was used to fan the fire of anti-Lon Nol and anti-American sentiments and to recruit villagers to support its revolutionary causes. During its rule between 1975 and 1979, arts performances were a tool to encourage the starved people to work hard for the revolution despite the horrendous number of unnatural deaths. By contrast, today, the Film Team is using art to generate discussion about the upcoming trials of those most responsible for these deaths, and to encourage survivors to find societal reconciliation with their tragic pasts.

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***Sok-Kheang Ly is the Team Leader of DC-Cam's Living Documents Project.***

## PUBLIC SURVEY OF THE KHMER ROUGE TRIBUNAL

*Bunthorn Som*

Report related to the Khmer Rouge tribunal published by The International Republican Institute, the interview conducted from January 27- February 26, 2008 by The Center for Advanced Studies based in Phnom Penh, Cambodia. This survey was held in 22 provinces and cities, except 2 places, Mondol Kiri province and Keb city. The sample size of 2000 is representative for Cambodian population older than 18 and live in a permanent house.

The Center for Advanced Studies has set up some questions to survey people opinion:

**1. Are you aware of the Khmer Rouge Tribunal that is putting top leaders of Khmer Rouge on trial?**

The answers collected are 71 percent of villagers are aware of it, whereas 29 percent of them are not.

**2. Are you aware of the Khmer Rouge Tribunal that is putting top leaders of Khmer Rouge on trial? In this question, we group the answers from 2 sources:**

Primary source of information: 81 percent of people listening to the radio are aware of it, and 19 percent of them are not. 67 percent of people watching TV are aware of it, 33 percent of them are not. By word of mouth, 42 percent are aware of it, while 58 percent are not.

From the answers above, we identify that most of the people know about the Khmer Rouge tribunal that is putting top Khmer Rouge leaders to trial by listening to the radio.

Age source: From the age of 18-24, 66 percent of them are aware of it, while 37 percent are not. From the age of 25-29, 66 are aware of it, 34 percent are not. From the age of 30-39, 67 percent are aware of, 33 percent are not. From the age of 40-49, 72 percent are aware of, 28 percent are not. From the age of 50-59, 79 percent are aware of it,

21 percent are not. From the age of 60 and older, 79 percent are aware of it, and 21 percent are not. According to the result, people who are 60 years old or older know more about the tribunal putting up the senior Khmer Rouge leaders on trial because all of them may have faced with the forced work, starvation, tortures, and the death of their relatives. Although the Khmer Rouge regime has passed for 30 years, their suffering still remained in their minds.

**3. Do you agree or disagree with a trial of top Khmer Rouge leaders?**

The graphic shows that 69 percent very much agree, 17 percent somewhat agree, 6 percent neither agree nor disagree, 3 percent very much disagree, and another 3 percent do not know.



Although many organizations and institutes such as, the Documentation Center of Cambodia, the Social Development Center, the ADHOC, and the ECCC have distributed the information about the process of the Khmer Rouge tribunal, some people are not conscious of it.

The Documentation Center of Cambodia has created projects to disseminate the detail about the process of the Khmer Rouge tribunal to the villagers. For instance, the PA project has interviewed 10.000 former Khmer Rouge cadres in almost every province and city. VPA project has helped approximately 1000 victims to file the complaints to the victim unique at the Extraordinary Chamber in Court of Cambodia (ECCC). The Public information office has invited sub-district and village chief and 1.090 people to visit the Cheoung Ek killing field, the Toul Sleng genocide museum, the Extra Ordinary Chamber in The Court of Cambodia, and let the visitors listening to the explanations about the tribunal by the court

officers. They are also provided the Searching for The Truth Magazine issuing the narrative of the Khmer Rouge regime and the process of the Khmer Rouge tribunal to them to read. The public information office has contributed the magazine to people in the whole country. However, this is just the achievement of the DC-Cam, excluding the other organization's work.

Since the tribunal appeared in 2006, we can see that the broadcast system to the public has become more wide spread. According to the statement of the International Publican Institute, 71 percent of people are aware of the Khmer Rouge tribunal, while 29 percent of them are not. However, we are still pessimistic that all population in the country will comprehend about the Khmer Rouge tribunal.

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***Bunthorn Som is a Staff Writer for Searching for the Truth magazine.***

hear what Nuon Chea had to say during his



## VICTIM PARTICIPATION (VPA) PROJECT: PROVINCIAL REPORT - KAMPONG THOM PROVINCE

APRIL 2008

*Terith Chy and Sarah Thomas*

### 1. Background to the VPA Project's Work in Kampong Thom Province

#### Background to Kampong Thom Province

Kampong Thom Province is located in the center of Cambodia and is bordered by the provinces of Preah Vihear to the north, Kampong Cham and Kampong Chhnang to the south, Kratie to the east, and Siem Reap to the west. It has a total land area of 15,061 km<sup>2</sup>. The province has eight districts; namely, Baray, Kampong Svay, Stung Saen, Prasat Balangk, Prasat Sambau, Santuk, Staung, and Sandan. Kampong Thom Provincial Town is located 162 kilometers north of Phnom Penh. The province has a population of around 570,000 people, most of whom are engaged in farming and the timber industry.

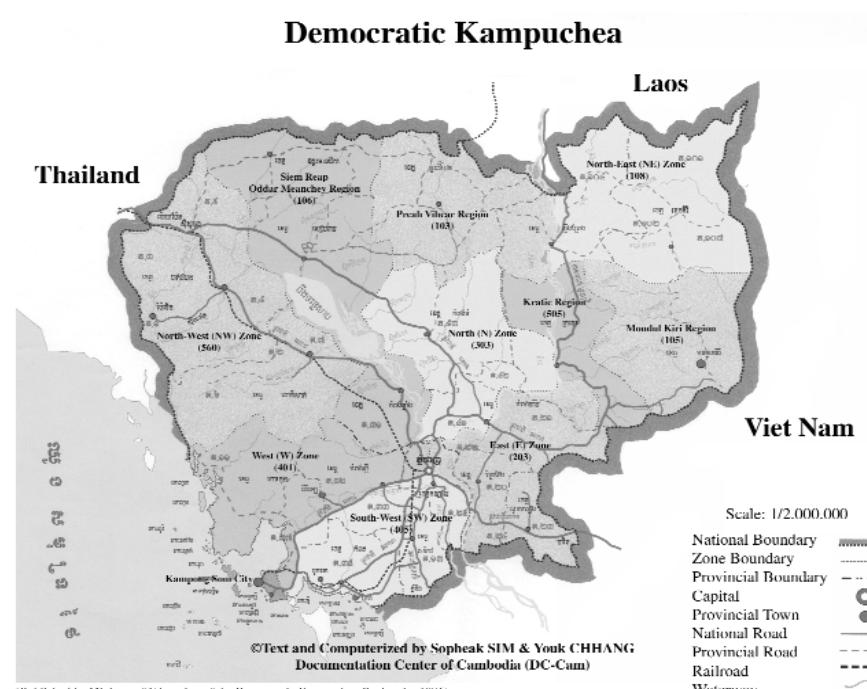
In 1976, Kampong Thom Province was located entirely in the Northern Zone, though parts of the province subsequently became part of the Eastern Zone. According to reports based upon the Renakse

Petitions, the total death toll in Kampong Thom Province was 324,547 people. The vast majority—273,342 of the victims were peasants. In addition, 5,092 individuals were left disabled by the regime. During the regime, many people were killed during the construction of large dykes. As of February 2008, the Center's Mapping Project has found seventeen burial sites (containing over 1600 pits holding around 180,000 corpses), ten prisons and six memorials in the province.

Kampong Thom Province proves important to the work of the VPA Project because its inhabitants in 1982-83 account for a large number of the Renakse Petitions held in the Center's archives.

#### The History of the Renakse Petitions in Kampong Thom Province

The Center holds in its archives the so-called "Renakse Petitions." In 1982-83, the successor government to the Khmer Rouge collected 1,250 petitions detailing the crimes of Democratic Kampuchea from over 1.1 million Cambodians. The Project plans to use these Petitions to locate potential complainants and civil parties. In so doing, the Project will reactivate the informal truth commission begun by the People's Republic of Kampuchea government. By showing Petitioners that their prior testimonies have not been forgotten, the Project will contribute to the process of reconciliation. While the Project's primary focus is upon locating and assisting Renakse Petitioners, the team wishes to help



any survivors interested in completing the Court's Victim Information Form.

The Center holds 87 Petitions from Kampong Thom Province. Unlike those from other provinces, those Petitions collected in Kampong Thom Province were collective. Usually, one or two representatives wrote and signed/thumb-printed a Petition on behalf of a large group, representing around 200 to 1000 individuals. Thus, unlike in other provinces, the Petitions from this province do not contain the names and signatures/thumbprints of all individuals represented. Groups represented in the Petitions include individuals from all walks of life, including: teachers, intellectuals, and villages.

## **2. VPA Project's Field Trip of March 10th-28th**

### **Overview of Field Trip Details**

**Statement of Purpose:** The purpose of the field trip was to inform survivors of the Democratic Kampuchea regime of their participation rights in the upcoming trials before the Extraordinary Chambers in the Courts of Cambodia (ECCC) and, should they wish to participate, to assist them in the completion of the Form. The Project sought to locate and reach out, in particular, to those individuals in the province who completed Renakse Petitions in 1982-83. As an ancillary purpose, the Project sought to put its recent training into practice and to provide valuable field experience to its staff members.

### **Preparation for the Field Trip**

The Project provides extensive training to its staff on an ongoing basis.

In January 2008, three Legal Associates from Harvard Law School - Paddy Glaspy, Neil Pai and Andrew Steinman - visited the Center and, with the assistance of John Ciorciari (Legal Advisor), provided training to the Project's staff and other DC-Cam staff members. The Legal Associates prepared a 16-page Interview Manual designed to introduce staff members to the various

modes of participation, to instruct them in completion of the Victim Information Form, to provide them with a background to the Renakse Petitions, and to inform them of the crimes within the Court's subject matter jurisdiction. On January 21st, the Legal Associates ran a training session for staff members, working through the Form step-by-step, focusing on interview techniques, conducting role plays and introducing the elements of crimes. Mr. Ciorciari visited the Center from January 15th to 23rd and supervised the Legal Associates' training program and met with Court officials to discuss matters relating to victim participation. In addition, Norman Pentelovitch authored an evaluation of the VPA Project and its goals.

Immediately prior to the field trip, on March 6th and 7th, Terith Chy (Team Leader) and Sarah Thomas (Legal Fellow) led two brief training sessions. They explained the Victim Information Form to the team question-by-question, instructed them to focus on asking certain questions when completing the Form's Description of Crimes question in Part B, and explained the crimes within the Court's subject matter jurisdiction.

### **Details of Arrangements and Personnel**

The VPA Project team used a house in Kampong Thom Provincial Town as its base during the field trip. The trip lasted for three weeks, beginning on March 10th and ending on March 28th. Ten staff



Training Session with Hardvard Assiciates

members participated in the field trip.

**Achievements of the Field Trip**

**Achievements of Team in Numerical Terms**

During the field trip, the team succeeded in visiting five of the eight districts in Kampong Thom Province. Specifically, the team held meetings in thirty villages in twelve different communes. Team members informed hundreds of survivors of the Democratic Kampuchea regime of their participation rights and assisted 317 survivors in completing the Victim Information Form. On April 2nd, Ms. Bophal Keat, Head of the Victims Unit, collected the 317 Forms from the Center. The team hopes that the information contained in these Forms will prove helpful to the important work of the Court.

**Team's Success in Reaching Out to Renakse Petitioners**

Prior to the field trip, the Project's staff members selected many of the villages to be visited based upon the existence of Renakse Petitions from those villages. The team identified Petitions containing the names of eighteen individuals who had resided in the villages in 1982-83. Of these eighteen individuals, the team successfully located eight Petitioners. The other ten Petitioners had either died, moved away or were too unwell to complete the Form. Of the eight Petitioners contacted, only one chose not to complete the Form due to his belief that the Court cannot offer justice due to political influence.

The team found that all the Petitioners contacted failed initially to remember signing a Petition. In many cases, after showing them the Petition and their signature, they remembered signing and many had vague memories of the meetings at which they had signed. The team found that the Petitioners did not remember the circumstances surrounding the meetings or the effect of political influence on their Petitions.

**Meetings With a Potential Civil Party at Request of Victims Unit**

On two occasions, staff members met with a potential civil party selected by the Victims Unit who had filed a Victim Information Form with the

assistance of the Project. At the request of the Victims Unit, the staff members sought additional supporting materials and provided the potential civil party with information on protective measures. In the near future, the Victims Unit will submit the potential civil party's information to the Co-Investigating Judges for consideration.

**Provision of Documentation to the Relative of Tuol Sleng Prisoner**

Staff members assisted a woman in Baray District to complete the Form. She completed a complaint informing the Co-Prosecutors of her grandfather's death while imprisoned at Tuol Sleng. She told the staff members that she knew of his death at Tuol Sleng through a family friend who had seen his photograph on display there. She had visited the Genocide Museum herself and was prevented by a guard from taking a photograph of her grandfather's mug shot. Upset at not having his photograph, she asked the staff members to search for documentation relating to her grandfather and his photograph.

Upon the team's return to the Center, staff members found his prison biography with photograph. The Center will deliver the biography to her along with a framed reproduction of his photograph at Tuol Sleng.

**Improved Public Awareness of Project**

On March 17th, the Cambodia Daily published an article by Erika Kinetz and Yun Samean on the team's outreach efforts in Kampong Thom Province. Entitled "DC-Cam Team Searching for KR Complainants," the article provided an introduction to the work of the Project and featured quotes from Terith Chy and Nuon Dork, 61, a villager from Baray District. Nuon had filed a Petition in the early 1980s and appreciated the opportunity to file a second complaint today. Kinetz quoted Dork as saying, "I want the history to be written about the brutality of the Khmer Rouge regime so the younger generation can understand it."

Speaking of the Renakse Petitions, Kinetz praised the Center's desire to "cultivate" the voices of survivors resonating in the Petitions free, for the first time,

from political influence. While their language may be politicized, the authors of the Petitions document undeniably the suffering of the people.

#### **Positive Impacts of Field Trip**

1. The team's meetings provided survivors of the Democratic Kampuchea regime with a much-appreciated opportunity to tell their story to an interested party, thereby providing them with a sense of relief in many cases. *Example:* Srey Soth, 76, Staung District, stated: "It's a relief to have someone to talk to."

2. The opportunity to complete a Victim Information Form and thereby to assist in the creation of a comprehensive historical record pleased survivors as many expressed concern that the younger generation does not believe in the atrocities of the Khmer Rouge period. *Example:* A man told our staff members that, when telling his children of how that the young Khmer Rouge soldiers took people to be killed, his children could not understand why the people did not fight back and did not believe his explanation that they were too hungry to resist.

3. The team's meeting provided a useful opportunity to inform low-level perpetrators that the Court will only try senior leaders and those most responsible, thereby providing them with peace of mind and improving the likelihood of their cooperation with the Court.

4. The team's presence in Kampong Thom Province allowed staff members to assist the Victims Unit by meeting on two occasions with a potential civil party assisted by the Center.

5. The field trip provided useful experience to our staff in assisting survivors in the completion of the Form, building upon prior experience and recent training sessions.

#### **Difficulties Experienced and Proposed Solutions**

##### **1. Lack of Readiness on Part of Village Chiefs**

On a number of occasions, the team experienced difficulties because the village chief had inadequately prepared for the visit (for example, by failing to tell villagers, by giving them an incorrect start time for the meeting or by failing to tell them to bring

identification). In many cases, lack of readiness resulted from poor communication with the village chief. In sixteen of the thirty villages visited, the village chief did not own a telephone and arrangements had to be made using the commune chief as an intermediary. This likely resulted in erroneous information being conveyed. In those villages in which the village chief owned a telephone, the team called him ten days, three days and one day prior to visit.

*Recommendation:* If the village chief does not have a telephone, contact the commune chief ten days, three days and one day before the visit to ensure that he has conveyed the message to the village chief and to check that the village chief has made appropriate arrangements.

##### **2. Confusion Over the Purpose of Meetings and the Provision of Gifts**

As the field trip coincided with the election campaign, many villagers attended our meetings in the mistaken belief that they would receive gifts in return for their attendance and, in particular, for completing the Form. At the outset of every meeting, in order to prevent confusion, our staff members clearly stated that DC-Cam is not a political party and that the team was there only to assist them in exercising their participation rights.

*Recommendation:* Continue to highlight at the outset that DC-Cam is not a political party.

##### **3. Effect of Presence of Perpetrators and Relatives at Meetings**

The presence of former members of the Khmer Rouge and/or their relatives at meetings had a very negative effect upon the number and completeness of Forms collected. Due to their presence, many villagers expressed unwillingness to complete the Form or refused to provide all necessary information (in particular, the names of perpetrators) because they feared retaliation from low-level perpetrators in their villages. *Example:* In Kampong Svay District, a woman whose husband had disappeared initially refused to name the man who had taken him away because the perpetrator's son was present at the meeting.

**Recommendation:** Continue to encourage the participation of former members of the Khmer Rouge as important potential complainants and witnesses because their presence allows the team: (a) to inform them of the limited personal jurisdiction of the Court; and (b) to obtain from them useful insider information about the Khmer Rouge regime.

#### 4. Fear of Retaliation from Low-Level Perpetrators

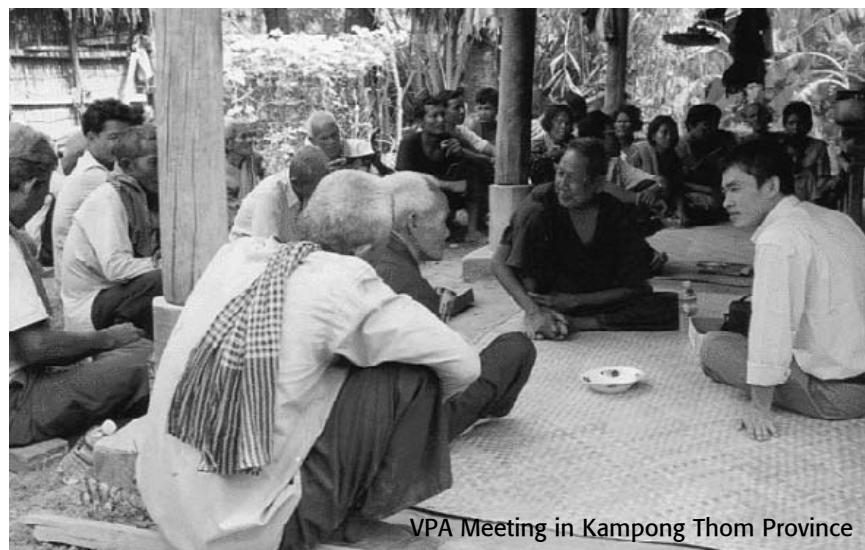
A number of survivors refused to complete the Form because they feared retaliation from former members of the Khmer Rouge in their villages.

Recommendation: Continue to explain at meetings that the Court will only try senior leaders and those most responsible and will not target low-level perpetrators and, therefore, low-level perpetrators should not fear prosecution and do not have cause to retaliate if named.

#### 5. Unwillingness on Part of Former Khmer Rouge Members to Complete the Form and Incomplete Disclosure of Events

Despite the team's explanation that the Court will only try senior leaders and those most responsible, many former members of the Khmer Rouge either refused to complete the Form or, in completing the Form, provided incomplete and possibly inaccurate information. Staff members found that former members routinely tried to cover up their crimes by blaming their superiors and highlighting their own good deeds.

**Example:** Former Khmer Rouge Member, 64, Santuk



District: "I didn't know much and I don't remember much. I don't want to complete the Form. I'm afraid that I'll be exposed to the Court and be brought somewhere. I don't know how to describe things. I don't want to have any problems. I fear being prosecuted. But I don't fear the law. I fear retaliation from individuals (particularly in my village). I fear revenge."

**Recommendation:** Continue to explain at meetings that the Court will only try senior leaders and those most responsible and will not target low-level perpetrators and, therefore, low-level perpetrators should not fear prosecution and encourage their participation as important potential complainants and witnesses.

#### 6. Difficulty Remembering Dates and the Order of Events and Remembering Dates Using the Chinese Calendar Only

As noted during other outreach events, survivors experienced considerable difficulties in recalling dates and the order of events during the regime. In addition, staff members found that villagers in Kampong Thom Province could often only remember dates using the Chinese calendar. Staff members could not readily convert these dates to the Gregorian calendar.

**Recommendation:** Continue to provide assistance to survivors in recalling dates by questioning them and assisting them in ordering events and provide staff members with materials to assist them in converting dates in the Chinese calendar to the Gregorian calendar.

#### 7. Difficulties Experienced in Forming Questions

Members of the team experienced difficulties in forming appropriate questions to elicit all the necessary information when answering Part B's question relating to the Description of Crimes.

**Recommendation:** Hold further training sessions on a regular basis and conduct a one-on-one review of the

*Forms with staff members.*

#### **8. Inability of Most Survivors to Suggest Victim-Centered Reparations**

The vast majority of survivors struggle to suggest forms of reparations which address specifically the needs of the regime's victims. Commonly, their suggestions are limited to addressing needs related to development, e.g. schools, roads and hospitals. Non-victim-centered reparations benefit victims and perpetrators alike. Promisingly, a small number of survivors requested the reconstruction of pagodas destroyed during the regime and genocide education to prevent a repetition of the atrocities.

**Recommendation:** *Encourage survivors to think of reparations designed to address the needs of victims only.*

#### **9. Limited Personnel Contributing to Collection of Suboptimal Number of Forms**

At almost all meetings, the team did not have a sufficient number of members to assist all villagers wishing to complete the Form at once, requiring many villagers to wait for a staff member to finish helping another before they had the opportunity to complete a Form. As it took around 60-90 minutes to assist in the completion of a Form, many villagers left before they could complete a Form due to the long wait. The limited number of staff members meant that the team could only collect around ten to fifteen Forms in one session. At this rate, the Project will not meet its target of collecting 10,000 Forms within one year.

**Recommendation:** *Recruit additional staff members for the Project.*

#### **10. Difficult Working Conditions**

Staff members found the working conditions in Kampong Thom Province to be difficult as it was very hot and access to villages was often by difficult roads. In addition, staff members found the working conditions in villages to be problematic as they did not have suitable work space as village chiefs usually did not provide tables and chairs and staff members were forced to work on the floor or ground. In

addition, the small number of staff members meant that the existing staff members had to work very hard without taking suitable breaks to ensure that all villagers at meetings could complete Forms.

**Recommendation:** *Request commune and village chiefs to provide tables and chairs for our meetings and recruit additional staff members.*

#### **Conclusion**

The field trip to Kampong Thom Province proved very successful as the team collected over 300 Victim Information Forms for submission to the Victims Unit. The team hopes that the information contained in these Forms will prove helpful to the important work of the Court. Pleasingly, the Forms collected were far more complete than those collected previously due to improved training, supervision and checks for errors and omissions. In general, the Forms contained far more detailed responses to Part B's question on Description of Crimes with at least two pages of descriptive material in most cases.

The field trip provided an important opportunity to inform survivors of the regime of their participation rights and to reassure low-level perpetrators that the Court will try senior leaders and those most responsible only and not target them. Furthermore, the completion of a large number of Forms under supervision provided the team with a valuable training experience. As expected due to the collective nature of the Petitions from this province, the team could only meet with a small number of Petitioners and, thus, did not gain a comprehensive impression as to the veracity of and effect of political influence on the Petitions.

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**Sarah Thomas is the David W. Leebron International Human Rights Fellow with the Victim Participation Project at the Documentation Center of Cambodia (DC-Cam).**

**Terith Chy is the Team Leader of Victim Participation Project.**

# A FLAG WITH A TORTURED PAST

*Siegfried Ehrmann*

## The Prologue

The Cold War was still in full swing with China, the Soviet Union, and the United States jockeying for domination in a region known as Indochina, creating in the process many power struggles within the affected countries as well. The results are well known, yet the Cold War continued, and mostly under cover.

For most people on the outside world a country that once was called Cambodia had changed its name to Democratic Kampuchea, and for almost four years to come there was very little information of what was going on inside. The lights were turned off in Cambodia...

When the light came back, more than 1.8 millions (or more) of its own people were dead, Angkar was to blame. And *the organization* was synonymous with a group of Stone Age communists known as the Khmer Rouge who wanted to outdo Mao by turning the country and its people into an agrarian society with total disregard for human life, and within the shortest possible amount of time.

The man behind this ludicrous scheme turned out to be a man named Saloth Sar, who was to become known as Pol Pot or Brother Number One. He and his regime of *Brothers* not only terrorized the people and ruined the country during their reign from 1975-1979, they were even allowed to play a political role in the turbulent years that followed, thanks to the continued involvement of the various Cold War players.

While Pol Pot never faced an official court of law (he died in his sleep in 1998), other members of his regime are now on trial in Phnom Penh. After years of delays the UN backed *Extraordinary Chambers in the Courts of Cambodia* (ECCC) genocide tribunal has finally started its work in 2007, with the trials to begin in 2008, and a process that is going to last for at least another three to four

years, provided additional funds will can be secured.

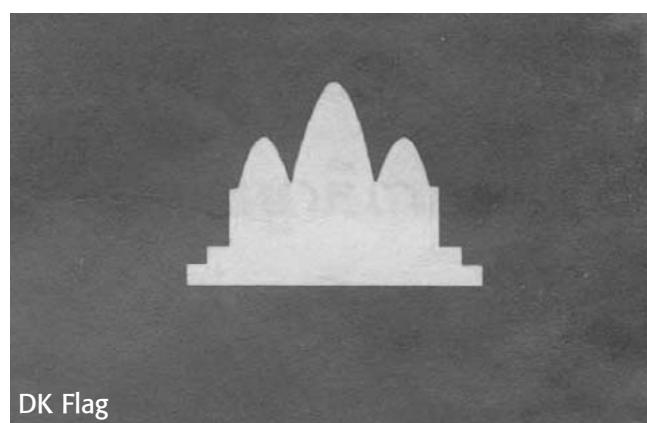
The only defendants so far are some of Pol Pot's closest associates: Khieu Samphan (former head of state), Nuon Chea (Brother Number Two and Pol Pot's deputy), Ieng Sary (former foreign minister), Ieng Thirith (wife of Ieng Sary and former social affairs minister), and Kaing Guek Eav (also known as Duch, the former head of S-21 Tuol Sleng). They are all facing charges of war crimes and crimes against humanity, and it is hoped by many Cambodians that a speedy trial will reach a verdict before the accused will die of ill health or old age.

Most of the atrocities of the Khmer Rouge regime have been revealed over the years - historians have analyzed the political systems, the key players and their reasons; some victims have reported their stories in books, and some will have a chance to do so at the forthcoming trial; and for a broader audience the movie *The Killing Fields* portrayed the time after the Khmer Rouge captured Phnom Penh, and then enslaved the entire country and its people.

However, with all the information available now, very little is known about the flag that represented the country during those fateful years. Let's take a look back.

## Democratic Kampuchea and its Flag

On January 5, 1976, roughly nine months after the country was conquered by the Khmer Rouge, the



DK Flag

government of Democratic Kampuchea promulgated a new constitution and declared in Chapter Eleven:

***The National Flag***

***Article 16***

*The design and significance of the Kampuchean national flag are as follows:*

*The background is red, with a yellow three-towered temple in the middle.*

*The red background symbolises the revolutionary movement, the resolute and valiant struggle of the Kampuchean people for the liberation, defense, and construction of their country.*

*The yellow temple symbolises the national traditions of the Kampuchean people, who are defending and building the country to make it ever more prosperous.*

With that declaration in hand the United Nations in New York on April 6, 1976 accepted yet another name change - from initially Cambodia (1955-1970) to Khmer Republic (1970-1975), again to Cambodia (1975-1976), and now to Democratic Kampuchea.

That same year historian David P. Chandler

mentioned in his article The Constitution of Democratic Kampuchea (Cambodia): The Semantics of Revolutionary Change that "the new flag closely resembled the flag of the so-called Khmer Viet Minh movement of the early 1950s".

Although the Khmer version of the constitution contains without any doubt the word "temple", it has also been reported that a French language version of the new constitution was supposedly handed out by the Pol Pot government in which the term "temple" was replaced by the word "monument", however, a copy of the document supporting that version has not been found.

After the defeat of the Pol Pot regime in 1979 Cambodia went through some major political turmoil, with numerous political parties, government coalitions, and foreign powers struggling for dominance, and some flag changes went along with it. But those flags never made it to the UN, and neither did the interim governments that were de facto arranged by Vietnam and generally opposed by most other countries, and as a precedent it was not to be accepted for fear of future repetition by others countries. The paradox: "you may kill millions of your own people, as the



Laos-Kampuchea-Vietnam United Front meeting in Laos, 1950

SPECIAL ENGLISH EDITION, SECOND QUARTER 2008

Khmer Rouge had done, but for a neighboring country to step across the border to overthrow that government, was seen as bad manners and a disregard of a country's sovereignty" (Cambodia expert Bruce Sharp).

And so, at the United Nations in New York, the flag of Democratic Kampuchea kept flying, even though the new Cambodia was recognized by the UN on February 3, 1990, supported by Norodom Sihanouk's declaration of the same day.

**DECLARATION BY**

**H.R.H. SAMDECH NORODOM SIHANOUK  
PRESIDENT OF CAMBODIA**

*3 February 1990*

*As from today, Democratic Kampuchea, a full-fledged member of the United Nations is called «Kampuchea» in Khmer, «Cambodge» in French and «Cambodia» in English, and no longer «Democratic Kampuchea.»*

*The national flag of Cambodia is no longer the red flag of Pol Pot-Khmer Rouge but the centuries-old traditional flag of the Cambodian nation. Its drawing in miniature is as follows : Silhouette of Angkor Wat in front view, the 3 towers of which are visible. The silhouette is in white and not in yellow.*

*Henceforth, the national anthem of Cambodia (Kampuchea-Cambodge) is the old anthem of our Fatherland: the NOKOREACH (lyrics: the old 2nd verse only.)*

*My official title, as legal Head of the Cambodian State, recognized as such by the United Nations, is «President of Cambodia.»*

*The Coalition Government of Democratic Kampuchea (CGDK) becomes henceforth «National Government of Cambodia» (NGC).*

*The regime of Cambodia is the same as that of the 5th French Republic (political), economic and social regime, press, etc.).*

Neither the UN nor their official flag contractor were able to provide any records as to the exact time frame the flag of Democratic Kampuchea was actually in use at the UN in New York.

But in his 1999 article Cambodia's Twisted Path to Justice historian Ben Kiernan writes that "from 1979 to 1982 the Khmer Rouge continued to hold Cambodia's seat alone, using the name 'Democratic Kampuchea.' Then two smaller non-communist parties joined them in a 'Coalition Government of Democratic Kampuchea' -- in fact neither a real coalition, nor a government, nor democratic, nor in Cambodia! Thus the Khmer Rouge flag flew over New York until 1992".

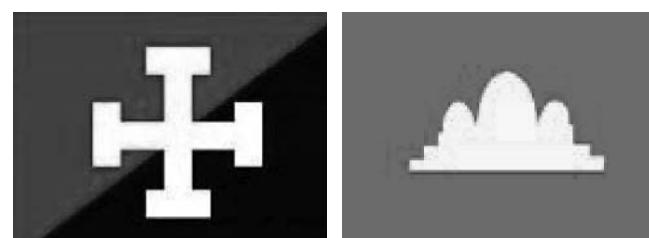
**In Search of a flag**

During a recent visit to the War Museum in Siem Reap the author noticed some small red and yellow flags with a stylized Angkor Wat design that reminded him of the Khmer Rouge, and a museum guide volunteered that they were surely from that period, without providing any additional information.

However, a quick search on the internet revealed various flag depictions but no images of an original Democratic Kampuchea flag.

Some of the internet flags feature either some rendition of "a yellow temple with three towers on a red background" with little or no resemblance of Angkor Wat, or show a flag in either red/black or red/blue with a so called white crutch cross - the latter version belonging to the Mouvement National (Monatio), a small obscure political faction that enthusiastically welcomed the Khmer Rouge upon their arrival in Phnom Penh (as filmed by Christoph Maria Froehder), but were quickly eliminated in the process.

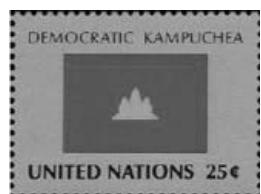
Because the commonly featured yellow temple internet flags are graphically created postmortem renditions and not a document, a major research project was started to find a photo of the actual flag of Democratic Kampuchea.



Very few foreign journalists were invited by the Khmer Rouge regime, and not too many photos have survived that period, except for the many thousands that were taken at the S-21 Toul Sleng detention center.

Occasionally black/white photos would surface that feature a red flag, but due to the bad quality of the image it could not be determined if it contained the Angkor Wat design, if it had a hammer and sickle on it, or if it was simply just that, a red flag.

The first breakthrough came with the discovery of a postage stamp. It turned out that on September 22, 1989 the Postal Administration of the United Nations (UNPA) had issued as part of their flag series a stamp featuring the flag of Democratic Kampuchea (in a block together with those of Honduras, Guinea-Bissau, and Cyprus).



The UN stamp features a flag depicting Angkor Wat with pointed towers, and according to sources at the United Nations, the same flag design used to fly there in New York.

Another version of the flag came to light on the cover of the book "The Murderous Revolution" by Martin Stuart-Fox and Bunheang Ung.

Ultimately, the only confirmation of the actual Angkor Wat design on the flag of Democratic Kampuchea was discovered on a photo in the book "A History of Democratic Kampuchea (1975-1979)"



by Khamboly Dy (Documentation Center of Cambodia, 2007).

#### **The Conclusion**

And that will basically answer the question what the flag of Democratic Kampuchea actually looked like.

It is not known if those flags were initially manufactured by friendly socialist states, or if they were made within the country. It can possibly be assumed that they were made locally, the colors might have varied according to what kind of dye was available at the time, or the colors might have faded, and in addition some variations might have occurred as well. Also, it will never be learned how many of those national flags were ever made.

For sure, the Khmer Rouge were not design minded and used very rudimentary depictions that would not conflict with their anti-bourgeoisie agenda as is reflected in the design of their national emblem or their bank notes, and since they did not have to show off the flag it is quite possible that a simple red flag would have sufficed most of the time.

The initial purpose of the investigation was to learn more about the background of the museum flag in Siem Reap, in the process the real flag of Democratic Kampuchea was rediscovered.

Yet in the end, the question still remains - where does the flag from Siem Reap's War Museum fit in?

With its more pointed towers and three instead of two tiers it could have been used prior to 1975, perhaps as a variant during the time from 1975 to 1979, or even after 1979 by some of the Khmer Rouge's remaining followers.

Perhaps historian Steve Heder has the best explanation by saying that "the differences reflected mainly the skill and ambition of the tailor or seamstress".

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*Siegfried Ehrmann is a researcher about the Khmer Rouge regime.*

# CAMBODIAN ARMY ANNIVERSARY

*Sweden document*

## Nuon Chea's Speech at Army Anniversary Meeting Phnom Penh home service 0400 gmt 17 Jan 77

Excerpts from broadcast extracts from speech by Nuon Chea, Chairman of the People's Representative Assembly Standing Committee and acting Premier, at 16 January meeting marking the Cambodian Revolutionary Army anniversary.

... On this occasion and under the present circumstances, I wish to make two important points. The first is that the founding anniversary of our nine-year old army reminds us of the very high sense of heroism of our Revolutionary Army. At this moment we think with profound emotion and revolutionary sentiment of our comrades-in-arms, male and female combatants and cadres our army, who made all kinds of sacrifices for the most difficult, complicated, tortuous and involved revolutionary struggle until the total liberation of Cambodia, freeing the people-workers and peasants -and bringing to them forever the status of masters of the nation and of their own destiny.

The second point we should consider on this occasion is that as we think of our formerly empty-handed army and its present condition, we should take great pleasure in the thought that never before

have we had an army such as the present Revolutionary Army-an army with truly revolutionary characteristics, a valiant, competent and wonderful army absolutely loyal to our revolutionary organization, our people-the workers and peasants-our state power and our beloved fatherland. Our revolutionary Army was founded, strengthened, expanded and transformed from secret defence forces into guerrilla units, regional units and regular army units which launched guerrilla warfare, large-scale warfare, internal war and revolutionary war against the US imperialists and their lackeys, for the liberation of the nation and people, until the day we won the great victory of 17 April 1975.

We have also strengthened and developed this army politically, ideologically and organizationally. Now our army has all the characteristics of a truly revolutionary nature-it is a fully organized army, including ground, naval and air forces which are defending the national territory and territorial waters and air space-the whole territory of Cambodia. For thousands of years our people have never had an army comparable to the present one. Realizing this, we are proud of, and fully satisfied with, our people, our army and our revolutionary

organization, which have waged a protracted struggle to build up Democratic Cambodia, the Cambodian people-workers and peasants-the state revolutionary power and a valiant and capable revolutionary army...

To repay the debt of gratitude to our army, all of us, whether in it or outside, must pledge ourselves in memory of our combatants and our people to carry on the tradition of our heroes, who fought valiantly in past struggles, by continuing to perform correctly their revolutionary tasks and by



fulfilling in the best way possible the tasks of defending and building the country. If we fulfil these tasks with great care and a high sense of responsibility, then all of us will be repaying properly and fully the debt of gratitude to our heroes. To do so is our determination.

On this occasion, we also resolve further to consolidate further and expand our revolutionary position. In all our activities and tasks, small or large, we must always maintain the spirit of struggle and regard this determination as our driving force. We must use the pledge given in memory of our heroes as the driving force to boost our morale. We are strong, but this driving force can make us even stronger...

Why are we fulfilling the revolutionary tasks of the new era? We are doing it to abolish forever our century-long slavery. We liberated our country from slavery on 17 April 1975, and our people were also freed that day. Why should we continue to perform our tasks correctly? We are doing it for the defence of Democratic Cambodia, the Cambodian workers and co-operative peasants in the coming decade, century, millennium, the next 10,000 years, forever. We are doing it to build our Democratic Cambodia by leaps and bounds. This is why we should perform our tasks.

Is this an honour? Yes, it is an honour for us. The great victory of 17 April 1975 brought our nation, people and army great honour which we must preserve, consolidate, expand and prevent from being tarnished and lost. The fulfilment of our tasks is therefore aimed, firstly, at repaying the debt of gratitude to our heroic male and female combatants and cadres who have passed away and, secondly, at defending forever the honour of nation and people.

The 17 January of 1968 was the day of the birth of the Cambodian Revolutionary Army... At the beginning of 1967 the traitorous Lon Nol clique waged an internal war, repressing, shooting and killing innocent people and Cambodian patriots and revolutionaries in the most ferocious manner in

large-scale and systematic actions. January 17th, 1968 was the day of the birth of the Cambodia Revolution Army... At the beginning of 1976 the traitorous Lon Nol clique waged an internal war, repressing, shooting and killing innocent people and Cambodian patriots and revolutionaries in the most ferocious manner in large-scale and systematic actions. January 17, 1968 was the day the secret defence units of our revolution were turned into, and organization as, guerrilla units which were then ordered by our revolution organization to attack enemy position-which were completely destroyed, capturing enemy weapons to arm ourselves. This was our armed exploit...

The start of the armed struggle on 17th January 1968 was not an accidental event. Since 1960, our Cambodian revolution organization had drawn up the strategic and tactical lines for the revolution of the democratic nation. We realized that the US imperialists, their lackeys and all kinds of exploiting classes used dictatorship and force in their attempts to kill and terrorize our people. It was our well-defined position that political action alone would not succeed in crushing and overthrowing the US imperialists, their lackeys and all kinds of exploiting classes. The enemy used force of arms and his totalitarian tools with which he repressed and killed our people. After 1960, our revolutionary organization clearly decide therefore that political actions and armed violence must be used to overthrow and crush the enemy. We had to turn revolutionary force in to a revolution army. After 1961, we began to organize our secret defence units.

These secret defence units were hidden in villages, bases and towns. Some of them were armed with firearms, but most of them were armed only with cutting weapons, clubs and rocks. These secret defence units had the duties of defending the cadres and the people and crushing enemy intelligence agents and other enemy forces which cause trouble for the people...

A number of secret defence guards were lost,

the enemy arrested some of them. Our combats continued to fulfil their duties as secret defence guards to ensure security for our cadres, offices, places of meeting and to serve as messengers. These tasks were dangerous. Our cadres had to move from one village to another to perform their tasks. Without the secret guards, our cadres could not have survived; we would all have been killed by the enemy. However, our secret defence unit were fully informed about the situation in the villages and communes and the position of enemy military and police forces... Our secret guards also served as our guides, carrying out the necessary tasks of our army... Our secret guards always volunteered to escort our cadres anywhere they went...

Year by year, we expanded our secret defence units. From 1961 to 1966, the revolutionary bases throughout the country and in every region had their secret defence unit; each of this unit consisted of at least three people. These secret defence unit were core of our army.

The birth of our Revolutionary Army on the 17th January 1968 was no accident, no invention. That day saw the beginning of the successive and systematic struggle movement along our strategic and tactical lines. The secret defence units were born; these units were then transformed into guerrilla units which started fighting first of all in Battambang Province and launched an all-out offensive, waging a guerrilla war throughout the country. The enemy was not capable of containing our forces. Had this event really been an accident or had it been an attack without strategic and tactical planning, we would have been crushed by the enemy immediately. In fact, the enemy could not crush us because in 1968, although we had not seized many raffles from the enemy, the determining factor of the offensive was not weapons but the fact that all of us were joined in an offensive against the enemy.

As I said earlier, in the first month we attacked the enemy in the North-West and in the second month we moved in on enemy forces in the South-

West. The enemy was then not able to concentrate his forces on the North-West because his forces were also attacked in the South-West. When armed struggle started in the East, the enemy had to move some of his forces to defend the Eastern front; and when the offensive spread to the North-East, the enemy moved some of his forces to that area and then to the North.

In April 1968, our guerrilla units were waging guerrilla war in 17 of the country's 19 provinces. Under these circumstances, were the enemy forces able to counter-attack our guerrilla units throughout the country? No, the enemy could not attack us. Only our forces were in the position to launch attacks. In short, why could the enemy not crush us? Because we had a systematic organization. That means that our army was founded on a well-planned strategic and tactical bases, including the creation of secret units, and was successively tested and developed to its present state.

This army, which developed within the revolutionary movement, is now extremely powerful. At the time, we did not have enough weapons and our men were few but the correct lines of the people's war made us strong. Those who have correctly followed the organization's lines went through all the phases of secret units, have been tempered in the movement and have grasped the guerrilla-war tactics of our revolutionary organization. These people are the future leaders of our forces and our guerrilla units and the core of our army.

It follows that army has not come from any military academy, in fact, it came out of a revolutionary struggle movement which began with empty hands. All these people united around the lines of our revolutionary organization and grasped all its stands. We attacked the enemy with empty hands, Enfield rifles or locally-made firearms. This was how we started fighting the enemy. Our army is very strong. An army which can fight the enemy only with big guns and by expending a large quantity of ammunition is not strong.

An army which starts empty-handed and which passes through successive revolutionary struggles and develops itself gradually is an extremely powerful one. This is the history of our army.

We must grasp and understand the true and results of our revolution. When we won the victory over the US imperialists... we had neither naval vessels nor armoured vehicles. As for artillery, we only had some pieces captured from the enemy. This army had no planes, tanks or artillery pieces and was short of ammunition. Yet our fight was crowned with success.. We must remember all this to realize that this army is strong. Why is it so strong? It is strong ideology, policy, organization and correct combat tactics that makes it strong. Understanding the history of this army makes us realize the influence and power of our revolutionary army. If we strengthen and expand this army in accordance with this trend, no enemy can defeat it. Our army does not commit aggression against any country. But in the event of aggression by any country, our army and people can fight for an unlimited number of years as long as it adheres to this line. If we have planes, naval vessels, tanks and artillery but do not adhere to the principles of people's war and the military lines of our revolutionary organization, we will not have an army as strong as the one we had in the struggle against the US imperialists and will never be as strong as when we had no planes, tanks and naval vessels. For this reason, we must remember our fight against the US imperialists.

Is this the end of our Army's duties? Should this army continue to carry on its tasks? The quality of our army has already reached its present stage. Should we stop at this point or should we go on? We should be proud of and satisfied with the quality of our Army. We must strive to build strengthen, expand and improve it and make it capable of defending and building the country.

Past experiences show that we smoothly carried out our revolution; the national liberation and the tasks of defending and building the country were all

done with a high sense of self-reliance. During the devastating war unleashed, by the US imperialists, in the past five years, we were able to solve economic problems. We never imported rice. We were able to ensure self-sufficiency. After the war, we encountered some difficulties. However, these problems were all solved. Then we had another problem. Could we solve it? Did we fulfil the 1976 plan? Were we able to apply the rice rationing orders prescribed by the state? The first order allotted 30 kg to each person per month from every region and according to our findings after visits to each of our bases, we realize that these rationing orders were appropriate. In short each Cambodian has 312 kg of rice to eat per year. This is a very large quantity of rice. The living conditions of our people have gradually improved. In other words, our people have enough to eat. We have reserved two bushels of paddy for each person in 1977. At the same time, we have a surplus of more than 150,000 tons of rice for export. This means that we have completely fulfilled the 1976 plan.

Rubber production increased in accordance with the 1976 plan, as did the production of cereals and other industrial crops. All this was achieved by our people in spite of innumerable difficulties encountered as a result of the devastating war. We must preserve this tradition and position strengthening and expanding it for our national defence and construction tasks. In the future, as we gather more experiences, so our strength will gradually grow.

The conditions for our Cambodian revolution have been gradually improving and it has grown stronger and developed in every respect, steadily moving forward. This is the situation as it is today and the prospects for the Cambodian revolution in 1977 are much better than they were in 1976. May all comrades-male and female combatants and cadres of the Revolutionary Army whether they are on land or in our territorial waters enjoy the best of health and achieve success while fulfilling their tasks in this new phase of our revolution to defend and build Democratic Cambodia.

## LEGAL DISCUSSION: IENG THIRITH'S APPEAL AGAINST THE PROVISIONAL DETENTION ORDER

*Randle DeFalco and Jared L. Watkins*

On 21 May 2008 the Extraordinary Chambers in the Courts of Cambodia (ECCC) conducted a hearing to consider Charged Person Ieng Thirith's appeal against the Provisional Detention Order ("PDO") entered against her by the Co-Investigating Judges ("CIJs") on 14 November 2007. Ieng Thirith is charged with crimes against humanity perpetrated between April 1975 and January 1979 as an alleged member of a criminal plan to effect radical change in Cambodian society. Specifically, Ieng Thirith is alleged to have participated in the criminal plan in her capacity as Minister of Social Affairs of Democratic Kampuchea. If convicted, Ieng Thirith faces between five years and life in prison. The appeal sought Ieng Thirith's release from provisional detention, subject to such conditions as the Pre-Trial Chamber considers necessary to ensure her appearance at subsequent proceedings. The Defense put forth two main arguments in support of its appeal: (1) the CIJs' finding of "well-founded reason[s] to believe that [Ieng Thirith] committed" the alleged crimes is unsupported and violates the principle of presumption of innocence; and (2) the CIJs had "no proper evidential basis" for finding her detention necessary. A decision by the Pre-Trial Chamber is expected by the end of June.

### ECCC Law Applicable to Provisional Detention

Rule 63(3) of the ECCC Internal Rules sets forth the conditions under which the CIJs may impose provisional detention. Subsection (a) requires the CIJs to find that there exist "well-founded reasons to believe" that the Charged Person "may have committed" the crime(s) charged in the Prosecution's submission(s) to the Court. Subsection (b) requires the CIJs to find that provisional detention is necessary to: (i) prevent the Charged Person from intimidating

or otherwise influencing witnesses or colluding with other Charged Persons; (ii) preserve evidence and prevent evidence tampering; (iii) ensure the Charged Person's appearance at future proceedings; (iv) protect the security of the Charged Person; or (v) preserve public order.

### The Provisional Detention Order of 14 November 2007

In the PDO, the CIJs concluded that there are "well-founded reasons to believe that [Ieng Thirith] committed the crimes with which she is charged." Furthermore, the CIJs found that the crimes alleged are of such gravity that, thirty years after their commission, they still "profoundly disrupt public order" to the extent that releasing Ieng Thirith would "risk provoking protests of indignation which could lead to violence and perhaps imperil" Ieng Thirith's safety. The CIJs also found that, if released, Ieng Thirith "might attempt, and would be in a position to organize" pressure on witnesses and victims, especially due to the fact that she now has access to her full case file, which includes the "identity of inculpatory witnesses and victims involved in the proceedings." This risk of intimidating witnesses or victims was considered greater by the CIJs due to the fact that Ieng Thirith has numerous "family members and sympathizers" in Cambodia, some of whom currently hold influential positions and have armed guards. Regarding the risk of absconding, the CIJs found that Ieng Thirith has both the means necessary to facilitate her flight from Cambodia to a non-extradition state and the incentive to flee, given her recent detention experience and the gravity of the charges against her. Finally, the CIJs determined that none of the documents produced by the Defense prove that Ieng Thirith's state of health is "incompatible

with detention."

#### **Arguments Regarding the Applicable Legal Standards**

In its appeal to the Pre-Trial Chamber, the Defense maintained that there exists a "presumption of liberty" that can only be overcome by a strong showing of reasons why detention is necessary. The Prosecution responded by noting that at the International Criminal Tribunal for Rwanda (ICTR), Special Court for Sierra Leone (SCSL) and International Criminal Tribunal for the former Yugoslavia (ICTY), pre-trial release is the exception rather than the rule, thereby establishing a presumption of pre-trial detention. Furthermore, the Prosecution argued that the CIJs' PDO was based on numerous "well-founded reasons to believe" that provisional detention of Ieng Thirith is appropriate and that these reasons clearly overcome any presumption in favor of release.

In its previous provisional detentions decisions the Pre-Trial Chamber has not said which party bears the burden of proving on appeal that the conditions for provisional detention have or have not been satisfied. Ieng Thirith's Defense argued that review should be de novo, asserting that under Cambodian law the burden lies with the Co-

Prosecutors to provide a proper evidential foundation on appeal to support the grounds advanced to withhold provisional release.

In response, the Co-Prosecutors argued that the proper level of appellate review is a mistake of fact or abuse of discretion standard. Such a standard gives deference to the CIJs and makes it harder to overturn their order. They noted the similarity of functions between the CIJs and the Trial Chambers in other internationalized courts and asserted that since such a discretionary standard is consistent with that applied by the ICTY and the SCSL Appeals Chambers in reviewing discretionary decisions by their respective Trial Chambers, it is similarly appropriate here given the discretionary nature of the CIJs' PDO under Rule 63(3).

The Defense argued in the alternative that even if the Pre-Trial Chamber applies a mistake of fact or abuse of discretion standard, the Court should still find on behalf of the Charged Person as the CIJs erred in their analysis of the relevant facts or abused their discretion in interpreting the law as providing for Ieng Thirith's provisional detention.

#### **Arguments Challenging the Findings of the CIJs in**



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### **the November PDO**

#### **1. Lack of Evidence of Criminal Responsibility**

The Defense made three submissions to the Court attacking the CIJs finding that there are "well-founded reasons" to believe that she committed the charged crimes. First, it argued that Ieng Thirith's case is fundamentally different than that of the other Charged Persons before the ECCC. Second, that there is a lack of evidence tying Ieng Thirith to the commission of atrocities. Third, that there is no evidence showing that Ieng Thirith may have committed, even indirectly, the crimes alleged. Because these arguments are based on confidential evidentiary findings of the CIJ, these challenges were not discussed during the public proceedings.

#### **2. Violation of the Presumption of Innocence**

Defense counsel also argued that in finding that "there are well-founded reasons to believe that [Ieng Thirith] committed the crimes with which she is charged" the CIJs violated Ieng Thirith's right to be presumed innocent as guaranteed to Charged Persons under the ECCC Law, the Agreement between the UN and the Royal Government of Cambodia, the Constitution of Cambodia, and international human rights law. According to the Defense, this failure of the CIJs to regard the presumption of innocence may have tainted the CIJs' ability to rule objectively on whether the conditions for provisional detention were satisfied.

The Defense's specific argument in making this challenge was unclear. The form and breadth of the Defense's argument suggests that it may have been challenging the legitimacy of the very process that rule 63(3) requires, although the Defense never overtly stated that the requirements of rule 63(3) are per se incompatible with the presumption of innocence. The Prosecution responded to the argument as if it were a challenge to the specific wording used by the CIJs in the English translation of the PDO, which omits the words "may have" and simply reads "there are well-founded reasons to

believe that [Ieng Thirith] committed the crimes." Notably, according to ECCC Senior Assistant Prosecutor Vincent de Wilde, the original drafts of the order were written by Khmer and French judges and both contain the qualifier "may have."

#### **3. Lack of Factual Basis for Finding Detention Necessary**

Finally, the Defense argued that there is no factual basis for finding Ieng Thirith's provisional detention necessary as required by Internal Rule 63(3).

##### **Public order and personal safety**

The Defense maintained that there are no facts from which the CIJs could have concluded that the provisional release of Ieng Thirith "risks provoking protests of indignation which could lead to violence and perhaps imperil the safety of the Charged Person." The Defense noted that the Charged Person lived openly both in Pailin and in Phnom Penh since 1979 without threats to her safety. Moreover, Ieng Thirith was well-known throughout this period to have been the DK Minister for Social Affairs. Nevertheless, no public disorder has resulted.

The attorney for the civil parties responded by noting that in light of recent publicity surrounding the ECCC and the upcoming Cambodian national elections in July, her release risks igniting an already impassioned public to react negatively.

##### **Interference with witnesses and victims by the charged person or her sympathizers**

The Defense claimed that the CIJs' finding that the Charged Person "might attempt" to exert pressure on witnesses was based on conjecture rather than facts. The Defense argued that there is no evidence that the Charged Person, her family, or any sympathizers have impeded justice or intimidated witnesses. In response to this argument, the Prosecution provided the Court with evidence of two prior instances when Ieng Thirith publicly chastised an individual. In the first instance, a government official was removed from a gathering at Ieng Thirith's command after calling for the arrest and trial of Ieng

Sary, leng Thirth's husband who is also currently facing charges before the ECCC. The second instance involved a newspaper op-ed that leng Thirth authored accusing Youk Chhang, Director of the Documentation Center of Cambodia, of being a "liar...who can only think of money." In addition to highlighting these attempted intimidations, the Prosecution argued that the political influence of leng Thirth's immediate family, especially in Pailin, could be used to intimidate specific witnesses if she were released with knowledge of the identities of the witnesses against her.

#### **Failure to attend trial / risk of flight**

According to the Defense, leng Thirth's actions in the face of her prosecution demonstrate that she is not a flight risk. Despite the length of sentence she may face if convicted of the serious crimes with which she is charged, leng Thirth did not seek to hide or to live under a false name upon learning that her arrest by the ECCC was imminent. The Defense also argued that the Charged Person requires regular medical treatment in Thailand, and that she has always returned to Cambodia from Thailand. Furthermore, even if she were to remain in Thailand, extradition could easily be obtained.

The Prosecution countered by arguing that the timing of her application for a Thai visa shortly before her arrest was not a mere coincidence. It argued that the charged person still retains a valid passport, and given the powerful connections of her family, she could make arrangements to

abscond to another country that is sympathetic to her situation and with whom Cambodia does not have an extradition treaty. Moreover, leng Thirth retains access to vast sums of money, even though she transferred all of her assets into her children's names. Therefore, the Prosecution contended, any claim that she is a pauper without the financial ability to abscond must be flatly rejected.

#### **Health-related arguments**

The Defense concluded by arguing that it had submitted extensive documents and medical reports showing that leng Thirth suffers from both mental and physical ailments requiring frequent medical attention. The Prosecution responded that the sheer number of documents submitted by the Defense is inconsequential and that such documents only show that leng Thirth suffers from ailments typical of an elderly woman. Moreover, they argued that medical facilities available and staff on call at the ECCC are more than sufficient to address any medical need leng Thirth may have. The Prosecution closed by emphasizing that such facilities are in fact far superior to the facilities available to the typical Cambodian citizen.

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## **KHMER ROUGE HISTORY AVAILABLE ON AIR**

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

- ♦ FM 93.25 MHz, Kampot, daily from 7:00 to 7:30 a.m. and 7:00 to 7:30 p.m.

We anticipate that the program will contribute to the enlargement of people's understanding on Khmer Rouge history and the prevention of the repetition of such a regime.

For comments or questions on our programming, please contact Sin Sothida at P.O. Box 1110, Phnom Penh or 023 211 875.

## DEFINING INTERNATIONAL CRIMES

*Beth Van Schaack*

Each international crime encompasses a constellation of individual crimes. Many of these predicate crimes have domestic law analogs in the familiar prohibitions against such crimes as assault, mayhem, and murder (although many war crimes are *sui generis* in international humanitarian law). These predicate crimes are considered international crimes when certain attendant circumstances associated with the genus crime exist. A major challenge to developing and codifying the field of ICL has been to identify these attendant circumstances so as to fully distinguish international crimes from domestic ones. For example, what attributes make an act of murder a crime against humanity, a war crime, or even an act of genocide? The process of defining international crimes has taken several different approaches, as discussed below.

One facile explanation for differentiating between international and domestic crimes is that international crimes are those crimes that are prosecuted before international tribunals. This explanation, however, raises a chicken and egg problem: are international crimes dubbed international because they can be, or are, prosecuted before international tribunals, or are these crimes prosecuted before international tribunals because they are international crimes?

Early in the genesis of international criminal law (ICL), some link to a state of war was considered necessary to "internationalize" what would otherwise be considered ordinary crimes. When considering the crimes against humanity charge leveled against the Nazi defendants, the Nuremberg Tribunal limited its own jurisdiction in this fashion, requiring a showing that the particular crime against humanity had a nexus to the Nazi policy of aggressive war or to the commission of Nazi war crimes. In this regard, the Tribunal was no doubt mindful of the revolutionary

concept of prosecuting state officials, and even private actors, for acts committed against their own compatriots. The Tribunal may also have been concerned with enforcing *ex post facto* law, as crimes against humanity were not the subject of any multilateral treaty at the time and had not theretofore been prosecuted before any international or domestic tribunal. Although it is unclear exactly when this occurred, it is now well-settled that crimes against humanity are entirely autonomous from, and may be prosecuted absent, a state of war.

War crimes, not surprisingly, still include as a threshold element some link to an armed conflict, either international or non-international. Internal disturbances, riots and the like, which exhibit either an inadequate degree of intensity or whose opposing parties are insufficiently organized, do not trigger international humanitarian law or, by extension, the war crimes prohibitions. By contrast, where a state of armed conflict exists, either international or non-international, crimes committed in connection therewith can be classified as war crimes. The law continues to grapple with exactly what sort of nexus between the crimes and the armed conflict is required.

A related way to distinguish international crimes from their domestic counterparts is through focusing on their transnational dimensions, where such crimes involve more than one state because of the nationality of the victim or perpetrator or the place of commission. International humanitarian law historically only recognized war crimes as capable of being committed against nationals of an opposing belligerent in an international armed conflict. The little positive law addressing non-international armed conflicts (which include, but are not limited to, classic internal armed conflicts or civil wars that pit compatriots against each other) did not include any penal component. It is only through the

jurisprudence of the modern ICL tribunals that a notion of war crimes outside of international armed conflict is now fully recognized.

International crimes may also be considered to be those crimes that disturb international public order and jeopardize the peace and security of the international community as a whole. Violent acts of aggression, efforts to exterminate entire populations, and even the large-scale commission of war crimes can destabilize entire regions and lead to international armed conflict, thus justifying a collective and coordinated international penal response.

A related way to delineate international crimes is based on the understanding that acts that reach a certain level of gravity or egregiousness are the concern of all of humanity, and not simply the immediate victims or even a single polity. This is the case even absent any transnational effect. For example, Article 1 of the International Criminal Court (ICC) Statute limits the exercise of jurisdiction to "the most serious crimes of international concern."

While it is to a certain extent true as an empirical matter that international tribunals asserting international jurisdiction and domestic courts exercising universal jurisdiction have both focused on crimes of great seriousness or causing great harm, using gravity to identify international crimes is somewhat subjective where the harm caused by the various crimes may be incommensurable. In addition, most modern definitions of international crimes allow for the prosecution of single or isolated criminal acts, so long as they are committed within the context required by the definition of the offense.

A different angle on this quandary focuses on the identity of the victim as a unifying principle for international criminal law. Many international crimes involve group-based repression. Most saliently, the crimes of genocide and persecution (an enumerated crime against humanity) require that the victim be targeted on the basis of his membership in a particular group or on discriminatory grounds. Other crimes against humanity, however,

are prosecutable so long as they are committed in the context of a widespread or systematic attack against any sort of civilian population.

Turning to war crimes, the penal provisions of the Geneva Conventions are implicated only when the victims fall within one of various categories of "protected person." The Fourth Geneva Convention, for example, recognizes certain acts (so-called "grave breaches") as war crimes only when they are committed against individuals who are not protected by the other three Conventions (addressing the wounded, the ship-wrecked, and prisoners of war). Furthermore, such individuals must find themselves "at a given moment and in any manner whatsoever ... in the hands of a Party to the conflict or Occupying Power of which they are not nationals." This need to prove nationality distinction between victim and perpetrator, however, has relaxed in the modern jurisprudence.

Inversely, it is possible to focus on the status or identity of the perpetrator rather than the victim to distinguish international crimes from ordinary ones. State action—shown either by way of a governmental policy or through the conduct of state actors enjoying the protection or authorization of a state—has often been cited as a potential defining element of international crimes.

Finally, the universe of established international crimes also reflects the pragmatic consideration that certain types of crimes—especially those often committed at the behest of the state or by state actors—will not be adequately or uniformly punished within the applicable domestic criminal systems and so must be penalized and prosecuted at the international level. Indeed, ICL developed in part because states were unwilling (or unable) to prosecute their own breaches of international law.

In the end, one is left with the impression that the different international crimes have been designated as such for different reasons. This heterogeneity in many ways reflects the fact that ICL has historically evolved along disparate strands

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that have been increasingly converging in the post-WWII era. Definitionally, it is the chapeau elements of international crimes that now differentiate them from any domestic analogs.\* As a result of these additional elements, the prosecution of an international crime requires the introduction of evidence that satisfies comparatively more elements than would

normally be required for a domestic prosecution. This, in turn, contributes to the length and complexity of modern international trials.

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## PUBLIC INFORMATION ROOM

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

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

The PIR offers four services:

1. Library: Through our library, the public can read documents, books and magazine, listen to tapes, watch documentary films, and view photographs held at DC-Cam, the Tuol Sleng Genocide Museum, National Archives and other locations.
2. Educational Center: DC-Cam shows documentary films and offers lectures on Khmer Rouge history, the tribunal, and other related subjects.
3. Tribunal Response Team: Our document and legal advisors provide research assistance to the tribunal's legal experts from both Cambodia and the United Nations, as well as to the public.

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

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



Above: Cham Muslims filling Victim Information Forms

# EAST GERMANY'S LEGAL ADVISOR TO THE 1979 TRIBUNAL IN CAMBODIA

*Howard J. De Nike*

## Introduction

In 2000, University of Pennsylvania Press published a book containing the trial documents from proceedings conducted in 1979 in Phnom Penh, Cambodia, against the principal leaders of the Khmer Rouge, Pol Pot and Ieng Sary. (*Genocide in Cambodia: Documents from the Trial of Pol Pot and Ieng Sary*. De Nike, Howard, John Quigley, and Kenneth J. Robinson, eds.) It was the first publication dealing with this trial (officially: The People's Revolutionary Tribunal) designed to reach a wide audience. In addition to more than 550 pages of materials presented at the tribunal, the volume printed several essays, including my own: "Reflections of a Legal Anthropologist." (De Nike 2000: 19-28) In this essay I speculated: "It has been remarked that East Germany played a role in the design of the exhibition of torture and execution found at the infamous Khmer Rouge interrogation site preserved at Tuol Sleng. It may well be surmised that guidance was also summoned from the East Bloc in the prosecution of Pol Pot and Ieng Sary."

As guesswork goes, the suggestion may not

have been so uncanny. Nonetheless, I take satisfaction in having interviewed in 2007, Herr Carlos Foth, who, as a representative of the General Prosecutor's Office (*die Generalstaatsanwaltschaft*) of the German Democratic Republic (former East Germany), was sent in July 1979, to advise the newly established government of the People's Republic of Kampuchea (PRK), specifically to provide counsel regarding the case against Pol Pot and Ieng Sary. My conversation with Herr Foth marked the first instance since 1979 that he has provided such an interview.

## The Interview

On a Saturday afternoon of November 17, 2007, with snow flurries visible outside, I sat for more than two hours with Herr Foth in a *Gasthaus* called *Kaffee Liebig* in Gruenau, a suburb, twenty minutes by *Stadt-Bahn* outside of what was formerly East Berlin.<sup>i</sup> Although my partner in conversation is now eighty-five years old, he lacks not in either recall of, nor willingness to discuss in detail, the role he played in Phnom Penh, now nearly thirty years past. Moreover, in addition to his words, Herr Foth provided numerous documents attesting to the counsel he extended to his Cambodian legal colleagues, as well as photographs taken during his three weeks in Phnom Penh.

(It is well to remember the circumstances of the 1979 proceedings. In January of that year, with the backing of Vietnam's experienced military forces, breakaway Khmer Rouge elements joined to form the Kampuchean United Front for National Salvation, and rebelled against the Khmer Rouge leadership ensconced in the country's capital. In the short space of about three weeks Pol Pot's government of terror abandoned Phnom



Penh, fleeing to mountainous sanctuaries to the northeast, from where they waged two decades of warfare and banditry. In the long term, the Khmer Rouge proved a stubborn enemy, first to the Vietnam-support PRK, and later to the United Nations-promoted State of Cambodia and, subsequently, the Royal Kingdom of Cambodia. But in the months following the ouster of the KR from Phnom Penh, the problems facing the nascent regime were immediate and monumental, namely: how to gain the confidence of the Cambodian people, and the world in general, that a new chapter of Cambodian history was at hand, one in which recognition of international norms would be central.)

#### Reasons for the Assignment

Although presently it is not possible to be confident regarding reasons for Foth's selection for assignment in Cambodia, at least ostensibly it would appear to have resulted from his previous connection to the case of Hans Globke. In 1963, lawyer Globke, born in 1898, had risen to the post of National Security Advisor to West German Chancellor Konrad Adenauer. Three decades earlier, however, as an up-coming prosecutor in the German state of Prussia, Globke had written a definitive commentary (*Kommentare zur deutschen Rassengesetzgebung* (1936)) on the Nazi racial purity laws (the infamous Nuremberg Laws). In the words of Ingo Mueller, Globke's analysis of the race laws' scope was "the most radical." (*Hitler's Justice: The Courts of the Third Reich*. Cambridge: Harvard University Press (1991), p. 100.) The result was convictions for individuals confronted by aggressive Nazi prosecutors, who argued that the law, even where the facts did not fit, should be interpreted broadly "in order to protect German honor, in particular the sexual honor of the citizen of German blood" (citation omitted). (Mueller 1991: 100) Because, like Pol Pot and Ieng

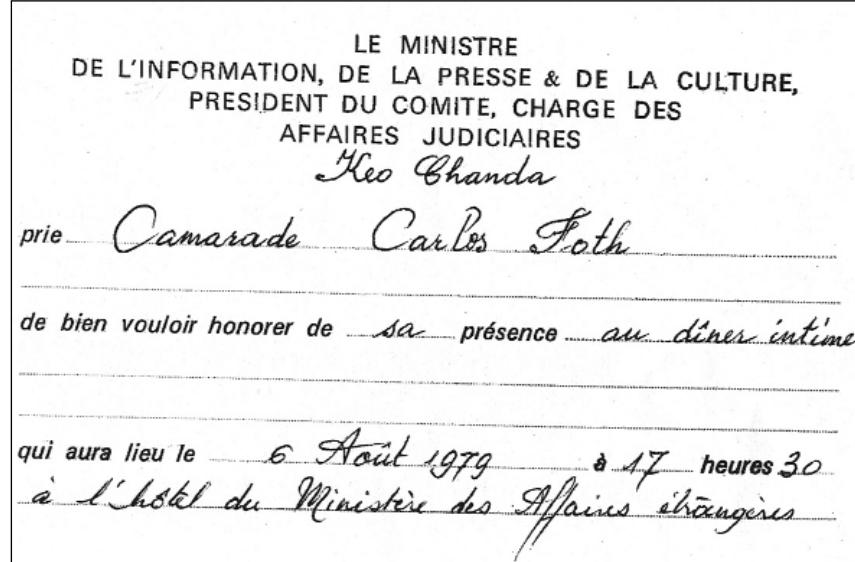
Sary, Globke was beyond the personal jurisdiction of the court, his trial in East Germany was conducted *in absentia*. The prosecution's theory in 1963 was that in rendering a legally corrupt commentary on the racial purity laws of 1936, Globke had laid the foundation for the genocide that followed.

Foth today declares that he gladly accepted the assignment to Phnom Penh, recognizing its importance to achieving justice for Cambodians, and as a step to resolving the past, considerations also confronted in the Globke matter.

A series of invitations to "Camarade Carlos Foth" to participate in events was extended by Keo Chanda, President of the Information, Press and Culture Ministry, commencing on August 5, 1979, with a request to attend an artistic presentation at Chatamok Theater, future site of the tribunal itself. This was followed by a call to a private dinner the next day at the Ministry of Foreign Affairs. Keo Chanda simultaneously served as the Presiding Judge of the People's Revolutionary Tribunal.

#### The Decree

Foth's efforts regarding the tribunal pivot around two documents, copies of which he provided during our discussion. The first is designated a "decree" of the Revolutionary People's Council of



Invitation to East German advisor Carlos Foth to private dinner from Minister Keo Chanda (August 1979)

Kampuchea, People's Republic of Kampuchea. A Preamble alludes to "evidence and information ... of the most severe crimes against the population in the recent period since 17 April, 1975." This evidence is, furthermore, considered "a request to the Revolutionary People's Council of Kampuchea to bring to justice those responsible for these deeds according to the degree of their individual guilt." Thus the groundwork for the tribunal was laid.

The thirteen paragraphs constituting the body of the decree set forth the composition of the tribunal and various procedural rules. Responsibility for executing the work of the proceedings is reserved to the President of the People's Court (Paragraph 2). Eight to ten laypersons shall be chosen to hear the proceedings (Paragraph 3). Paragraphs 4 and 6, respectively, call for designation of a Chief Prosecutor and defense counsel. Paragraphs 9 through 10c allow for notice to the accused, and empower the court to proceed in the absence of the defendant, including authority to impose a sentence of death. Should an accused, however, later be brought personally before the court, either by surrender or capture, that person "shall have the right to demand a new trial" (Paragraph 10e). This latter provision, while serving as an obvious escape clause for challenges to the proceedings, is also a standard proviso where *in absentia* trials are permitted.

#### **"Goals and Tasks of the Defense"**

The above-described decree forms the background for the primary contribution of Herr Foth, namely his role as *Berater*, or advisor, to the proceedings. This function is encompassed in the second document: "Goals and Tasks of the Defense" (*Ziele und Aufgaben der Verteidigung*). It consists of four pages that flow along two paths. The first is a conventional description of strategic and tactical matters natural to the defense of an accused charged with commission of serious offenses. The second set of "goals and tasks" concerns advice reflecting the urgencies of the Cold War, as perceived in particular from the perspective of the Soviet Bloc.

The combination of the two themes is shown in the two opening pronouncements: that the trial should produce "irrefutable evidence before the world public (of)":

- i. *proceedings for the accused; (and that)*
- ii. *The aggressors in Peking are complicit and protectors of the accused.*

(Beneath the reference to Peking appears a handwritten inter-lineation: "or forced, by means of the trial to recognize the new government.")

Although Foth's text is headed "Goals and Tasks of the Defense," it is evident that the East German advisor wished that it: a) serve as a script for the trial generally; and, b) offer guidance on broad political questions raised by the proceedings, drawing presumably upon experience stemming from the case seventeen years earlier against Hans Globke. In some respects the combination of goals described may appear incongruous, but perhaps no more so than the unprecedented nature of the case itself, involving, as it did, an effort to impose justice on individuals accused of causing more than a million deaths in the concluding chapter of a conflict spanning roughly two decades. One that engaged the world's superpowers, and featured rebellion, civil war (with more than five years of heavy U.S. aerial bombardment), invasion, liberation, and a still-unresolved armed conflict.

#### **East German Recommendations**

An intention to communicate regarding the tribunal to an audience beyond the borders of Cambodia is made plain in several of Foth's recommendations. Paragraph 1.1 urges "transmission of an invitation to the International Red Cross in Geneva," while Paragraph 1.2 calls for sending "corresponding information and invitation to the General Secretary of the International Association of Democratic Lawyers, Joe Nordmann, in Brussels." In this context the statement of "Goals and Tasks" notes that time is of the essence, specifically directing that the agency of the Ambassador of the Socialist Republic of Vietnam be used to coordinate selection

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of defense counsel in addition to those assigned from the People's Republic of Kampuchea.

Regarding recommended contentions of Defense Counsel, the document counsels questioning the tribunal's bias and lack of jurisdiction. Firstly (Paragraph 2, et seq.), the Court is composed entirely of victims (or family of victims), and, by implication, cannot therefore be impartial. Secondly, the court cannot legally try Pol Pot and Ieng Sary because they "still exercise power in the territory of Cambodia." Following these suggestions, however, the memorandum slides into its "script" mode by offering rebuttal arguments for use by the prosecution. Specifically, according to applicable United Nations provisions embodying "the territorial principle," the People's Republic of Kampuchea possesses "the right to prosecute crimes committed in its territory." Moreover, "failure of a State" to prosecute may itself be a violation of a state's "responsibilities to 3rd party states." This reflects the author's awareness of a state's "duty to prosecute" under provisions of the 1948 United Nations Convention on the

Prevention and Punishment of the Crime of Genocide. (Articles 5 and 6.)

As to the authority of the court to proceed in the absence of the accused, the memorandum again supplies both arguments usable by the prosecution, as well as the defense. Since a "fugitive defendant" has chosen not "to appear and defend himself," the circumstances are to be distinguished from those in which "an accused is unable to stand trial"; the accused is himself "responsible for the disadvantages that his absence produces." In any event, "if he presents himself" (or is arrested), "under the rules of the Decree, (he) has the right to a new proceeding."

Next, the "goals and tasks" memorandum advises the availability of international experts (from, e.g., Switzerland), capable of authenticating questioned documents, while alluding to the usefulness of such witnesses during a 1966 proceedings against the President of the German Federal Republic (i.e., West Germany) for Nazi era offenses.

In a manner that might be understood in large measure as sardonic, the memorandum urges the defense to summon "persons from 3rd states, who during the period since April 17, 1975, were in Phnom Penh, and are able to refute statements of the prosecution, especially, as appropriate, from the People's Republic of China" (emphasis added). The likelihood that the Chinese would respond to such a summons was nil.

The same might be said about the penultimate section listing "goals and tasks," which proposes that "since the perversity of the crimes being tried is so absurd for a normal mind," the defendants adopt "mental illness" or "lack of awareness of illegality" as their plea for being found not guilty. The suggestion is that witnesses be invited, particularly "Chinese witnesses (who) can be questioned accordingly by international psychiatric specialists and thereby resolve the issues in question." The memorandum's author hastens, however, to declare that such claims



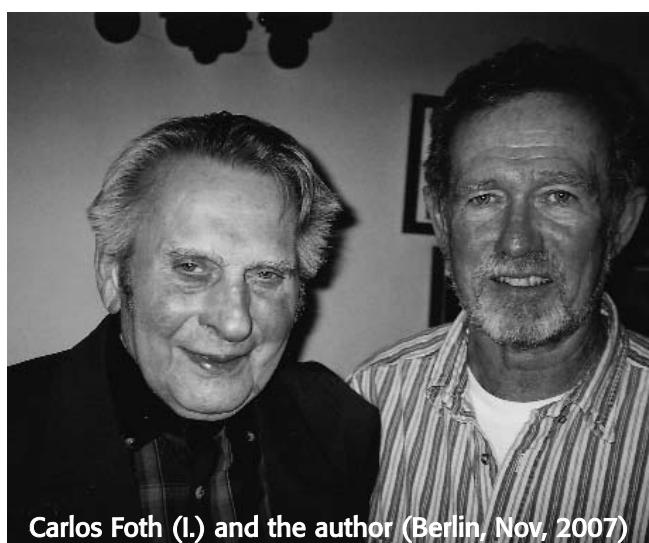
Carlos Foth with guest house staff in August, 1979

should be dismissed as they were following WWII. As it was rejected with the Nazis, where "it was attempted to justify the gassing and extermination of the Jews and the greater portion of the Slavic populations, as well as communists" due to the crisis of the times, so also should a claim of moral imperative be refused for the mass killing in Cambodia. The words themselves are eloquent:

*In the name of the millions of dead, as well as the living, the survivors in Kampuchea, this claim and theory must be rejected, in the name of indisputable and not incidental force of the right to life.*

#### The Outcome

At the conclusion of the trial on 19 August 1979, both Pol Pot and Ieng Sary were convicted and sentenced to death. It is difficult to state with assuredness the degree to which the counsel of Carlos Foth affected the proceedings. His participation may have served primarily to demonstrate solidarity between the German Democratic Republic and the emergent People's Republic of Kampuchea, as well as providing a basis for drawing parallels, including relevant legal points, between the Nazi and Khmer Rouge regimes. On the other hand, much of the argumentation of Hope R. Stevens, American counsel for the defense, was prefigured in Foth's enumeration of the "Goals and Tasks of the Defense." In particular, Mr. Stevens urged a form of shared-guilt for the defendants' admitted horrors to, among others,



Carlos Foth (l.) and the author (Berlin, Nov. 2007)

"the false socialist leaders of fascist China ...." This notion, of course, was not original to Herr Foth. Nonetheless, its central place in the closing argument on behalf of the accused is noteworthy.

#### Conclusion

In another setting I have described the 1979 case in Phnom Penh as "the bastard child of the International Human Rights Movement." (De Nike 2006: 208) In short, despite express intentions and efforts to reach out to the broader public signaled, for example, by the invitation to the International Red Cross in Geneva,<sup>iv</sup> Cold War politics served to shunt the proceedings to the sidelines, then and later. Thus, although the record gathered in 1979 was competently assembled and timely, it was largely ignored. (And, what is worse, the Khmer Rouge continued to wage bloody armed attacks, and to be recognized diplomatically, by the U.S. and others, long after the horrific nature and scope of its rule were well understood.). Moreover, "add(ing) insult to injury," many have chosen to "(find) fault with the procedures employed and to (ignore) the value of what was achieved despite overwhelming obstacles." (De Nike 2006: 210) Thus, the intended impact of the 1979 trial, particularly outside Cambodia, remained largely unmet.<sup>v</sup>

Nowadays, Carlos Foth follows closely events taking place at the Extraordinary Chambers of the Courts of Cambodia, as charges against surviving Khmer Rouge leadership make their way toward judgment. His professional retirement, however, is far from sedentary. To the contrary, Herr Foth serves today as Deputy Chairperson of the International Association of Lawyers Against Nuclear Arms, an organization of jurists opposing atomic, biological, and chemical weapons.

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## ON CAMBODIA-CHINA RELATIONS

*Ambassador Julio A. Jeldres*

The first and only description of Angkor at the height of its splendor is to be found in Zhou Daguan's "Notes on the Customs of Cambodia".

Zhou was a native of Yungchia in the province of Chekiang ( Zhejiang ), a south eastern coastal province of China and was assigned in 1296-1297 to duty with a Chinese Embassy which spent almost a year traveling within Cambodia . Upon his return to China , he wrote his account, which was made public before 1312. Shortly before the fall of the Mongol dynasty (1368) his account was incorporated into a lengthy compilation of one hundred chapters, largely composed of excerpts and published as the "Shuo Fu". However, his account was published under his pen name of Ts'ao-t'ing i-min.

In those days Cambodia was known to the Chinese as Ch'en-la and the inhabitants as Kam-po-chih or Kamboja. Zhou Daguan gave an extensive and lively description of the customs, the dwellings, the inhabitants, the language and scripture of the country we today refer to as Cambodia.

Coming back to modern times, I am often asked why the Kingdom of Cambodia and the People's Republic of China enjoy such a unique relationship going back to the 1950's and which has survived continuous changes in the political environment of both countries?

Indeed, at first glance, Cambodia and China appear to have little in common: China is a vast East Asian state with the world's largest population and has emerged in recent years as a major military and economic power in the Asia-Pacific region while Cambodia is a small Kingdom in Southeast Asia struggling to recover after many years of war, foreign invasion and then the genocidal Khmer Rouge regime.

Cambodia's close relations with China began

through a meeting and long conversations between Samdech Norodom Sihanouk, then Cambodia's Head of State, and the late Prime Minister Zhou Enlai of the People's Republic of China , in the framework of the Bandung Conference, in Indonesia in 1955.

Prior to the Bandung meeting, the then King Sihanouk had been informed by his representatives at the 1954 Geneva Conference on Indochina of China's professions of respect for other countries' territorial integrity. During the conference, Prime Minister Zhou Enlai had intervened to persuade the North Vietnamese delegation to recognize Cambodia, to respect the country's territorial integrity and to withdraw its troops from Cambodian territory.

For King Sihanouk of Cambodia this was of paramount importance as his life-long pursuit and goal has been; first and foremost, to achieve in full and to safeguard at any price the national independence of Cambodia and its territorial integrity; second, to achieve peace and stability through national union and reconciliation; and, third to bring his country gradually out of underdevelopment through the efforts of its population, men and women.

Moreover, I feel that the leadership of each country, in the years 1950s, when this unique relationship between them began, had a solid vision for their respective countries' future even though their political ideologies were completely different.

Samdech Sihanouk had been impressed by the struggle led by Chairman Mao Zedong and Prime Minister Zhou Enlai, which, to the Cambodian leader's mind, stood as symbol of the struggle of a great people for the full independence, national unity and territorial integrity of their nation.

He felt, as the young leader of Cambodia, that the Chinese people's struggle was a great example and that his country Cambodia and himself could

do no less than to achieve, at whatever cost, full independence and territorial integrity for his Kingdom.

In 1955, after the Bandung meeting, Samdech Sihanouk took a step forward towards the recognition of the People's Republic of China by breaking off consular relations with Taiwan , which Cambodia had established after its own independence had been achieved in 1953.

When Samdech Sihanouk paid a visit to China in February 1956, Chairman Mao praised his policy of peace and neutrality, declaring that such policy had a great impact in the world. Prime Minister Zhou Enlai stressed the principle of equality between states in international affairs, regardless of their size.

The joint declaration issued at the end of Samdech Sihanouk's visit stated that the two countries endorsed the Five Principles of Peaceful Coexistence as a guideline for Sino-Cambodian relations. Cambodia became the first non-socialist country to receive free economic aid from China to build textile, cement and paper factories, to build roads, bridges and irrigation systems and to improve the health and education facilities of the Kingdom.

During his November 1956 visit to Cambodia, Prime Minister Zhou Enlai reaffirmed China's respect for Cambodia's neutrality and sought to lessen Cambodian fears that China would seek to dominate Cambodia indirectly through the influence of Chinese business and leaders and the large, about 400.000 before 1970, Chinese population. He urged them to pledge loyalty to Cambodia .

For China , Cambodia was the perfect example of the foreign policy the People's Republic had enunciated after it was proclaimed, based on the Five Principles of Peaceful Coexistence. At the same time, the Chinese leaders' backing of Cambodia's neutralism in the mid-1950s was an important departure from their stated "two side" radical theory by which Mao Zedong had enunciated that there could not be "the illusion of a third road" and which saw the world divided in two camps: those that

supported "socialist construction" and those that "were stooges of imperialism", and urged fellow Communists "in the so-called neutral states to launch armed struggle following the Chinese model".

On 19 July 1958, the Kingdom of Cambodia recognized the People's Republic of China and Samdech Sihanouk established an enduring personal relationship with the late Chinese premier, Zhou Enlai and with successive Chinese leaders.

There has been significant speculation that Samdech Sihanouk decided to recognize the People's Republic of China , as part of his balancing act to keep his country free from the Vietnam war and the deteriorating relationship with Cambodia's belligerent neighbors, Thailand and South Vietnam, neither of which would agree to respect Cambodia's territorial integrity.

Indeed, in June 1958, tensions between Cambodia and the Saigon regime increased because of a border dispute and the activities of Saigon's intelligence services to induce the overthrow of Sihanouk, which it was widely believed, received support from US intelligence services and some elements in the US Army and Navy.

However, it is also true that as a young King in the 1940s, Samdech Sihanouk, had studied Chinese history, held a great interest in the History of both ancient and contemporary China and the history of the ancient relations between the Angkor Empire and China, which brought to Cambodia as visitors eminent Chinese historians and also immigrants and, lastly, he was also an admirer of China's Sun Yat Sen, one of the great figures of Chinese contemporary history.

Furthermore, if the People's Republic of China could help Cambodia to survive as a free and independent nation with its territorial integrity protected, in a region engulfed by the Vietnam war and US interference, then it was obvious that Samdech Sihanouk would want to extend friendship to China.

But of course, those were different times and while maintaining excellent relations with the royal

government of Cambodia presided over by Samdech Sihanouk, China secretly aided the Cambodian Communist Party's insurgent movement in the jungles of Cambodia , just as it provided assistance and ideological guidance to insurgent Communist guerrillas in Burma (now Myanmar ), Malaysia and Thailand . Nevertheless, China also expected that Cambodia 's example would be followed by other Asian and African countries.

The relationship was strained, however, during the Cultural Revolution, as some members of the Chinese Embassy in Phnom Penh began distributing Cultural Revolution propaganda and putting up Red Guard style posters but thanks to the personal bonds existing between Samdech Norodom Sihanouk and Premier Zhou Enlai the matter was promptly resolved and relations went back to their normal level and continued to expand and to be strengthened through the personal attention given to them by Samdech Sihanouk and Premier Zhou Enlai.

At the same time, China had to reassess her role in the region as she was concerned by the expansion of Soviet influence in Southeast Asia. The Chinese leadership had become convinced that the greatest threat to China 's sovereignty came from the Soviet Union and the dispute between the two countries reached its climax during the border clashes of 1969 on the Ussuri River .

China felt that should the Soviets succeed in consolidating relations with the countries of Indochina and the emerging communist insurgents in Cambodia , Laos and Vietnam , then China would find itself encircled by pro-Soviet regimes. Already China 's influence in North Vietnam had run its course in the late 1960s over disagreements on the war effort against the United States and also China 's rejection of a request by the Soviet Union to fly over Chinese air space to send supplies to North Vietnam.

When China decided, in the late 1960s to open a dialogue with the United States with the

aim of establishing relations with Washington, the North Vietnamese felt that the Chinese were about to force them to compromise, just as they had done during the Geneva Conference in 1954. Hanoi thus turned to Moscow and Soviet influence in North Vietnam increased.

In 1970, after a coup deposed Samdech Sihanouk, the prince took residence in Beijing, where the Chinese leadership treated him with all the honors due to a head of state, providing him with sanctuary and the means to struggle against Lon Nol, the coup leader.

At the time Chairman Mao Zedong said:

"Comrade Zhou Enlai twice visited Cambodia under your governance, in the 1950s and the 1960s, He stressed in his reports that you. Samdech Sihanouk, were much loved and vigorously supported by the Cambodian people, and that you had done a great deal for both your people and your country, both of which were in good health and making regular and harmonious progress in every aspect of national construction. Moreover, everyone knows that you led your Nation towards independence and territorial integrity. There are some in the world who say that Communists have no love for Princes. We the Chinese Communist, however, both love and esteem a Prince like Norodom Sihanouk who has always been so close, so loyal and so dedicated to his people".

In 1972, the year when the People's Republic of China was finally admitted to the United Nations, Prime Minister Zhou Enlai declared that "the people of China would never forget all that the Kingdom of Cambodia had done to defend the just cause of the P. R. of China at the United Nations".

Successive Chinese leaders have not forgotten that it was Sihanouk's Cambodia that helped break China 's isolation in the 1960s by campaigning at the United Nations for the expulsion of Taiwan and the seating at the UN of the People's Republic of China over many years.

Between 1970 and 1975, Prime Minister

Zhou Enlai often counseled the United States to seek a rapprochement with Samdech Sihanouk, as I believe he was concerned that were the Khmer Rouge to take over Cambodia on their own the country would suffer a fate worse than China had during the Cultural Revolution.

He was not mistaken. But all his counsel to Henry Kissinger and other American envoys was consistently ignored, as the USA decided to support Lon Nol and the coup makers to the end.

Zhou Enlai then enlisted the help of the French and also spoke to the Australian Ambassador in Beijing. The French, having lost influence to the USA after the March 1970 coup in Cambodia, were interested and brought the matter up with the Americans, but again the USA did not make the necessary and timely decisions to secure that Cambodia did not fall in the hands of the Khmer Rouge.

By the time the Americans finally decided to do something about it, it was too late and Prime Minister Zhou Enlai, dying with terminal cancer, had lost his influence to the so-called "Gang of Four", who were supportive of the Khmer Rouge military take over of Cambodia and opposed any Chinese involvement in negotiations for a peaceful settlement of the war in Cambodia.

In April 1975, after the Khmer Rouge took over Cambodia , China became very influential in the country and sent thousands of technicians to help the Khmer Rouge revolution. It also sent several senior Chinese personalities, including the widow of Prime Minister Zhou Enlai, Madame Deng Yingchao, to counsel the Khmer Rouge leadership against the harsh policies they had adopted in Cambodia , but the Khmer Rouge leadership would not listen and they continued with their ultra extremist socialist revolution.

When Madame Deng Yingchao visited Cambodia in January 1978, she counseled moderation in Cambodia 's actions towards unified Vietnam, which included several cross border raids and the killing of many Vietnamese. She tried to convince

the Khmer Rouge to negotiate with the Vietnamese and to stop the cross border raids but she was not successful. She is reported to have told Khmer Rouge leader Pol Pot " China is Cambodia 's friend but no one's enemy" and urged the Cambodians to settle the problem with Vietnam "in accordance with the principles of peaceful coexistence as promoted by the Bandung Conference".

She also asked to visit Samdech Sihanouk, who was under house arrest at a home in the Cambodian capital. She was denied her request but was allowed to confirm that Samdech Sihanouk was still alive from her car which was driven in front of the garden of Sihanouk 's residence.

Then in 1979, when Vietnam invaded Cambodia, China decided to teach Vietnam "a lesson" for its invasion and occupation of Cambodia and for driving its protégé, the Khmer Rouge, from power, despite the fact that the Khmer Rouge leadership had not listened to the advice given by the Chinese leaders and that many Chinese residents of Cambodia, or Sino-Khmers, were murdered during the Khmer Rouge regime because they were considered members of the bourgeoisie or were well educated.

The fall of Phnom Penh and the establishment of the pro-Vietnamese "People's Republic of Kampuchea" in Phnom Penh, by former Khmer Rouge elements belonging to the pro-Soviet and pro-Vietnam faction of the Cambodian Communist Party, caused great concern and a new reassessment of Chinese policy for the region. China felt threatened by all the emerging pro-Soviet regimes of Cambodia , Laos and Vietnam but so did the other Southeast Asian nations grouped as ASEAN.

China then lead the effort to get Vietnam out of Cambodia through its close cooperation with ASEAN and the United States and the unification of all Cambodian political forces: the remaining Khmer Rouge forces, the forces of former Prime Minister Son Sann and the supporters of Samdech Sihanouk, which formed the Coalition Government of Democratic Kampuchea (CGDK) in June 1982.

Rallying support for the CGDK was a particular difficult task for China , as the Khmer Rouge had inflicted such horrors on their own people that they were despised by the international community and the big powers wanted nothing to do with them. By applying international law, China was able to offset the almost universal disgust with the Khmer Rouge regime and they managed to keep the Cambodian seat at the United Nations.

Events in the Soviet Union in 1989 and China's efforts to wear down Vietnam , causing its occupation of Cambodia to be too costly, finally led Vietnam to announce that it would withdraw all its troops from Cambodia by the end of September 1989. The Sino-Soviet Summit of May 1989 re-established normal relations between China and the Soviet Union, which was about to break and become the Russian Federation .

China moved slowly away as the leader of the anti-Vietnamese front joining together the ASEAN countries, China and the USA in the early 1990s and moved to restore normal relations with Vietnam. The first plenary meeting of the Paris International Conference on Cambodia failed because China supported the plan for a four-party coalition government for Cambodia (Khmer Rouge, Son Sann's supporters, PRK and Sihanouk's supporters) while Vietnam urged for the establishment of a two-party (People's Republic of Kampuchea and Samdech Sihanouk's party) interim government.

The Chinese leadership met with the Vietnamese leadership in early September 1990 and it appears that they reached a compromise over the issue of an interim government for Cambodia which was then ratified by further negotiations and the second and final plenary meeting of the Paris International Conference on Cambodia in October 1991.

China re-opened its Embassy in Phnom Penh in November 1991 and has since become the leading partner of the current Cambodian government in its efforts to rebuild the country ravaged by so many

years of civil conflict. Chinese firms and investors are strongly helping the reconstruction of Cambodia.

As a final sought, I should say that China has been a loyal friend to Cambodia and has always been present when Cambodia needed help. Without China 's strong support, I doubt very much that Cambodia would have been able to keep her independence and territorial integrity, which both Samdech Norodom Sihanouk and the late Premier Zhou Enlai saw as paramount for the survival of Cambodia .

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**Ambassador Julio A. Jeldres**

**Official Biographer of H.M. the King Father Samdech Preah Norodom Sihanouk of Cambodia.**

## **SEARCHING FOR MISSING SON**

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

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

## STARVATION UNDER THE DEMOCRATIC KAMPUCHEA REGIME

*J. Solomon Bashi*

In reading accounts of survivors of the Khmer Rouge regime, a consistent theme seems to emerge. More than the killings, they discuss the lack of food. "Food was my God" is a common refrain. Survivors talk about how each meal they eat evokes a visceral memory of the hunger they endured 30 years ago. For many, this feeling of hunger encompasses their impression of the Khmer Rouge regime.

The Extraordinary Chambers in the Courts of Cambodia (ECCC) was created to provide some sort of justice to the victims of the Khmer Rouge. It is now in the process of investigating senior leaders of the Democratic Kampuchea (DK) regime as well as those most responsible for crimes committed during this period (1975-1979). In order to maximize the tribunal's impact, it is important that the crimes prosecuted are those most important to the victims. The prosecutors will probably charge Khmer Rouge leaders with murder and torture, but what about starvation?

There is no doubt that hundreds of thousands of people died of starvation during the Khmer Rouge period. However, prosecuting Khmer Rouge leaders

for those deaths would be challenging. Not only would it be necessary to show that Khmer Rouge policies resulted in starvation, but also that the accused either intended these policies to result in starvation or took the foreseeable risk that starvation would occur as a consequence. In their defense, the leadership would likely argue that, due to poor communications and a weak central control, they had no knowledge that starvation occurred or expectation that it would occur. They can point to the fact that conditions throughout the country were by no means uniform and that reports about the food situation differed greatly even between neighboring cooperatives (co-ops). Moreover, there is some documentation showing that co-op leaders sought and were able to conceal the extent of the food shortage from the central Khmer Rouge authorities. Nevertheless, Khmer Rouge policies of forced migration and rice exportation had a clear potential for causing starvation, and there are indications that the leadership must have known that starvation was in fact taking place as a consequence.

### Forced Migration

One of the Khmer Rouge's most extreme and controversial policies was the forced relocation of the urban population. After capturing Phnom Penh in 1975, 1.5 million city inhabitants were evacuated to the countryside. At the time, the population of the cities was already being subsidized by international food aid. USAID, which had been providing 50,000 tons of aid before the capture of Phnom Penh, issued an ominous report about the food situation in



Cambodia, warning that action needed to be taken to avoid a severe shortage.

One of the defenses of the evacuation was that it was intended to prevent famine. Some reports state that, at the time of the evacuation, warehouses in Phnom Penh contained only an eight-day supply of food. It thus could be argued that by evacuating city residents to rural communities the Khmer Rouge were moving people closer to agricultural food sources, reducing any potential distribution problems. However, much of the information available about the evacuation, including the brutal manner in which it was carried out, suggests that a humanitarian rationale is unlikely. The Khmer Rouge appears to have viewed cities as a haven for people who opposed the revolution and undertaken the evacuation with the intent of displacing city residents, whom they viewed as a threat. For example, Chap Lonh, the deputy secretary of region 37, stated that the evacuation of Phnom Penh was a "long-standing plan." "The slogan was 'Dry up the people from the enemy'."

A 1975 article published in the party publication *Revolutionary Flag* further articulated this rationale for the deportation: "If we had kept Phnom Penh, it would have had much strength. It was true that we were stronger and had more influence than the private sector when we were in the countryside. But, in Phnom Penh we would have become their satellite. However, we did not keep them in Phnom Penh." Thus, "the bourgeoisie have nowhere to go. They have become satellite to the worker-peasant power. They have been forced into carrying out manual labor as peasants... Their classes have already collapsed, but THEIR VIEWS STILL REMAIN, THEIR ASPIRATIONS STILL REMAIN. Therefore, they continue to conflict with the revolution. Whether they can carry out activities against us is the concrete condition which prompts us to continue the revolution." This statement not only indicates why Phnom Penh likely was evacuated, but demonstrates the animus that Khmer Rouge leaders felt for city residents. This may help explain why the evacuation was carried out in a

manner that caused so many deaths.

Shortly after the initial evacuation of the cities, the Khmer Rouge leadership instituted a policy of deporting people from the Southwest and West to the Northwest. 800,000 people, mostly former Phnom Penh residents, were again forcibly relocated. This second deportation appears to have had two main goals. First the Khmer Rouge leadership wanted to clear the Southwest, long a Khmer Rouge stronghold, of all city residents - labeled "new" people to denote their purported anti-revolutionary background. The Northwest, long a stronghold of the Lon Nol government, was a logical choice to which to send the new people because even the peasants there were not considered loyal to the revolution. This second deportation would therefore cleanse the Southwest from all new people and concentrate the majority of undesirables in one place.

The second objective of the re-deportation may have been related to the Khmer Rouge leadership's goal of increasing rice production in the Northwest. However, the relocation almost doubled the population of the region, which did not have the resources to feed such a large influx of people. From the outset of the re-deportation, people died of starvation. For example, many people were dropped in Pursat and told to wait for a train to Battambang. While some were lucky enough to board a train immediately, others waited one month or more. The people left waiting were not given any food and many died of starvation.

Once the deportees' journey ended they were put to work planting rice in agricultural co-ops. Although people sometimes received adequate rations, especially in the couple months after a harvest, most of the time people received only rice gruel. Hundreds of thousands of people died of starvation and malnutrition despite living in co-ops with an apparently sufficient rice supply. Lock Leng, a cook in Sya commune Kandang District Pursat, said that the co-op chief restricted the amount of rice the people received, despite the warehouses

being full. The co-op chief gave strict orders on how much rice Leng was allowed to take from the warehouse to cook for the co-op. This amount varied from three to fifteen cans for 60 people. People who became sick were especially prone to starvation because they did not receive a full ration if they did not work. Although "base" people - those who were living in areas under the control of the Khmer Rouge before the fall of Phnom Penh - sometimes requested and received extra rice, new people rarely were given more than their daily ration. Moreover, foraging for food without permission was forbidden. If people were caught foraging more than once they would usually be arrested, and sometimes executed.

#### **Exportation of Rice**

One of the reasons the people did not get to eat the rice that they planted was that much of it was sent away to meet the Khmer Rouge leadership's export goals. The 4-year plan, which was supposed to outline the country's "super-great-leap forward" from 1977-1980, called for 29% of Cambodia's rice to be exported. The plan projected that Cambodia would export 400,000 tons of rice in 1977, increasing to 1.3 million tons in 1980. These projections were a dramatic increase from the 150,000 tons of rice Cambodia exported in 1976. According to the plan, rice exports would generate \$1.4 billion - 90% of the country's expected foreign trade. In order to meet these goals, rice yields would have had to increase from just over one ton per hectare to three tons per hectare (six tons on land that was to be cultivated twice).

The four-year plan called for the Northwest to shoulder a disproportionate share of the rice production. According to the plan, by 1980 the Northwest zone would have been responsible for 60% of Cambodia's rice exports. The Northwest was supposed to increase the amount of land it was harvesting twice by 140,000 hectares without reducing the amount of land it was harvesting once. No explanation was given as to where these 140,000 hectares of land were to come from. In addition,

unlike other zones, no provisions for feeding the people were set out. The Northwest zone was expected to produce 1.62 million tons of rice, but was not allocated any consumption rations. In contrast 470,000 tons out of the 1.14 millions tons that the Southwest produced was set aside to feed the people. The Northwest was also taxed more heavily. While the plan called for all other zones to give 20% of their rice production as a tax, one half of the Northwest zone's rice was earmarked as a "gift to the state."

Although the four-year plan was never officially implemented, the Khmer Rouge leadership placed tremendous importance on exporting rice. Much of the rice that was grown in the Northwest was shipped to China and Phnom Penh. Beginning in 1976, a ship loaded with rice departed the port of Kompon Som destined for China nearly every day. One document shows that in 1976 the Northwest region exported 50,000 tons of rice, while the country as a whole exported 150,000 tons of rice. There is also documentation showing that the exports continued despite the worsening food situation. A document sent to Khieu Samphan, head of state during the DK regime, states that from January to September 1978, Cambodia exported 29,758 tons of rice valued at \$5,911,883 to China. Other documents show that tons of rice were also exported to Madagascar, Yugoslavia and Hong Kong. Moreover, despite the apparent existence of "thousands of tons" of rice in Phnom Penh, rice grown in the Northwest was shipped to the capital to feed the army and party workers. A boat pilot has reported that in contrast, "[T]here was no transportation of rice to the Northwest or North."

Through its food distribution strategies the Khmer Rouge regime created new distinct classes, each with special privileges. While base people were often given extra rations or granted permission to grow vegetables for personal consumption, new people were hardly ever granted these potentially life-saving advantages. In addition, soldiers received

a much larger ration than most people living in co-ops. One DK document states that from April 10 to May 10, 1977, soldiers received 0.7 kg of rice per day, compared with the rice gruel that most survivors report receiving. Other documents show that soldiers received rations of meat, cheese and salt. Subordinate cadre received extra rations and more senior leaders enjoyed elaborate feasts.

Although much of the Khmer Rouge propaganda discusses the goal of producing three tons of rice per hectare, very little technical explanation was given as to how this goal was to be met. Instead, revolutionary zeal and the unproven method of cultivating land twice were the means by which these dramatically increased expectations were to be achieved. The belief that faith in the revolution could surmount any obstacle often hurt production. People were chosen to supervise agricultural projects based on their dedication to the revolution, rather than expertise. Peasant knowledge of the land that they had cultivated for years was dismissed as imperialist. As a result, farming and irrigation projects were often inefficient.

Not surprisingly, co-ops found it impossible to meet their production goals. However, for many co-op chiefs, failing to live up to the central leadership's expectations was not an option. Many were indoctrinated with party propaganda and believed that failing to achieve the party's goals was a sign of disloyalty. Others feared the repercussions of failing to achieve targets. As such, co-op chiefs often reported better yields to their supervisors than they had actually achieved. The co-ops were then taxed on the rice they never produced.

#### Indications that the Khmer Rouge Leaders Knew about Starvation

Some evidence suggests that top Khmer Rouge leaders were aware that their policies could and did lead to starvation, but did nothing to stop it. For example, the leadership was likely aware that mass deportations had the potential to be disastrous. Hang Teav, a member of the Northwest zone CPK committee,

says that Moul Sambath, one of the cadres in charge of the Northwest, resisted the re-deportation to his zone. "When he learned of the [leadership]'s plans in 1975, he warned [them], "Don't transport them here." "They were throwing them away."

Moreover, there is evidence that specific reports detailing the starvation in the Northwest reached Phnom Penh. In mid-1976 Pol Pot sent leng Thirith, the minister of social action, to "investigate charges of shortcomings in the health, diet, and housing of the workers" in the Northwest. She reported that people did not have enough to eat and were dying of malaria and diarrhea. Although leng blamed these horrendous conditions on enemies that infiltrated the Northwest zone's ranks, this report, which presumably reached Phnom Penh, indicates that the Khmer Rouge leadership knew that the people in the Northwest were dying of starvation as early as 1976.

Nhik Ly, a co-op chief in Odambang sub-district, reported seeing other senior leaders visiting the co-ops in the Northwest and claimed that the leadership



sent spies into co-ops to report back what was happening. Although there is apparently no record of these reports or whether they reached the leadership in Phnom Penh, it unlikely that these trips could have taken place without the visiting leaders being alerted to the fact that people in the co-ops were starving to death.

Knowledge of the dire situation in the Northwest can also be demonstrated from reports of party meetings. In early 1977 at a meeting of the "standing committee" Hu Nim, the minister of information and one of the leaders of the revolution, spoke about the lack of food in the Northwest. In response to the food shortage in the Northwest, Nim reportedly requested that money be re-introduced in order to create an incentive for increased production. Nim's account has been confirmed by Lim Mean, a CPK regional commander who defected to Thailand in 1978. Mean reported that several leaders including Hu Nim asked the party to have mercy on the people and reintroduce money. Mean also named Ros Nhim, the head of the Northwest zone until 1977,



as one who intervened on behalf of the starving people. Nhim reportedly went as far as to ask the Khmer Rouge leadership to go against the constitution and accept foreign aid in order to prevent the Cambodian people from suffering. However, the leadership viewed both the reintroduction of money and foreign aid as anathema to the revolution and dismissed these suggestions.

At the same time, there is evidence that the lack of food was a cause of some concern for Khmer Rouge leadership. Malnutrition was so rampant that, according to the estimates of a nurse working in a DK hospital, 90% of women stopped menstruating. As a consequence, birthrates drastically diminished. Over the four year Khmer Rouge regime it is estimated that living conditions reduced the number of births by 570,000. The infant and child mortality rate also dramatically increased. To solve this problem, the party arranged forced marriages. Because malnourished brides were not able to conceive, they were given increased rations, including meat protein. This suggests that Khmer Rouge cadres who were in positions to implement and change food rationing policies knew that people were starving. Furthermore, it demonstrates that provisions existed to alleviate these conditions when it suited the party.

#### **Conclusion**

The ECCC prosecutors would likely not have a difficult time showing that starvation occurred, or even showing that it was the result of criminal action. On the other hand, showing that senior Khmer Rouge leaders acted with criminal intent in implementing their policies of forced displacement and rice exportation would be extremely challenging. Nevertheless, because for many survivors starvation defines their experience under the DK regime, the tribunal should make every attempt to prosecute those most responsible for this serious crime.

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## CIVIL PARTY'S REPEATED ATTEMPTS TO ADDRESS BENCH AND POOR MANAGEMENT OF PROCEEDINGS FORCE WORRYING PRECEDENT FOR VICTIM PARTICIPATION BEFORE THE ECCC

*Sarah Thomas*

The Pre-Trial Hearing on the Appeal by Ieng Sary Against the Order of Provisional Detention of June 30th to July 3rd, 2008, saw the establishment of two worrying precedents for direct victim participation in proceedings before the Extraordinary Chambers. First, on July 1st, the Judges of the Pre-Trial Chamber issued a decision that civil parties represented by counsel may not speak in person during pre-trial appeals and only through their legal representatives. Second, on July 2nd, the very same Judges eroded the right of victims to participate directly further still by ruling that unrepresented parties may not make oral submissions during pre-trial appeals. For victims' rights advocates, this week's decisions have come as a surprise.

These decisions contradict the Court's earlier practice and procedural rules. In an earlier pre-trial hearing on Nuon Chea's appeal against provisional detention, a civil party represented by counsel was allowed to speak freely during the proceedings. Furthermore, as a general principle, the Court's Internal Rules do not require a civil party to be represented by counsel and clearly establish the right of civil parties to participate with or without the assistance of a lawyer and, thus, to address the bench. Rule 23(7) provides that "[a]ny Victim participating in proceedings before the ECCC as a Civil Party has the right to be represented by a national lawyer, or a foreign lawyer in collaboration with a national lawyer..."

Until this week, the Pre-Trial Chamber had been very supportive of victim participation in proceedings. In a decision issued on March 20th, 2008, the Judges had adopted an expansive

interpretation of the civil parties' right to participate, stating that the Internal Rules are "clear in [their] wording that Civil Parties can participate in all criminal proceedings..." and that "Civil Parties have active rights to participate starting from the investigative stage of the procedure" (para. 36). In holding that civil parties have a right to participate in appeals against provisional detention, the Judges rejected the argument of the Co-Lawyers that civil parties may only participate in proceedings on the merits and not in pre-trial proceedings.

Victims' rights advocates welcomed the Pre-Trial Chamber's decision and expressed considerable optimism for the involvement of civil parties in future proceedings. The International Federation for Human Rights (FIDH), for example, hailed the decision as "a landmark decision in international criminal justice and a major achievement for victims of gross human rights violations, whose voices have long gone unheard." Especially considering the establishment of a Victims Unit and the drive by local NGOs (including DC-Cam) to collect complaints and civil party applications from survivors, the Chamber's July 1st and 2nd decisions limiting civil party participation proved rather unexpected.

It appears that this sea change in the Chamber's attitude towards civil party participation can be attributed, at least in large part, to: (a) multiple forceful attempts by one civil party to invoke in practice the broad participation rights found in the Internal Rules; and (b) the Chamber's own poor management of the civil parties' oral submissions.

The repeated attempts made by one civil party to invoke the broad participation rights found

in the Rules during the pre-trial hearing appear to have soured the Judges' view of civil parties as a whole. The civil party in question had previously been allowed to speak during the hearing on Nuon Chea's appeal against provisional detention. At that time, rather than addressing the relevant issue of provisional detention, she used the opportunity to address other issues and even to advertise a book published by her organization. Appropriately, in its Decision, the Pre-Trial Chamber described her submissions as "amount[ing] to a victim statement" and did not take them into account in deciding the appeal.

During this week's pre-trial hearing, on June 30th, the same civil party - then represented by counsel-requested once again to be heard. Without waiting to hear whether her request was granted, she proceeded to address the bench. Obviously displeased by her failure to wait for their decision, the Judges stopped her and refused to allow her to speak until they issued a decision. When, on July 1st, they denied her request to speak directly, she dismissed her lawyer and requested that she be heard as an unrepresented civil party. Most worryingly, the Judges once again refused her request, seemingly irritated by her repeated requests. Eventually, the civil party left the courtroom, vowing not to return until "[she has] a voice."

Undoubtedly, the civil party raised an important issue with respect to the ability of civil parties to participate directly. Rule 23(7) lays down a clear general principle that civil parties may participate without a legal representative. In refusing her request, the Judges relied on Rule 77(10), which provides that, in pre-trial appeals, "the Co-Prosecutors and the lawyers for the parties may present brief observations." This provision, however, clearly contradicts the general principle in Rule 23(7) and constitutes, most likely, a failure by the drafters to anticipate the participation of unrepresented civil parties. Thus, the refusal of the unrepresented civil party's right to speak for herself was not in accordance with the Rules.

Worryingly for victims' rights, the Judges appear not to have based their decisions upon a correct reading of the Rules, but upon their disinclination to hear once again from this individual civil party. Tellingly, the separate opinion delivered by Judge Rowan Downing - in opposition to that of his fellow international Judge, Katinka Lahuis - warned that it would be "unfair" not to allow the unrepresented civil party to speak, as this could possibly lead "to the extinguishment of her rights to bring a claim under Rule 23(1)(b)." This sets a worrying precedent for the future conduct of proceedings, as unrepresented civil parties will now be precluded from speaking in pre-trial appeals.

Thus, despite seeking to further victims' rights, this civil party has done victims a great disservice by demanding a robust scheme for civil party participation so early in the proceedings. Despite being the first international criminal proceedings in which victims may participate as full parties, the Judges had - until this time - adopted a very progressive approach. When, however, the civil party sought to force their hand, the Judges responded negatively to her forceful tactics and restricted opportunities for direct participation for all civil parties. The civil party should have avoided exacerbating the Judges' concerns about the disruption caused by the civil party procedure.

The Judges' frustration with the civil party procedure can be attributed not only to the behavior of individuals, but also to their poor own management of the proceedings.

To those at the hearing, the Judges appeared to be unfamiliar with the appropriate procedure for the conduct of the proceedings (as evidenced by their uncertainty as to which party should be making submissions at a given time). Although there were six civil party lawyers present, the Judges made no attempt to regulate the number allowed to speak - until, that is, international Co-Lawyer Michael Karnavas questioned the effect of multiple submissions in support of the Co-Prosecutors on the equality of arms.

Inevitably, the civil party procedure will

remain chaotic unless the Judges take the initiative to streamline it. As pointed out in the Co-Lawyers' Joint Submissions of February 22nd, the expediency of proceedings may be compromised if the number of civil parties increases. In its Decision of March 20th, the Pre-Trial Chamber refused to provide guidance in the event of such, as it "cannot speculate on facts that may or may not be presented to it in the future..." (para. 48). As the number of civil parties has increased and additional groups of lawyers are expected to join the proceedings, the Rules and Procedure Committee should adopt a practice direction providing precise guidelines on the procedures for civil party participation.

In conclusion, it can be said that the Pre-Trial Chamber has set a very worrying precedent for direct participation in proceedings by civil parties.

While limited to pre-trial appeals, the decisions of July 1st and 2nd impose very significant restrictions upon the rights of civil parties to participate. The ramifications of these decisions will extend not only to future proceedings before the ECCC, but may affect the models adopted for victim participation in future internationalized tribunals. As the civil party procedure remains in its nascent stage, the parties and Chambers alike should give greater consideration to the impact of their decisions to ensure maximum civil party participation and the expediency of proceedings.

*Sarah Thomas is the David W. Leebron International Human Rights Fellow with the Victim Participation Project at the Documentation Center of Cambodia (DC-Cam).*

## DESIRE TO HEAR FROM MISSING FAMILY MEMBERS

Keodara Prak



I was born at Dak-por village, Rovieng commune, Samrong district, Takeo province. There are seven members in my family, including my grandparents (on my mother's side), an aunt, a cousin, my parents, a younger brother and I. Only my younger brother and I were born after the Khmer Rouge. During every dinner, or at family ceremonies, my family always sits and chats about various things. In these conversations, my granny often tells me that under the Khmer Rouge regime she and her family, including my mother, encountered many challenging difficulties and hardships. Sometimes she reprimands me because I seem not to believe her stories, because I was

born after the bombing (the American Bombing) and don't know all the facts. At other times, she talks about her son and compares him to my younger brother and I. She says we are nothing compared to her son. I ask her: "Where is he? Why did he not return home?" Sometimes, as an answer to my questions, I see her burst into tears.

### My grandparents during Democratic Kampuchea

My granny is called En Chann and my grandpa In Kheang. They got married in 1935 and came to live in Dak-por village, Rovieng commune, Samrong district, Takeo province. Before the Khmer Rouge, they both led a simple life as ordinary people. My grandparents have 4 daughters and one son named In Chhun.

On 17 April 1975, the Khmer Rouge military occupied Phnom Penh and evacuated the city dwellers to the countryside in order to achieve social equality - in their view, a state of no rich or poor people, and

no urban or rural people. A new regime, under the control of the Khmer Rouge, took over Cambodia and called themselves "Democratic Kampuchea". Many Cambodian people were separated and had their families torn apart, including my granny's family. Only my mother and aunt were allowed to live with their family since they were very young at the time. Later on, however, they were sent to work in a children's unit.

My granny told me that nearly half a year after the evacuation, she met a family from Phnom Penh who were living in terrible conditions in the countryside, probably because they had not experienced such living conditions before. My granny allowed the family to stay with her for a while. Unfortunately, they had not stayed for long before the militiamen forced the family to move away and live in another place.

Although my granny was not sent away to another place, she was ordered to work far from home. She added that she was forced to work very hard, but not enough food was provided. If she refused to work, she would either be sent to a reeducation center or be punished by the militiamen and forced to carry earth, clear grass from the rice fields, and carry fertilizer, all without being given any food. Sometimes she saw the Khmer Rouge militiamen marching many people in a row, taking them away to be reeducated. The Khmer Rouge militiamen warned the workers: "if you complain while working or do not work very hard in all your efforts, Angkar will send you to be reeducated." One day, my grandmother was sent by Angkar to transplant rice in the south of Chisor Mountain, around 6 or 7 kilometers away from her home. Returning home one evening, she was walking through Chisor Mountain in the north and heard people screaming as if they were being bitten. Secretly, she watched the militiamen torture 5 or 6 people, and noticed that some other people were tied up. Terrified by her encounter, she immediately returned to the village. But she did not tell anyone about her

experience, because Angkar had taught the people that if they wanted to live, they had to learn not to talk. Later, she realized that the scene was the place where Angkar tortured and detained convicts. The area was known as "Antung Sar" by the villagers in the south of the mountain in Trapeang Stok village, Rovieng commune, Samrong district, Takeo province.

#### **My Mother**

My mother is now 49 years old. At the time of the Khmer Rouge, she worked in a children's unit for a while before being moved to a mobile work brigade. The work she did, along with the villagers, was under the direction of Angkar, and varied according to different seasons. During the rainy season they had to work in the fields, clearing grass, pulling the seedlings and transplanting rice. Conversely, while in the dry season they harvested and collected the bundles of rice. In addition, they were commanded by Angkar to dig canals, collect fertilizer, and carry earth. My mother was required to do all this work but was not provided with enough food, because each person was given only a bowl of watery porridge. One day, since she was very hungry, she attempted to dig out some potato roots secretly. Unfortunately, she was discovered by a militiaman named Sim, who, despite being her cousin, almost killed her. He walked her to the village and planned on sending her to be reeducated, but he decided to let her go after she pleaded and begged desperately to be released. Sim warned her that if she was found doing anything wrong again, she would disappear. Afterwards, my mother was evacuated to work on a farm near Damrey Romeal Mountain, but she fled home after working there for a short time. Soon after arriving home, a militiaman came and took my mother back. Not more than a few days later she ran back home again. However, on the night she arrived home, Sim came to her house and took her back again. My mother told him that she was very ill. Nevertheless, Sim alleged that she had become lazy and intended to disrupt Angkar's work, and told her that if she did not go back, she would be sent

to a reeducation center. After this, my mother fled to live with her elder sister in Ang-prey commune.

What my mother and granny have told me familiarizes me with the regime. Moreover, after graduating from high school and pursuing a higher education, along with the experience shared by the elderly who survived the Khmer Rouge rule and my volunteer work at the Documentation Centre of Cambodia, I have become much more aware of the nature of the Khmer Rouge, which previously I believed to be a legend told to scare children. In actuality, the Khmer Rouge regime piled suffering and anguish onto the Cambodian people. Their behavior was inhumane, and the Cambodian people still struggle to grasp the enormity of the tragedy that befell them.

#### **My Family after Democratic Kampuchea**

After 7 January 1979, my mother's family lost one member - her elder brother, called In Chhun. Every time my family assembles, we often talk first about her elder brother. When my grandparents were alive, they often praised him as the only handsome and intelligent son that they could depend on.

Since the collapse of the Khmer Rouge and the Pol Pot regime, my family, including my parents, grandparents, uncles, and aunts, always hope to hear from In Chhun and wish that he could come back home some day. However, so far my family has not obtained any information about him.

I remember when I was in primary school that every year the 20th of May was known as a "Day of Hate to the Khmer Rouge Genocide." On that day, my school teachers would bring their students to celebrate near Chisor Mountain by inviting villagers, monks, and all levels of society to participate in an event designed to remind people of the suffering that the Cambodian people endured between 1975 and 1979. Eventually, I realized that the place where they celebrate the "Day of Hate" is the same spot where my granny witnessed the militiamen torture and persecute ordinary people.

Although the Khmer Rouge regime collapsed

30 years ago, the suffering and pain caused by their rule remains entrenched in the hearts and minds of all Cambodian people. Since the people of the next generation were born after the Pol Pot regime, as I was, we can only learn about it through our studies at school and stories told by our parents and the elderly. Through my families anguish, I feel as if I have suffered as if I was a victim, and I deeply appreciate the survivors who overcame many hardships and difficulties to survive up to now.

My family's desire to hear from my uncle (my mother's elder brother) is hopeless because we do not know what to do and who we can depend on to find him. I think that the suffering encountered by my family is similar to that faced by many Cambodian families, who have also lost family members and relatives, and faced insecurity, violence, ignorance, and loss of human life as well as natural resources - factors that hinder the country from developing as our neighboring countries are developing.

After discovering through public media that the establishment of Extraordinary Chambers in Courts of Cambodia is proceeding, my family, as well as all Cambodian people, are very excited that the atrocities forced upon the Cambodian people will be revised and the leaders of the regime will be tried before a court of law. We are looking forward to seeing the trials bring justice to the victims.

My family was delighted to discover that the Khmer Rouge Tribunal had been established, and are hopeful that it will bring justice to the 1.7 million people who died under the regime and to the survivors who endured such adversity. If the tribunal can provide justice for those people, our desire to hear from my uncle (my mother's elder brother) is not useless. I think that other people think as my family does. Cambodia will develop faster if the Khmer Rouge leaders are tried fairly and legally by the Khmer Rouge Tribunal.

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***Keodara Prak is the Member of Victim Participation.***

## DESIRE TO SEE THE KHMER ROUGE TRIBUNAL BRING US JUSTICE

*Men Pechet*

Before 1970, my mother's family led happy and blissful lives in a house located in Sa-ang district, Kandal province. Unfortunately, their lives changed dramatically when the US planes bombed the Cambodian territory every day during the 1970 coup d'état. Under such chaotic condition, my grandparents along with their children moved to live in Mong Russey district in Battambang province. Living there, my mother's family was not in good living since they were vendors earning little money. At the time, my mother was eleven or twelve years old. In the mornings, she sold Cambodian cakes and in the afternoon she went to the rice mill and begged for remains of rice used for cooking.

In 1974, my mother's family moved again to live near the new airport (presently known as Phsar Krom market) in Siem Reap province and they grew

crops, vegetables in orchards so that they could sell them to Phsar Chas market to support their living. Although her family did not lead wealthy lives, they could survive happily and peacefully.

In 1975, as soon as Angkar forced people to evacuate to different areas throughout the country, my mother's family met a Khmer Rouge cadre whose name was unknown. Having talked to my mother for a while, he realized my grandparents had a close relationship with his parents while they were living in Prek Tauch, Saang district, Kandal province. The cadre recommended my grandparents sympathetically to wear old clothes and have their hair cut in order that Angkar would not suspect that they were capitalists due to their white skin. He also suggested that if Angkar asked them about their job, they should tell Angkar that they were workers because they would be evacuated to the remote area such as Kulein Mountain, Banteay Srey or Preah Dakk if they were not workers. Afterwards, Khmer Rouge members sent my family to live in Ang Krang village in Siem Reap province. Living there, my mother was assigned to work in mobile work brigade to dig the earth and build canals in dry season, yet work in the farm in rainy season. Regarding her meals, sometimes she was provided with rice, while at other times she was given only watery porridge.

After working there for about a year, my mother was sent to dig canals in Tomnub Barang, Srah Srang and Baray Teuk Thlar, and in Chreav. She also grew water melon, pumpkins, and corn along the bank of Tonle Sap River near Phnom Krom until midnight when she was allowed to relax. A short period later, she was ordered to make salty fish in Klaing village near Tonle Sap where 50 to 60 inhabitants lined. In the mornings, she had to kill and clean fish. In the evenings, she coated those fish with salt and then dried them. But she did not know where Angkor would take those salted fish to. When the season of



fish ended, Angkor sent my mother to clear the land to plant potatoes in Loley. About three months before Vietnamese army entered Cambodia, a woman called Ry, who was a base person, told my mother secretly that she had to be careful since her name was listed by the southwestern army and they would come from Takeo province to kill her. But Ry also consoled her that she should not be worried too much because this regime would not live long. After knowing this, my mother was extremely terrified. She intended to flee, but she could not since Khmer Rouge soldiers were everywhere. Thus, my mother had to work very hard with her hidden fear. Fortunately, the Vietnamese army came to liberate the country in 1979. At the time, my mother was harvesting rice in the sun, but once she heard it, she, along with many other base people and 17 people and immediately returned home.

After Democratic Kampuchea collapsed, my mother's brother-in-law named Long was killed by the southwestern army because he was close to the chief of Tonle Sap region called Ta Nha. She also could not forget her two colleagues, Ry and Vann, who were the former teacher during Lon Nol regime. They were tied up and blindfolded and were killed.

In addition, before 1970 my father was 11 years old and he was a grade 7 student in Preah Kaodin primary school. He lived in Popel commune, Tramkakk district, Takeo province. He has a sister and three brothers. In 1975, when the Khmer Rouge came in power, his family was evacuated to Tramkakk district in Takeo province. At the time, he had to work very hard, building a dam at Kphob Trabek river, digging earth and carrying water to fill in the rice field. After that, he was sent to dig a canal at Traphaing Thom commune to store water for farming in the dry season, and to build a dam at Taken, Sla island. Later, she was moved to grow crops, such as cabbages and papayas; he had to water those crops with severe tiredness.

Despite the hard work, in dry season he had rice with water lily or convolvulus soup while in dry season porridge with water lily soup.

In 1979 when Vietnamese army entered Cambodia, the Khmer Rouge gathered people to Kra Leut mountain in Kampong Speu province. At the time, my father fled to Odong district and then returned home. Fortunately, his family did not lose any member during the regime.

Although it is 30 years since the collapse of Khmer Rouge, the events are always kept in my parents' mind. Many questions evoked in their mind are yet to answer. Why did Khmer Rouge members kill Cambodian people and change the peaceful country into the bloodshed country?

Nowadays, those questions are being answered gradually since the former Khmer Rouge leaders are detained before the trials of Extraordinary Chambers of Courts in Cambodia. Hence, it is the right time when my parents as well as other Khmer Rouge victims throughout the country are enthusiastic about justice, which will be brought by The Khmer Rouge Tribunal.

***Men Pecheth is the Member of Victim Participation.***

## **MISSING BROTHER**

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

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

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

Mobile: 0402-194-182, Home: (02) 9711-7637

Email: emmatran90@gmail.com

## **SEARCHING FOR MISSING FAMILY MEMBERS**

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### **Missing Son**

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

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### **Missing Two Sons**

My name is Sar Ouch. I am 73 and live in Trapaing Chouk village, Chralorng sub-district, Baray district, Kampong Thom province. I have five children. I would like to search for my two sons, Chuon Chen and Chuon Sear. They both disappeared in the Khmer Rouge regime after they were drafted into the army. Chuon Chen had entered the revolution before 1975; he visited home once and I have never seen him again. Chuon Sear joined the revolution after 1975; he disappeared after that. If anyone has any information about my two sons, please kindly inform me or contact the Documentation Center of Cambodia. Thank you.

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### **Missing Son**

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

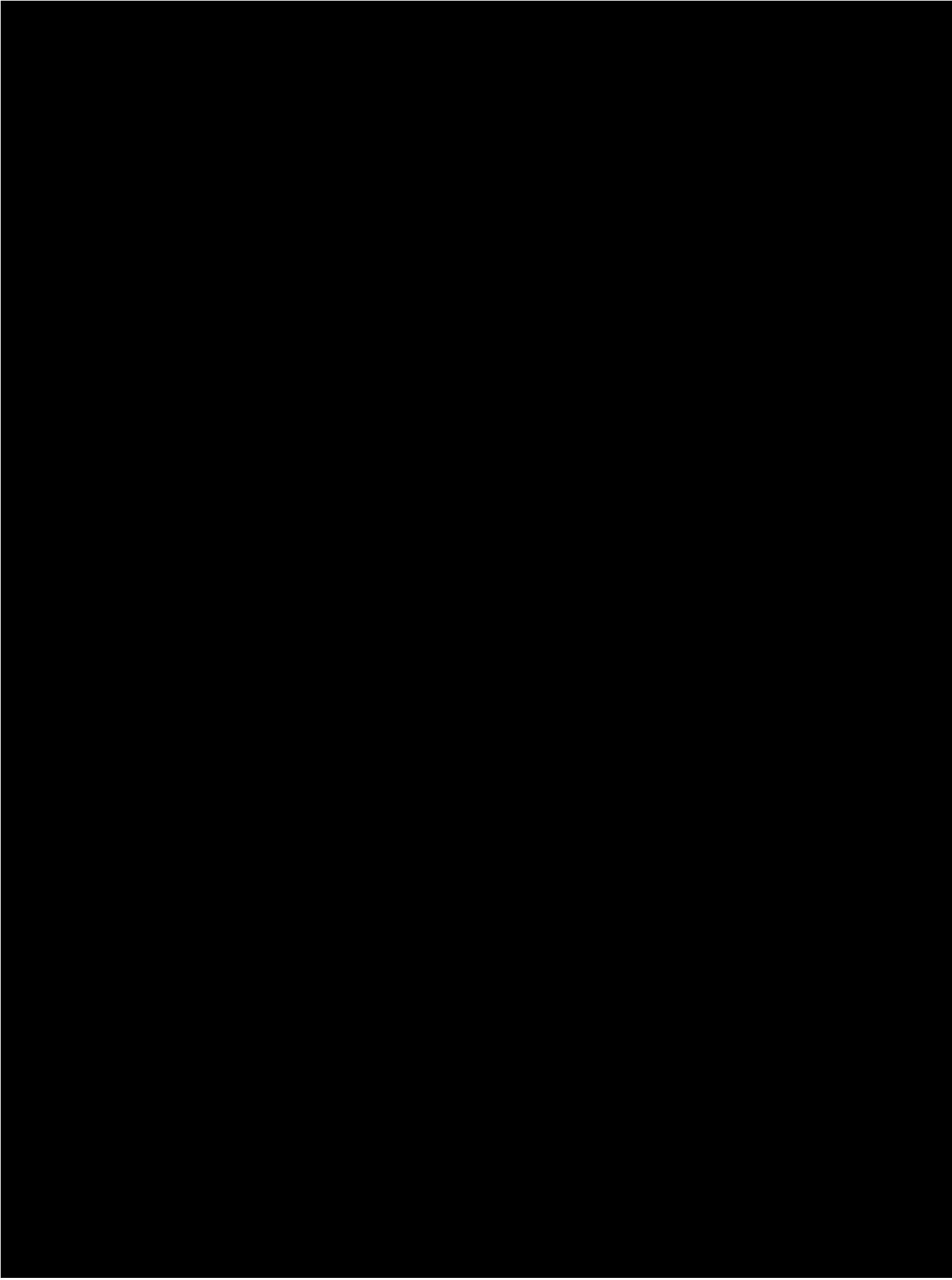
After the Khmer Rouge was toppled in 1979, we returned to our homeland and heard that Tuy had become the chief of his art unit. According to the news, he traveled to perform and then disappeared. If anybody knows or has any information regarding Duong Tuy, please contact me via the above address or the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

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### **Missing Son**

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

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



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